
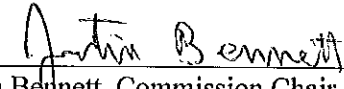


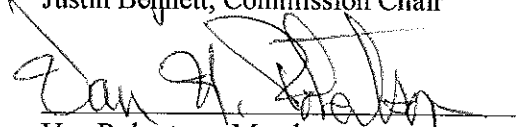
Ordinance #2011-21
Union County Personnel Policy Manual

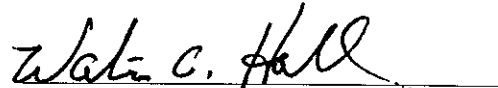
ADOPTED BY THE GOVERNING BODY OF UNION COUNTY ON THE 10th DAY OF
MAY 2011


Joyce Ann Sowers
County Clerk




Justin Bennett, Commission Chair


Van Robertson, Member


Walter C. Hall, Member

ORDINANCE #2011 21
UNION COUNTY PERSONNEL POLICY MANUAL

An ordinance establishing Union County Personnel Policies
Adopted by the Union County Commission
May 10, 2011

Effective June 10, 2011

This ordinance supersedes Ordinance No. 2010- 21 dated October 19, 2010

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SECTION 1. GENERAL PROVISIONS

1.1. PURPOSE. The purpose of this personnel policy manual is to establish consistent, basic policies and practices concerning relations between Union County and its employees. This personnel policy manual further establishes the formal grievance procedure available to regular employees to hear grievances with respect to demotions, dismissals and suspensions, and provides the method by which a personnel hearing officer is chosen to hear formal grievances. The provisions of this personnel policy manual shall apply to all county employees, except that the provisions governing merit and the grievance of disciplinary actions do not apply to employees appointed by elected officials who serve at the discretion of the elected official.

1.2. SCOPE. Definite rules and regulations cannot be readily formulated for every possible problem and situation. This ordinance serves as a general basis and guide for the proper, efficient, and effective administration of personnel matters of the employees of Union County. The personnel rules contained herein replace and supersede all previously issued personnel rules and regulations applicable to employees of Union County, including but not limited to the Union County Personnel Policy Manual effective October 19, 2010, and all amendments and regulations related thereto.

1.3. AMENDMENT OF POLICY. There shall be no resolution or other action of the board of county commissioners or other county officials which is inconsistent with this policy, except by amendment of this ordinance as required by law. The board of county commissioners reserves the right to amend this personnel policy manual at its discretion.

1.4. EMPLOYEE KNOWLEDGE AND INFORMATION OF POLICY. The department head shall provide a copy of this policy to present employees and to all new employees with instructions to read and know of all provisions of these rules. Employees shall sign for the copy upon receipt.

1.5. EQUAL EMPLOYMENT OPPORTUNITY POLICY. Individuals will not be discriminated against on the basis of race, age, religion, color, national origin, ancestry, sex, sexual orientation, physical or mental handicap or medical condition, in consideration for employment, duration of employment, compensation, terms, conditions, or privileges of employment by Union County.

1.6. ADMINISTRATION BY DEPARTMENT HEAD. The department head is delegated the authority to administer the personnel system and the terms of this personnel policy manual and its amendments, and all future approved personnel policies and operating procedures.

1.7. PRONOUNS. All pronouns used in this personnel policy manual shall include the masculine and feminine, and shall include the singular and plural, and the context of this personnel policy manual shall be read accordingly.

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SECTION 2. DEFINITIONS

2.1. ADMINISTRATIVE LEAVE WITH PAY. Leave with pay granted at the department head's discretion for good cause.

2.2. ANNIVERSARY DATE. A day twelve (12) months from an employee's date of hire.

2.3. ANNUAL LEAVE. Leave with pay granted to a regular or qualified appointed employee after accrual at a specific rate.

2.4. APPEAL. Written request that a decision of a formal grievance be reconsidered at a further stage in the grievance procedure.

2.5. APPLICANT. A person who has made formal application on official county personnel application form for a position in the county service.

2.6. APPOINTED EMPLOYEE. Appointed employees include: the chief deputy employed by the county assessor, clerk, and treasurer; the undersheriff and the executive secretary to the sheriff; the administrative assistant to the County Commission; and the road superintendent.

2.7. CASUAL EMPLOYEE. An employee paid by the hour who may be called on short notice and/or on an occasional basis.

2.8. COMPENSATORY TIME. Those hours granted in lieu of overtime pay to a nonexempt employee as defined by the Fair Labor Standards Act, on the basis of one and one-half (1 ½) hours compensatory time for each hour of overtime actually worked in excess of forty (40) hours in one work week.

2.9. COUNTY BUSINESS. The performance of duties of a county position at an employee's normal work station or at a location authorized by the county.

2.10. DEMOTION. A personnel action which reduces the employee's responsibilities and pay. Demotions may be voluntary or may be the result of disciplinary actions.

2.11. DEPARTMENT HEAD. The elected official or appointee of the County Commission has responsibility for supervising and administering a department of County government as determined and designated by the County Commission.

2.12. DISMISSAL. An action which terminates an individual's employment with the county.

2.13. DUE PROCESS. The right granted to a full-time or part-time regular employee who has completed the probationary period to pre-and post-disciplinary hearings, for actions of suspension, demotion, or dismissal.

2.14. ELECTED OFFICIAL. An individual elected by popular vote or appointed to fill vacancies in elective office (i.e., County Commissioner, county clerk, county treasurer, county sheriff, county assessor, and probate judge.)

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2.15. EXEMPT EMPLOYEES. All executive, administrative, and professional employees as defined in Department of Labor regulations relating to the Fair Labor Standards Act, and whose compensation is based on a fixed annual salary.

2.16. FULL-TIME. All employees who work forty (40) hours per week are considered full-time employees.

2.17. GRIEVANCE. A complaint of an employee concerning actions taken by management which result in loss of pay to the employee or which results from dissatisfaction with the working conditions or relationships. .

2.18 INSUBORDINATION. The conduct of an employee constituting defiance, disobedience, dissention, rebelliousness, or resistance to supervision, which will be the subject of disciplinary action.

2.19. LAYOFF (Reduction in Force). The involuntary separation of an employee from the county service without fault on the part of the employee, due to reorganization, lack of work, or lack of funds.

2.20. MEDICAL DISABILITY TERMINATION. The termination of an employee from county employment when the employee is unable to perform the essential functions of the position due to a physical or mental condition.

2.21. NONEXEMPT EMPLOYEES. All employees who are not exempt employees as defined in Department of Labor regulations relating to the Fair Labors Standards Act. Nonexempt employees shall receive overtime pay or compensatory time off for actual hours worked in excess of forty (40) hours per work week.

2.22. PART-TIME EMPLOYEE. A position in which the employee works twenty (20) or more hours, but less than forty (40) hours per week.

2.23. PERFORMANCE EVALUATION. The written objective review made by the employee's supervisor of an employee's performance relating to the employee's assigned duties.

2.24. POSTDISCIPLINARY HEARING. A formal hearing conducted by a hearing officer at the request of a regular employee who is grieving a suspension or demotion, or a former ,employee who is grieving a dismissal, held after the county has imposed the disciplinary action as set forth in this personnel policy manual.'

2.25. PREDISCIPLINARY HEARING. A hearing conducted by the department head for the benefit of regular employees before the imposition of the disciplinary actions of suspension, demotion, or dismissal.

2.26. PROBATIONARY EMPLOYEE. A full-time or part-time employee hired to fill a regular position who has not yet completed the one (1) year probationary period of employment during which time the employee is terminable-at-will.

2.27. PROMOTION. Transfer to a position requiring higher responsibilities and salary.

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2.28. REGULAR EMPLOYEE. A full-or part-time employee who has completed the probationary period, who shall be disciplined only for cause, and who is entitled to all the rights and benefits of the Union County Personnel Policy Manual. A regular employee must be specifically designated as such on a personnel action form which will be made part of the employee's personnel file.

2.29. SICK LEAVE. Leave with pay granted to a regular or qualified appointed employee, after accrual at a specific rate, when personal illness or quarantine keeps the employee from performing the duties of the position or when an employee's spouse, parent, or child, who is related by marriage or blood, or where a relationship is established by judicial decree, is ill.

2.30. SICK LEAVE ABUSE. Use of accrued sick leave for nonmedical problems or repeated absences on Fridays or Mondays. Employees abusing sick leave may be disciplined up to and including dismissal.

2.31. SUSPENSION. An enforced leave absence without pay, not to exceed 10 working days, for disciplinary reasons.

2.32. TEMPORARY POSITION. An employee is hired on either a full-time or part-time basis to a seasonal position or to a position established a period of no more than six (6) months.

2.33. TERMINABLE-AT-WILL. A terminable-at-will employee is one who fills an appointed or casual position, or is one who has not completed his probationary period. A terminable-at-will employee serves at the discretion the county, and his employment, can be terminated with or without cause. A terminable-at-will employee cannot grieve suspension, demotion, dismissal, or other disciplinary actions.

2.34. TRANSFER. The transfer of an employee from one department or office to another department or office in the county service, or to a position in another geographic location or to a position having the same salary.

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SECTION 3. EMPLOYMENT STATUS

3.1. FULL-TIME REGULAR EMPLOYEE. A full-time regular employee is one who has completed the probationary period and who normally is scheduled to work the number of hours set forth in §2.16. A full-time regular employee is eligible for all rights and benefits provided by the County.

3.2. PART-TIME REGULAR EMPLOYEE. A part-time regular employee is an employee who has completed the probationary period, who works the number of hours set forth in §2.21. Part-time regular employees are eligible for the same insurance benefits as full-time employees and to leave provided by the County at the rate of 50% of that provided to full-time regular

3.3. OTHER CLASSES OF EMPLOYEES.

A. Appointees of Elected Officials

The appointees of elected officials are as follows: the administrative assistant to the county commission, the road superintendent, the undersheriff and executive secretary to the sheriff, and the chief deputies to the county assessor, clerk, and treasurer. Appointees of elected officials shall receive a salary set by the county commission. Appointed employees are terminable-at-will and cannot avail themselves of the grievance procedure set forth herein, but are entitled to all other benefits provided by the county in accordance with this personnel policy manual.

B. Probationary Employee

The purpose of the probationary period is to evaluate the employee's ability, potential, and performance. A full-time or part-time probationary employee one who is hired to fill a regular position who has not yet completed the one (1) year probationary period of employment during which time he is terminable-at-will, and may not avail himself of grievance procedure set forth herein, but is entitled to all other county benefits provided herein.

- i. To determine whether an employee has satisfactorily completed the probationary period, the employee's department head will evaluate the employee's performance and the employee's ability to work with the public, peers, supervisors, and management. A probationary employee will be evaluated at the end of the probationary period, and may be evaluated at any other time during the probationary period.
- ii. During the one-year probationary period, an employee hired to fill a law enforcement position shall obtain the statutorily-required for the position. Failure to obtain such certification within the one (1) year period bars the employee from becoming a regular employee and shall result in the employee's dismissal.
- iii. If an employee does not satisfactorily complete the probationary period, the employee will be dismissed. Proposed dismissal of a probationary employee must be discussed with the county attorney and administrative assistant.

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- iv. An employee who fills a temporary position and is subsequently hired to fill a regular position shall serve the required probationary period. The beginning date of the probationary period is the date the employee changes from temporary to probationary status.
- v. A former Union County employee rehired more than six (6) months after termination, or rehired at any time to fill a different position, shall serve the required probationary period.
- vi. If the employee is hired to a full-time or part-time regular position, the first day of work in that position shall be used in computing the beginning, of the probationary period.

C. Temporary Employee

A temporary employee is hired on either a full-time or part-time basis to a seasonal position or to a position established for a period of no more than nine (9) months. A temporary employee is terminable-at-will, is not entitled to grieve personnel actions, does not receive county benefits; and does not accrue leave. In the event that a temporary employee should remain employed for a period in excess of nine (9) months, he or she shall not become a regular employee as defined herein without the express approval of the County Commission as provided in §4.5.

D. Employee

A casual employee is an employee paid by the hour may be called on short notice, on an emergency basis or on an occasional or irregular basis. A casual employee is terminable-at-will, is not entitled to grieve personnel actions, does not receive benefits, and does not accrue leave.

SECTION 4. RECRUITMENT AND SELECTION

4.1. RECRUITMENT POSTING PROCEDURE. The vacancy will be posted in the County Courthouse for five (5) days and advertised in the local newspaper at least once.

4.2. EXCEPTIONS TO POSTING. Posting is waived; with the approval of the department head, when an applicant is authorized to perform the duties of a position a casual or temporary basis.

4.3. PERMISSION FOR TRANSFER. No county employee or department head can deny another county employee who has completed the probationary period and who is not the subject of disciplinary action, permission to apply for a job vacancy in any other county office or department for which the employee is qualified.

4.4. APPLICANT RESPONSIBILITY.

A. Submission of Applications

Applications for employment shall be accepted by the department head during normal business hours. Applicants shall be considered for positions for which they have applied and are qualified. Applications must be submitted on the employment application form provided by the County.

B. Proof of Qualification

The applicant is responsible for furnishing proof of qualifications or possession of any license, certificate, or degree when these requirements are necessary and set forth in the job description.

C. Immigration Act Compliance

The applicant is responsible for furnishing proof identification right to work in accordance with the Immigration Reform and Control Act of 1986.

D. Certification

The applicant is responsible for signing the employment application and certifying as to the truth of all statements made in the application.

E. Interviews

The department head will schedule interviews for the Applicants who have met the qualifications.

4.5. SELECTION. Selection shall be made by the department head and will be based on the following: skills, educational background, experience, personal interview, references, and results of preemployment examinations when required.

A. Employment Reference Checks

References provided by the applicant shall be checked. Applicants will be asked by the County to sign a written authorization for the County to call and check references. Only those applicants who sign this written authorization will be considered for the position for which they have applied.

B. Physical Examinations and Drug Testing

Applicants to whom positions have been offered shall be required to undergo medical examinations which may include urinalysis, blood testing, and radiographic examinations. Drug testing will be done for all new hires. Preemployment medical examinations must be completed and reviewed before actual employment begins. Offers of employment are contingent upon the physician's statement that the individual can perform the assigned duties and tasks of that position and is drug free, where drug testing has been conducted. Preemployment medical examinations will be paid for by the County.

C. Background Checks

Applicants to whom positions have been offered shall also be required to submit to a background check. Offers of employment are contingent upon the background check. Pre-employment background checks will be paid by the County.

4.6. INELIGIBILITY FOR HIRE AND REHIRE. An applicant shall be considered ineligible for hire or rehire by Union County if the applicant has:

1. made any false statement or omission on the employment application;
2. not met the requirements of the position;
3. failed to complete preemployment examinations or other requirements as directed by the County;
4. not met the criteria for insurance or bonding as required by county or state law;
5. been dismissed from county as a disciplinary measure;
6. not been certified by a physician that the applicant can perform the physical requirements of the position; and
7. been convicted of a felony or a misdemeanor as described in NMSA 1978, §28-2-1, et seq. (1996 Repl. Pamp.) or convicted of a felony or infamous crime as defined in NMSA 1978, §10-1-3 (1995 Repl. Pamp.).

The above list is not necessarily exhaustive, and may not include all the reasons which would make an applicant ineligible for hire or rehire.

SECTION 5. CHANGES IN EMPLOYMENT STATUS

5.1. PROMOTION. County employees are encouraged to take advantage of promotional opportunities and apply for higher paying positions for which they qualify.

5.2. DEMOTION. An employee may be demoted to a vacant position for which the employee is qualified when the employee would otherwise be terminated because the employee's position is being abolished due to a lack of funds or lack of work; and there are no appropriate vacancies at the same level; when the employee does not possess the necessary ability to render satisfactory performance in the position presently held; or when the employee voluntarily requests such a demotion. Demoted employees will receive a reduction in pay. Only a regular employee demoted due to an inability to render satisfactory performance in the position presently held is 'entitled to grievance proceedings.

5.3. TRANSFER. Employees may be moved from one position to another at the same rate of pay either voluntarily or involuntarily. An employee may be transferred if it is in the best interest of the County.

5.4. RESIGNATION. An employee voluntarily resigning shall submit, in writing, a two-week notice of resignation. Failure to provide written two-week notice of resignation may be grounds for refusal of future employment with the County. Unauthorized absence from work for a period of three (3) consecutive, regularly-scheduled working days may be considered a voluntary resignation.

5.5. REDUCTION-IN-FORCE. If it is necessary for the County to reduce the number of County employees because of lack of funds or lack of work, the department head shall make the determination of the necessity for layoffs. The reduction will occur in the following manner:

- A. Casual, temporary, and probationary employees will be laid off before full-or part-time regular employees unless they are filling positions which require specific skills and knowledge;
- B. Layoff of regular employees shall be determined by department head, based upon the employee's suitability for the jobs remaining, ability to perform available work, past job performance, and length of service with the County;
- C. Employees to be laid off shall be notified at any time during a pay period and shall be allowed to work through the end of that regular pay period or receive pay to the end of that period;
- D. Accrued annual leave shall be paid on the final day of employment;
- E. An employee on layoff must reapply to be considered for future employment; and
- F. A laid-off employee returning to County employment within six (6) months off will not serve a probationary period if hired to the same position.

5.6. DISMISSAL. The department heads shall have the authority to recommend the dismissal of regular employees for just cause, which includes but is not limited to, "unsatisfactory performance, illegal activity, unacceptable conduct, or insubordination on the job, or any other reason referenced in Section VII of this

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manual. Employees other than regular employees serve at the discretion of the elected official under whom they are employed and may be dismissed with or without cause, all dismissals must be discussed with the department heads and the County attorney before any action is taken.

SECTION 6. CONDITIONS OF EMPLOYMENT

6.1. PERFORMANCE EVALUATION

A. Probationary Period Evaluations

The department head shall discuss performance with the employee during the probationary period. The employee must receive a performance evaluation of satisfactory or better at the end the probationary period before the employee can become a regular employee entitled to all of the rights and benefits of that status. See Also, §3.3(B).

B. Other Evaluations

Other employees may be evaluated upon the following conditions:

- i. A change of status;
- ii. Recommendation of any type of salary increase;
- iii. Demotion or suspension; and
- iv. Any other time that a department head or immediate supervisor wishes to make the particularly good or bad performance of an employee a matter of record.

C. Contents of Evaluation

A performance evaluation shall contain an overall appraisal of the employee's performance such as satisfactory, outstanding, or unsatisfactory. The performance evaluation shall state areas of responsibilities and standards of performance.

D. Employee Rebuttal

The employee may submit a rebuttal statement to the performance evaluation which will be attached to and become a part of the performance evaluation. The rebuttal shall be submitted within ten (10) days of the evaluation.

E. Unsatisfactory Evaluation

In the event a regular employee receives an overall evaluation of unsatisfactory, the employee shall be provided with written information in the evaluation as to specific areas of deficient performance and steps for improvement, and also shall be warned that failure to meet reasonable performance standards of the position within a set time period (not to exceed ninety (90) days) shall result in dismissal. An employee who receives an overall evaluation of unsatisfactory shall be reevaluated within ninety (90) days, and, if performance remains unsatisfactory, shall be dismissed pursuant to the procedures in these rules.

6.2. PROHIBITED POLITICAL ACTIVITIES. All employees are prohibited from:

- A. Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose;
- B. Directly or indirectly coercing, attempting to coerce, commanding or advising a state or County officer or employee to pay, lend, or contribute anything of value to a party, committee, or organization, agency, or person for a political purpose;
- C. Threatening to deny promotions to any employee who does not vote for certain candidates, requiring employees to contribute part of their pay to a political fund, influencing subordinate employees to buy tickets to political fundraising events and similar events, advising employees to take part in political activity and matters of a similar nature; and
- D. Engaging in political activity while on duty or campaigning on County property.

6.3. NEPOTISM.

A. Definition of Nepotism

Nepotism, for purposes of this personnel policy manual, is defined as the practice of giving preferential treatment in areas of employment including; but not limited to selection, benefits, pay, promotion, and discipline to an employee's near relatives. For purposes of this nepotism policy, near relatives are defined as the employee's spouse, children, parents, siblings, grandparents, grandchildren, aunts, uncles, first cousins, and all like-relations of the employee's spouse, and any former spouse(s), or unrelated persons sharing a spousal relationship. This definition is to cover any person related to the employee by birth, adoption, or marriage.

B. Prohibited Practices

The practice or appearance of nepotism is prohibited. Near relatives shall not work in the same department when there is a supervisory relationship between them. Any problems arising from such a situation should be referred to the department head for review. Near relatives cannot fill or be promoted into a position which requires supervision a near relative. No elected official or County employee shall give employment as clerk, deputy, or assistant, or other class of departmental employee to any near relative when that person's compensation is six hundred (\$600) dollars or more per year. NMSA 1978, §10-1-10 (1987 Repl. Pam.).

6.4. CONFLICTS.

A. Conflict Ban

No employee shall engage in any business or transaction or accept private employment or other public employment which is incompatible with the proper discharge of the employee's responsibilities, or which gives the appearance of impropriety

B. Termination of Outside Employment

Upon the request of the department head, no employee shall continue in supplementary/outside employment if such employment has a negative impact on the employee's job performance, or creates liability for the County.

6.5. DISCRIMINATION AND SEXUAL HARASSMENT POLICY.

A. Prohibition of Discrimination and Harassment

Union County disapproves of, and will not tolerate, discrimination or sexual harassment of its employees or by its employees. Any employee who engages in discrimination or sexual harassment will be subject to discipline, and appropriate corrective action will be taken to prevent its reoccurrence. Any incidents of discrimination or sexual harassment by anyone, including nonemployees, should immediately be brought to the attention of County Manager or County attorney for appropriate action.

B. Sexual Harassment

The Equal Employment Opportunity Commission has adopted guidelines which state that unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute "sexual harassment" when:

- (i) submission to the conduct is an explicit or implicit term or condition of an individual's employment;
- (ii) the submission to or rejection of the conduct by an individual is the basis for any employment decision affecting that individual; or
- (iii) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. A hostile work environment may be one where crude or vulgar language is used, jokes of a sexual nature are told, comments are made that demean an individual based on gender, unwelcome nicknames, such as honey or sweetie, are used, or photographs, calendars, magazines, books, etc. of nude or partially nude individuals are disseminated.

C. Discrimination and Sexual Harassment Complaint Procedures

Any employee who feels that he or she has been the subject of discrimination or sexual harassment by anyone, including nonemployees, should follow this procedure in bringing the matter to the County's attention:

- (i) The employee should promptly bring the matter to the attention of the department head or the County attorney. This report may be oral or written.

- (ii) The department head or County attorney will advise the person who allegedly engaged in the sexual harassment of the charge, and administrative assistant, the County attorney, or his designee, will conduct an investigation of the allegation. The complaint will be kept as confidential as possible.
- (iii) After the investigation, the department head or the County attorney will determine whether sexual harassment has occurred. The people involved will be notified of the decision.
- (iv) If a determination is made that sexual harassment has occurred, appropriate disciplinary action, which may discharge, will be taken. The severity of the discipline will be determined by the degree and/or frequency of the offense.
- (v) Employees who bring a complaint of sexual harassment to the attention of the department head or County attorney or who assist another will not be retaliated against.
- vi. Nothing in these procedures shall prohibit the employee from filing a complaint directly with the Federal Equal Employment Opportunity office or the New Mexico Human Rights Division. This avenue should be used when the employee feels that the employee cannot obtain appropriate relief within the steps as explained above. However, employees are encouraged to seek consultation with the department head or County attorney before filing a formal sexual harassment complaint.

6.6. DRUG TESTING POLICY. Union County is committed to the goal of a drug-free workplace in compliance with the Drug-Free Work Place Act of 1988.

A. Illegal Use of Drugs or Alcohol

The use of controlled substances, drugs, prescribed and nonprescribed, or alcohol is a concern to Union County when it interferes with job performance, conduct, attendance, safety, or when it is violation of the law. The unlawful manufacture, distribution, possession, or use of a controlled substance or alcohol by an employee while on County premises or while on County business is prohibited. Conducting County business, which includes driving vehicles or operating County equipment, while under the influence of alcohol or other drugs is also prohibited; Engaging in any of these prohibited activities will result in disciplinary action up to and including termination from employment.

B. Preemployment Drug Testing

Once an individual has been selected to fill a vacant position, including casual and temporary positions, the employee, shall be tested for alcohol or drugs when he or she reports for his/her medical examination. A confirmed positive test result shall be grounds for revoking the job offer.

C. Reasonable Suspicion Testing

Any Union County employee shall be tested for alcohol and drugs if the department head or County attorney has reasonable grounds to suspect that the employee is engaging in the use of drugs or alcohol on the job or

is reporting to work under the influence of drugs or alcohol. Reasonable suspicion includes, but is not limited to the following:

- i. Job accidents requiring medical treatment causing damage to property, including County property, where the employee is a contributing factor to the accident.
- ii. Evidence of alcohol or drugs or drug paraphernalia discovered at the employee's workplace;
or
- iii. Any employee showing signs of erratic behavior, changes in mood, altered appearance or speech patterns, dilated or constricted pupils, glazed stare, poor concentration, difficulty walking, needle marks, smell of alcohol on breath and person, an increase in absenteeism, tardiness, and deterioration of work performance.

6.7. REFUSAL TO SUBMIT TO DRUG TESTING. Refusal by the employee to submit to drug testing based on reasonable suspicion shall be grounds for disciplinary action, up to and including dismissal.

6.8. RANDOM DRUG TESTING. All employees who fill positions requiring a commercial driver's license (CDL) are subject to the federal Department of Transportation (DOT) regulations and will be randomly tested for alcohol and controlled substances. Twenty-five percent of these employees will be randomly tested for alcohol each year and 50% for controlled substances each year. For more information on the DOT regulations contact the County administrator. Any employee who is subject to DOT regulations and who refuses to be randomly tested will be dismissed.

6.9. POSITIVE RESULTS OF ALCOHOL AND DRUG TESTING. The guidelines established by the Department of Health and Human Services will be used to determine whether an employee tests positive. If an employee tests positive for drugs or alcohol, the employee will be suspended from employment without pay. An employee who is not in a safety sensitive position can avoid dismissal by successfully completing an approved drug rehabilitation program. The employee shall be responsible for paying the cost of the rehabilitation program unless the employee has insurance coverage for such treatment. Contact the department head for a list of available resources which evaluate and resolve problems related to drug and alcohol abuse. Upon the employee's return to work after completion of the drug rehabilitation program, the employee shall be required to test for drugs at the direction of the department head for a period of two (2) years. If the employee tests positive during this testing period, the employee shall be subject to dismissal. If the employee successfully completes this two (2) year testing period, all records of the previous tests and related case documentation shall be destroyed after, three (3) years from the initial positive test. Employees who hold safety sensitive positions (or who have to hold a commercial driver's license) and who test positive for drugs or alcohol will be dismissed.

6.10. RETESTING. An employee who tests positive on a drug test may elect to have, at the employee's expense, a retest of the original sample at a drug testing laboratory of the employee's choosing, provided the request is made in writing within twenty-four (24) hours of the employee receiving notice of a positive test result. The County shall pay for the retest if the retest is negative.

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6.11. CONFIDENTIALITY. No laboratory reports or test results shall the employee's personnel file unless they are a part of a disciplinary action, but shall be placed in a special locked file.

6.12. TOBACCO USE. The use of tobacco products in all Union County buildings is prohibited at all times. This includes cigarettes, cigars, pipes, smokeless tobacco, or any and all other tobacco products. In addition, the use of tobacco products shall be permitted outside of the Union County buildings, assuming all tobacco use is done twenty-five (25) feet away from the building and disposal of all smokeless tobacco products and any resulting residue is disposed of in a closed container.

6.13. COMPUTER AND TELEPHONE USE. County computers are to be used for work purposes only. In addition, any cell phones that are paid for by the County shall similarly be used for work purposes only.

SECTION 7. EMPLOYEE DISCIPLINE

7.1. BASIS FOR EMPLOYEE DISCIPLINE.

A. Just Cause Discipline

Disciplinary actions for regular employees are based on just cause in order to promote the efficiency of the services rendered by the county and the operation of its respective departments and offices. Disciplinary actions will be consistent with governing laws and regulations and will be taken without regard to race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or medical condition. No employee will be disciplined for refusing to perform an unlawful act.

B. Definition of Just Cause

Just cause is defined as any conduct, action or inaction arising from, or directly connected with, the employee's work which is inconsistent with the employee's obligation to the county and reflects the employee's disregard of the county's interest. Just cause includes, but is not limited to: inefficiency; incompetency; theft; misconduct; negligence; insubordination; violation of county policy or procedure; unauthorized use of county funds, property, facilities, and materials; repeated tardiness and excessive absences, or other performance which continues to be inadequate after reasonable efforts have been made to correct the performance problems; or for conviction of a felony or misdemeanor involving moral turpitude as described in the Criminal Offender Employment Act, NMSA 1978, §28-2-1 *et seq.* (1996 Repl. Pam.); or convicted of a felony or infamous crime described in NMSA 1978, §10-1-3 (1995 Repl. Pam.)

C. Disciplinary Action

Any department head may take disciplinary action against an *employee* under the department head's authority, consistent with departmental policies and this personnel policy manual. Copies of any documented disciplinary action furnished to the administrative assistant's office for placement in the employee's file with the signature of the recipient acknowledging receipt of the action.

D. Consultation with Department Head and County Attorney

Dismissal, involuntary demotion, and suspension require consultation with the department head and County attorney before implementation. Whenever such consultation is not practical because of urgent circumstances, necessary action may be taken and the situations reviewed with the department head and County attorney as soon as practical.

7.2. PROGRESSIVE DISCIPLINE. A regular employee will be progressively disciplined whenever possible. Progressive discipline will not always be implemented. The step of corrective action used depends on the severity of the infraction and the employee's previous work record. Under certain circumstances, as described below, suspension or termination may be the appropriate first step. Each case of inadequate performance or act of misconduct will be judged individually. Adverse actions involving substandard work performance require progressive discipline.

A. Verbal Reprimand

A verbal reprimand is used for minor infractions such as informing the employee that his actions, behavior or conduct needs to change. Supervisors will keep notations of verbal reprimands, and these will not be placed in the employee's personnel file. A verbal reprimand is not grievable. Causes of verbal reprimands include, but are not limited to:

- i. substandard work performance including failure to complete assignments or failure to complete them timely, inaccurate or unprofessional appearing work product, interrupting other employees and keeping them from completing their work, excessive use of the telephone for personal business, loud and disruptive conduct, conducting personal business while on duty; and
- ii. tardiness or excessive absences.

B. Written Reprimand

- i. An employee shall receive a written reprimand because the deficiency or infraction is of a greater degree than that for which verbal reprimand may be used or if a verbal reminder was not effective. Causes for written reprimands include, but are not limited to:
 - a. the causes listed for verbal reprimands;
 - b. refusal to carry out orders;
 - c. sleeping on the job;
 - d. failure to follow safety rules; and
 - e. failure to follow other county rules and procedures.
- ii. Written reprimands shall be placed in the employee's personnel file by the employee's supervisor after providing the employee with a copy of the statement. The employee will be asked to acknowledge having read the comments by signing the statement. The employee may respond by noting on the reprimand that he does not agree or with a written rebuttal which shall be placed in the employee's personnel file.
- iii. At the employee's request, the written reprimand may be removed from the employee's personnel file twenty-four (24) months after the employee received the reprimand, provided the employee has not received another written reprimand or other disciplinary action during the twenty-four (24) month period.

C. Suspension

An employee may be suspended without pay for a single serious offense or for continued inadequate job performance or misconduct after previous attempt(s) to correct the conduct have failed. Such suspension will

not exceed ten (10) working days. Suspension of a regular employee is subject to the formal grievance procedures. Causes for suspensions include, but are not limited to:

- i. the causes listed for written reprimands;
- ii. continued instances of poor performance; and
- iii. negligent damage to property and/or person(s).

D. Demotion

An employee may be demoted for continued inadequate job performance after previous attempt(s) to correct the conduct have failed. Demotion is not an appropriate disciplinary action for an employee who has a record of excessive absences or tardiness.

E. Dismissal

Dismissal is the final consequence when progressive discipline has failed to change unacceptable behavior or performance. Dismissal is also appropriate when the employee has engaged in other behavior that is of a serious nature which is unacceptable for county employees even though the employee has not been previously disciplined. Causes for dismissal shall include, but are not limited to:

- i. all causes listed for the previous three (3) disciplinary actions if continuing after attempts to correct have failed;
- ii. theft of County property;
- iii. conviction of a job-related or misdemeanor as described in the Criminal Offender Employment Act, NMSA 1978, seq.;
- iv. acts of negligence causing damage to persons or County property;
- v. falsification of information on the employee's job application or other County records;
- vi. unlawful manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on the job or reporting to work under the influence of an unlawful controlled substance or alcohol;
- vii. intentional abuse or destruction of county equipment;
- viii. refusal to carry out reasonable orders when a threatening condition exists;
- ix. failure to meet standards of substance abuse rehabilitation programs;
- x. bringing unapproved weapons on to County property;
- xi. refusal or failure to comply with County policy;

- xii. disruptive conduct interfering with the county's operation;
- xiii. unauthorized use of county property, facilities, or other County assets for personal use;
- xiv. accepting gratuities; and
- xv. any other conduct deemed not to be in the best interest of the County and its employees.

The above examples are typical of the types of infractions sometimes encountered but are not inclusive of all situations which may arise warranting dismissal without progressive discipline. The County reserves the right exercise judgment and render disciplinary action or dismissal as determined appropriate based on the circumstances of each case.

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SECTION 8. GRIEVANCE PROCEDURES

8.1. INFORMAL GRIEVANCES. The purpose of informal grievance procedures is to provide employees, in an atmosphere of courtesy and cooperation, an equitable solution to problems or complaints which may affect the employee in the course of their employment with the County. When applicable, the informal grievance procedure allows employees to voice complaints concerning alleged improper actions of supervisor's management. The informal grievance procedure does not apply to suspensions, demotions, and terminations.

8.2. INFORMAL GRIEVANCE PROCEDURE. To initiate the informal grievance procedure, an employee must verbally discuss the problem with his supervisor not later than five (5) days after the occurrence of a problem. In the event that the employee is not satisfied with the action proposed to be taken by his supervisor, or for any other reason, the employee must put the complaint in writing and submit it to the administrative assistant within five (5) days of the meeting with the supervisor. In such cases the written informal grievance shall be forwarded to the elected commissioners with any additional explanatory material deemed useful by the department head. Any County commissioner can then determine whether to include the matter in the agenda of an open meeting (although the commission can consider specific personnel matters in closed session in compliance with the Open Meeting Act of New Mexico). Corrective action which results from an informal grievance shall be carried out by the supervisor whether or not the complaint is found meritorious by the board. Supervisors may not take reprisals against employees who take advantage of the informal grievance procedure, but gross abuses of the process can themselves be the subject of disciplinary action.

8.3. FORMAL GRIEVANCE PROCEDURE. This formal grievance procedure applies exclusively to the suspension, involuntary demotion, and dismissal of regular employees.

A. Written Notification

The employee's supervisor shall present the employee with written notification of intent to suspend, demote, or dismiss at least five (5) working days in advance of the proposed action. The written notification shall explain the reasons for the proposed action, the employee's right to a predisciplinary hearing, and contain the scheduled time and place of the predisciplinary hearing. The notification shall be hand delivered to the employee, receipt of which shall be acknowledged by the employee. The predisciplinary hearing shall not be set less than five (5) calendar days after the hand delivery of the notice.

B. Immediate Suspension

In cases of dismissal or where County property, other employees, or citizens are at risk because of the employee's actions, the employee's supervisor shall put the employee on administrative leave with pay while the appropriate disciplinary action is contemplated and until the predisciplinary hearing is held and the decision is rendered.

8.4. PREDISCIPLINARY HEARINGS. An employee shall pursue a formal grievance according to the rules contained herein.

A. Request For Predisciplinary Hearing

Within three (3) working days of the receipt of the disciplinary notice, the employee is required to notify the department head, in writing, and advise whether or not the employee will participate in the predisciplinary hearing. The time, place, and date of the predisciplinary hearing can be rescheduled upon the written agreement of the parties.

B. Predisciplinary Hearing Procedure

The County Commissioners shall meet with the employee and the employee's department head at a meeting of the County Commission during executive session. The County attorney shall also attend this meeting. At this predisciplinary hearing, the employee shall have the opportunity to respond to the proposed disciplinary action.

C. Predisciplinary Hearing Decision

The County Commission, with the help of the County attorney will issue a decision in writing within five (5) calendar days of the hearing. The written decision shall include the time, date, and location of the meeting; persons present; and the determination. The written decision shall be either delivered directly to the employee (obtaining employee's signature of receipt of the decision) or be sent by certified mail, return receipt requested. The employee has a right to appeal the decision to a personnel hearing officer.

D. Effect Of The Decision

Disciplinary actions will become effective at the time that the predisciplinary decision is issued.

8.5. POSTDISCIPLINARY HEARINGS/APPEALS TO THE PERSONNEL HEARING OFFICER.

A. Notice Of Appeal

Within ten (10) calendar days of receipt of written predisciplinary decision, the grievant must give written notice to the County attorney of the grievant's to pursue a postdisciplinary hearing.

B. Postdisciplinary Hearing Scheduled

The postdisciplinary hearing must be held within sixty (60) days of the receipt of notification of intent to pursue a postdisciplinary hearing. The parties must agree in writing to any postponement of the hearing beyond sixty (60) days. At this hearing, the grievant shall have an opportunity to present witnesses and physical evidence and cross examine the County's witnesses before a neutral hearing officer. The grievant and the County may be represented by legal counsel.

C. Appointment Of Hearing Officer

Within five (5) calendar days of the grievant's notification of intent to pursue a post disciplinary hearing, the department head will provide the grievant a list of three (3) proposed hearing officers. Within five (5) calendar days of receipt of the notification of the proposed hearing officers, the grievant will notify the

department head or designee of the acceptance of a proposed hearing officer or submit a name of a proposed hearing officer of the grievant's choice. If the department head or designee does not agree with the grievant's proposed hearing officer, the department head or designee and the grievant or his representative shall meet to designate a mutually acceptable hearing officer.

D. Hearing Officer Qualifications

The hearing officer shall be familiar with public or private personnel systems, or have pertinent experience in the appropriate areas of management or law. Qualifications for service as hearing officers shall be verified by the department head or designee. The hearing officer need not reside in Union County.

8.6. POSTDISCIPLINARY HEARING PROCEDURES.

A. Rules of Procedure

- i. The hearing officer will determine the date and time of the postdisciplinary hearing and any continuances. Such hearings will be conducted at a time and place which is mutually convenient to all parties concerned. Requests for continuances of hearings shall be made at least five (5) working days prior to the scheduled hearing, absent extenuating circumstances. Requests for continuances of hearings shall be made in writing directly to the hearing officer with copies to all parties involved.
- ii. Postdisciplinary hearings shall be conducted as open meetings with notice given to the public pursuant to the New Mexico Open Meetings Act; unless the grievant requests a closed hearing in writing.
- iii. The hearing officer shall:
 - a. make rulings on procedural and substantive issues of the hearing;
 - b. determine the admissibility of evidence and testimony, all of which must have a direct bearing on the issue before the hearing officer;
 - c. follow the evidentiary standard for administrative agencies; and
 - d. issue a written ruling, including findings of fact and conclusions of law;
- iv. The following persons are required to be present at all grievance proceedings unless otherwise excused by the hearing officer or by agreement of the parties: the grievant,
- v. The parties shall stipulate to the facts and issues to the greatest extent possible prior to the hearing.
- vi. Prior to the hearing, representatives shall prepare copies of all exhibits and evidence which are expected to be presented. Representatives shall stipulate to exhibits to the extent

possible and bring to the hearing adequate copies for the hearing officer as well as the opposing representative.

- vii. At least seven (7) working days prior to the hearing, all parties must submit to the hearing officer: a statement identifying the issues to be heard, a witness list, and a complete list of documents to be admitted as evidence.
- viii. Witnesses in grievance hearings are not admitted into the hearing room until called upon to testify.
- ix. Notice of the hearing will be sent by certified mail, to the grievant and postmarked at least ten (10) days prior to the scheduled hearing. Copies of the hearing notice shall be sent concurrently to all relevant parties.
- x. Either a tape recorded or stenographic record of all postdisciplinary grievance hearings will be made.

D. Conduct of Hearings

- i. The County carries the burden of proof by a preponderance of the evidence, shall present statements of issues involved in the case, followed by the grievant. Opening statements are limited to the pertinent issues of fact and law and shall not exceed ten (10) minutes without permission of the hearing officer.
- ii. Order of Presentation
 - a. The County will present its case first. Witnesses for the County may be called and questioned on their involvement in, or knowledge of, the case. Following each witness testimony, the grievant will have the opportunity to cross examine the witness. The hearing officer will then have the opportunity to question the witness on matters related only to the witness' testimony. The hearing officer shall restrict his questions to those necessary to clarify the testimony previously given. Follow up or redirect questioning will be allowed at the discretion of the hearing officer.
 - b. Witnesses for the grievant may be called and questioned on their involvement in, or knowledge of, the case. Following each witness' testimony, the County will have the opportunity to cross examine the witness. The hearing officer will then have the opportunity to question the witness on matters related to the witness' testimony. The hearing officer shall restrict his questions to those necessary to clarify the testimony previously given. Follow up or redirect questioning will be allowed at the discretion of the hearing officer.
 - c. Following presentation of the grievant's position, the County may offer brief rebuttal testimony. Such testimony shall address only the issues brought forth in the grievant's presentation.

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- d. The County's closing statement shall be presented, followed by that of the grievant. These statements shall not exceed ten (10) minutes without the permission of the hearing officer, and at a minimum shall contain a request for the desired outcome. The County shall have the opportunity to make a final statement, not to exceed five (5) minutes, and which shall be limited to issues brought forth in the grievant's closing statement.

C. Communication of Hearing Officer's Decision

The hearing officer's findings and conclusions will be issued within twenty (20) calendar days of the hearing and will be signed by the hearing officer and transmitted to the grievant, department head, and the administrative assistant, by hand delivery or certified mail. The hearing officer may uphold, modify, or reverse the decision of the department head or administrative assistant, and may reinstate the employee and award back pay and benefits. The record of the proceedings will be retained by the administrative assistant's office or the certified court reporter for a period of not less than one (1) year from the hearing date, along with all of the physical evidence admitted by the hearing officer. The verbal record shall be transcribed only in the case of appeal to the district court by one of the respective parties. The party requesting the transcription shall make arrangements to pay for the transcription.

D. Appeal of Hearing Officer's Decision

- i. Either party may appeal the hearing officer's decision in the Eighth Judicial District Court within thirty (30) days of receipt of the decision of that party.
- ii. This personnel policy manual may be included in the record on appeal at the request of anyone of the respective parties at any time before forwarding the record to district court.

8.7. MATTERS NOT GRIEVABLE. The following matters are not grievable:

1. Disputes as to whether or not an established County practice or policy is good;
2. Matters where a method of review is mandated by law;
3. Matters where the County is without authority to act or does not have the ability to provide a remedy;
4. Release of temporary employees prior to or at the end of their anticipated employment period;
5. The dismissal of probationary employees prior to the expiration of their probationary period;
6. The dismissal of appointed employees at any point during their employment with the County; and

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7. Performance evaluations, preferences for employment promotions, transfers, temporary assignments, removal from temporary assignments, and layoffs.

SECTION 9. COMPENSATION AND BENEFIT PROGRAM

9.1. HOURS OF WORK. All employees will work their scheduled hours pursuant to work schedules established by their department heads. Except as otherwise provided, employees will not be paid for travel time from home to the site of their work within Union County or from the work site to their home. Actual work periods may fluctuate at the discretion of the department heads.

Nonexempt road department employees who report to their designated work station at the of the working day, but who are required to travel to other County sites to perform their job, may leave the site in time to return to the designated work station by the end of the eight-hour work period. The road superintendent will determine the length of time necessary to return to the work station. Under no circumstances shall an employee be entitled to claim reimbursement for the cost of travel from home to the designated work station without specific advance supervisor approval. All road department employees electing to receive the use of a County vehicle for purposes of traveling to and from their home may not use the vehicle for personal use. The value of the use of the County vehicle shall be treated as taxable income in accordance with the Internal Revenue Code.

9.2. BREAKS. Full-time employees take a one (1) hour unpaid lunch break. Road department employees take an unpaid one-half hour lunch break. Full-time employees are entitled to two (2) fifteen (15) minute breaks per day; employees working four (4) hours or less per day are entitled to one (1) fifteen (15) minute break per day. Only supervisors may determine that breaks should be limited or delayed because of an emergency or unusual conditions.

9.3. PAY PERIODS. Employees shall be paid on a bi-weekly basis. A calendar will be obtained from the department head's office. Pay days shall fall on the Thursday after the end of the pay period. Employees will not be paid for time not worked. All employees must have or be willing to open a checking account for payroll and direct deposit purposes.

9.4. OVERTIME PAY. Overtime pay shall be paid only when overtime work is authorized by the department head, and only when the departmental needs to preclude the employee from taking compensatory leave time off. Employees working overtime without proper authorization may be subject to disciplinary action. The rate shall be one and one-half (1 1/2) times regular pay for each hour of overtime and such payment shall be made only in cases when a nonexempt employee works over forty (40) hours a week. Holiday, vacation, sick; and other leave hours shall not be considered actual working hours. Fair Labor Standards Act exempt employees shall not receive overtime pay.

9.5. COMPENSATORY TIME. Compensatory time is time off for hours worked beyond forty (40) hours a week for road and sheriff department employees, as overtime is described in §9.4 above. A nonexempt employee may, at the discretion of the department head, accrue compensatory time in lieu of overtime payment at the rate of one and one half hours of time for each hour of overtime worked over the actual work hours as specified in §9.4 above. Overtime hours worked and compensatory time hours accrued and taken off shall be recorded for each nonexempt employee and submitted to the department head's office each pay period on approved forms. An employee shall not accrue over 60 hours of compensatory time.

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9.6. FINAL PAY CHECK. An employee who resigns shall receive a final pay check on the first regularly scheduled payday following the employee's effective date of resignation. Any employee who is dismissed shall receive a final paycheck by 5:00 P.M. on the fifth (5) day following dismissal, and verification that all county items have been returned. Day one begins the day of dismissal and includes Saturday and Sunday. In case of death, final salary and compensation for unused annual leave shall be paid to the employee's named beneficiary, or if unnamed, to the employee's estate.

9.7. PERSONAL SAFETY EQUIPMENT. An employee in a designated job with the County may be required to wear special equipment or clothing to perform the job function. An employee who requires special equipment or clothing shall be provided the special clothing or protective equipment or an allowance by the County. Weapons of law enforcement personnel are exempted from this policy.

9.8. GRATUITIES. All employees are prohibited from accepting gifts or other considerations from vendors given with the intent of modifying the employees' performance of duties or encouraging the employees to make from the vendor involved. Employees will maintain the highest moral standards and any attempt to influence an employee's performance by a vendor or other person will be reported to the department head.

9.9. PER DIEM AND MILEAGE. All payments of per diem and mileage allowance to County employees will be made pursuant to policies established by the State of New Mexico. In no event shall any per diem allowances and mileage be paid for travel by a County employee in connection with the employee's regular job duties within the boundaries of Union County without the express written consent of the department head.

9.10. TIME SHEETS. The department head will keep a cumulative record of all leave time accrued and used time sheets will be signed by the employee. If a time sheet lacks a required signature, the paycheck will be and may be held until the necessary signature is obtained or special authorization is provided by the department head. Time sheets must be submitted prior to issuance of the paychecks.

9.11. PERA BENEFITS. All regular and appointed County employees, who work twenty (20) hours or more are to contribute to the Public Employees Retirement Association of New Mexico (PERA). Employees working less than twenty (20) hours seasonal employees, who work less than nine (9) consecutive months, are not required to contribute to PERA. Copies of the latest PERA rules and provisions may be obtained in the office of the administrative assistant.

9.12. INSURANCE BENEFITS. The County medical and life insurance benefits to its regular and qualified appointed employees. Insurance plans may be changed at the discretion of the County commission. Specific benefits of the current policy may be obtained from the department head's office.

SECTION 10. LEAVE AND HOLIDAYS

10.1. AUTHORIZED LEAVE. Leave is any authorized absence, with or without pay, during regularly scheduled work hours which is approved by the department head. The department head is responsible for the maintenance and transmittal of leave records.

10.2. UNAUTHORIZED LEAVE. Absence without approved leave is subject to disciplinary action and loss of pay.

10.3. HOLIDAYS. Legal holidays will be designated by the County Commissioners in January of each year. The following condition will apply with respect to holidays and holiday pay:

- A. Casual and temporary employees are not entitled to holiday pay;
- B. When a holiday falls on an employee's day off, the employee's holiday shall be observed on the following work day, work load permitting as determined by the department head;
- C. When a holiday falls during an employee's paid vacation, the day shall be counted as a holiday, and not a vacation day;
- D. In order to receive pay for a designated legal holiday, employees shall be in a work or paid leave status on their scheduled work day immediately preceding and following the holiday, or must have worked on the stated holiday. An employee absent without leave on their scheduled work day before or after a holiday will not receive pay for that holiday; and.
- E. When a holiday falls on a Saturday, it will be observed on the preceding Friday, and if the holiday falls on Sunday, it will be observed on the following Monday.

10.4. ANNUAL LEAVE WITH PAY.

Full-time County employees accrue annual leave according to the following schedule:

<u>Years of Service</u>	<u>Hours Accrued Per Month</u>	<u>Hours Accrued Per Year</u>
Date of hire to the end of the first year of employment	3 hours, 20 min. (40 hr. employees)	40
Beginning of second to end of fifth year of employment	6 hours, 40 min. (40 hr. employees)	80
Beginning of sixth year through the tenth year of employment	10 hours (40 hr. employees)	120

Beginning the eleventh year of employment, and until termination of employment, full-time (40 hour/week) employees will receive Eight (8) more hours of annual leave for every two additional years of service.

- A. An employee does not accrue annual leave for time worked in excess of forty (40) hours per week.
- B. A part-time regular employee accrues annual leave at 50% of the rate of a full-time (40 hour/week) employee.
- C. Annual leave will not be granted in advance of accrual.
- D. Upon termination from County employment, an employee shall be paid for the employee's unused accrued annual leave.
- E. An employee may take annual leave just before the employee's separation from County employment.
- F. Annual leave should be requested and approved at least thirty (30) days in advance, unless a shorter time is approved by the department head. Reasonable effort will be made to accommodate the employee's request, though approval will be subject to advance notification and the needs of the department. If vacation time is requested by one or more employee at the same time, seniority will rule. Annual leave may be accumulated year to year up to a total of two hundred and forty (240) hours.
- G. A probationary employee shall not be able to use accrued annual leave until completion of the employee's probationary period. However, if a probationary employee resigns, or is dismissed before completing the probationary period, the employee shall be compensated for accrued annual leave time.
- H. A casual or temporary employee does not accrue annual leave.

10.5. SICK LEAVE WITH PAY. Leave with pay is granted to a regular or appointed employee when a medical reason, such as described in §10.6 below keeps the employee from performing the duties of the position.

- A. Full-time (40 hour/week) regular employees shall accrue eight (8) hours of sick leave per month. Part-time regular employees accrue sick leave at the rate of four (4) hours per month.
- B. Accrued sick leave may be accumulated year-to-year up to a total of four hundred eighty (480) hours.
- C. There shall be no pay for sick leave upon termination.
- D. Casual/temporary employees do not accrue sick leave.

10.6. SICK LEAVE AUTHORIZATION. Sick leave shall be authorized by the employee's supervisor when an employee is unable to perform normal job duties due to medical considerations, including, but not limited to: illness, injury, pregnancy, prearranged medical or dental examination, quarantine, therapy, counseling, and treatment, or when an employee's relative, who is related by marriage or blood, or where a relative is established by judicial decree, is ill and requires the personal attention of the employee. Authorization is subject to the approval of the department head. Sick leave shall not be used for relief from effects of a second job (moonlighting). An employee may be terminated for abusing sick leave.

10.7. MEDICAL CERTIFICATION.

A. PHYSICIAN'S CERTIFICATE

A physician's certificate may be required when the employee is absent from work for three (3) or more consecutive days, or when sick leave of three or more days is used to the serious illness of an employee's spouse, parent, or child, who is related by marriage or blood, or where a relative is established by judicial decree.

B. PHYSICAL EXAMINATION

The County may request that an employee have a medical examination when it appears to the department head that the employee cannot perform the essential functions of his position, when a pattern of sick leave develops, or when an employee advises the department head that he cannot perform his job for medical reasons.

10.8. REPORTING SICK LEAVE. Sick leave shall be reported to the employee's supervisor by the employee or an immediate family member on a daily basis and as soon as possible but no longer than one (1) hour after the beginning of the employee's work shift unless the nature of the illness requires extended leave certified by the employee's physician and of which the employee's supervisor is notified.

10.9. USE OF SICK LEAVE DURING PROBATIONARY PERIOD. Probationary employees accrue sick leave in the manner set forth in §10.5 above. Use of sick leave shall be approved by the employee's supervisor on a day by day basis during the probationary period.

10.10. BEREAVEMENT LEAVE. In the event of the death of an employee's spouse, parent, grandparent, child, grandchild, or sibling, the employee shall be entitled to bereavement leave with pay not to exceed three days, upon approval of the department head.

10.11. ADMINISTRATIVE LEAVE WITH PAY. Leave with pay and travel pay may be authorized by the department head to allow employees to attend meetings of boards and Commissions when the employee's attendance is on the behalf of the County and in the best interest of the County. If the employee is paid by the board or Commission for his attendance, the County shall pay the employee his regular salary less the amount received by the employee from the board or Commission. Administrative leave with pay may also be granted by a department head pending disciplinary action.

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10.12. OCCUPATIONAL INJURY TIME/WORKERS COMPENSATION.

A. Workers' Compensation

Employees on the job or suffering from occupational diseases, as defined in the New Mexico Workers' Statute, shall receive workers' benefits as prescribed by law. An employee may elect to continue group health coverage, with the employee and the employer paying their respective share of the premium, during, an unpaid leave of absence for which workers' compensation is being paid for up to a period of four (4) months, provided however, all other eligibility requirements must continue to be met for the period of continuation of coverage.

B. Injury Leave Pay

An employee injured on the job may use accrued annual or sick leave for each regularly scheduled work day after the injury occurs for all such days not paid by workers' compensation. If the employee is on workers' compensation time for more than four (4) weeks, and is entitled to compensation for the first seven (7) days and has used accrued annual or sick leave for the first seven (7) of injury, the workers' compensation payments received for all such days shall be paid directly to the County by the workers' compensation carrier. In that event, annual or sick leave used by the employee, in lieu of workers' compensation, shall be recredited to the employee upon the County's receipt of the reimbursement by workers' compensation after the expiration of the statutory waiting period.

C. Reporting Procedure

All work-related injuries requiring medical attention must be reported to the employee's department head as soon as possible. A First Report of Injury form must be filed with the department head within fifteen (15) days of the injury. Failure to report injuries within fifteen (15) days will be grounds for denial of the injury claim. The report shall be signed by the employee and the employee's department head. In addition, the department head's accident investigation report must be filed on the day following the day the department head receives the employee's first accident report. All accidents shall be reported, however minor.

D. Medical Procedure

An employee, who incurs a job-related injury/illness, must go to the employee's physician, whom will treat the employee, or will refer the employee to another physician, depending on the nature of the problem. In circumstances of medical emergency, the employee should go to Union County General Hospital for treatment.

E. Return To Work

An employee shall return to his former position or be reassigned to a comparable position if the employee's physician certifies that the employee can return to work within six (6) months. If an employee is unable to perform the essential functions of his job with reasonable accommodations, the employee will be terminated.

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F. Modified Work Schedule

1. An employee returning from worker's compensation disability may return to light duty if an appropriate position is available and the employee's physician certifies that the employee can return to a modified work schedule.
2. Light duty is defined either as performing the same job as the employee held before the injury, or as performing the duties of another position for which the employee is qualified, for fewer than eight (8) hours each day or having reduced physical requirements for the full day or less than the full day.
3. The times and conditions of light duty be determined by the employee's department head. All light duty assignments are temporary.

G. Reemployment Of County Employees Injured On The Job

If the County is hiring, a regular full-time employee who has received benefits pursuant to the Workers' Compensation Act and who was unable to return to work during the six (6) month period for which the County shall hold the employee's position open, may apply for his preinjury job, a modified job similar to the preinjury job, or any job that pays less than the preinjury job, provided that the employee is qualified for the job. The County shall rehire the regular full-time employee provided that the employee's treating health care provider certifies that the employee is fit to carry out the job without significant risk of injury.

10.13. CIVIC DUTY LEAVE. An employee shall be given necessary time off with pay for the following:

A. Jury Duty

Pay for jury duty shall be authorized only for those days that the employee is scheduled to work. If excused by the court during a working day, the employee shall return to duty if at least four (4) hours of County duty can be served in that work day. If the employee does not return to work, the balance of the day will be charged to annual leave or leave without pay.

B. Court Appearance Time

When required by County duties or subpoenaed to appear before a court, personnel hearing officer, public body or County Commission for the purpose of testifying in regard to County matters.

C. Voting

For purposes of a national, state, or local election, an employee who is registered vote will be granted up to two (2) hours paid leave for voting, between the time of opening and the time of closing polls. The employee's supervisor may specify the hours for the leave. This leave will not be granted to any employee whose work day begins more than two (2) hours subsequent to the time of the opening of the polls, or ends more than three (3) hours before the closing of the polls.

10.14. MILITARY LEAVE FOR RESERVE OR NATIONAL GUARD DUTIES.

A. Paid Military Leave For Reserve Or National Guard Activities

Paid military leave is granted for authorized reserve or National Guard activities for a maximum of fifteen (15) working days during a one-year period. Military leave must be requested twenty (20) days in advance. The employee must furnish proof of duty orders or other documentation prior to leave being granted unless the leave is for emergency purposes.

B. Unpaid Military Leave

Employees voluntarily or involuntarily serving on active duty for more than fifteen (15) working days shall be placed on leave without pay. The employee taking military leave will not first be required to exhaust annual and sick leave.

C. Employees Returning From Unpaid Military Leave

Any employee who leaves a position he or she has held with the County, other than a temporary position, to enter the armed forces of the United States, national guard or reserve, and who serves on active duty and is honorably discharged or released from active duty to complete his remaining service in a reserve component, and who is still qualified to perform the duties of the County previously held, shall be re-employed in such position or to a position of like seniority, status, and pay. To be re-employed in such position, the employee must make application for re-employment within ninety (90) days after he or she is relieved from training or duty, within ninety (90) days of release from hospitalization which continued after discharge for a period of not more than one (1) year.

- i. The returning employee will be deemed to have accrued, seniority and length of service rights as though his or her employment with the County had been continuous since the date of initial employment.
- ii. The returning employee shall have all annual and sick leave accrued at the time of his or her departure for military service restored.

10.15. LACK OF WORK & INCLEMENT WEATHER. The department head may at their discretion send an employee home when there is no work available as determined by the department head and may close offices and send employees home due to inclement weather. Employees, who are sent home by the department head due to inclement weather, or other circumstances not covered in this policy manual, shall not be charged with leave for all normal work hours missed. Hours paid pursuant to this provision shall not be counted as hours worked for the computation of overtime. The County Manager, after consulting with Elected Officials, may close offices and/or send employees home due to inclement weather, and all employees will be compensated for normal work hours.

10.16. LEAVE WITHOUT PAY. The County Commission may grant regular employees leave without pay (LWOP) for a period not to exceed six (6) months, when the department head deems that such leave without pay is in the best interest of the County. Reasons for such a leave may include, but are not limited to:

education; medical disability; pregnancy or adoption of a child; and the need to care for a parent, spouse, or child, including a newborn. Leave without pay is subject to the following conditions:

A. Reemployment Upon Return

If an employee returns to work within three (3) months, the employee will be returned to the same position. If the employee is on leave without pay for more than three (3) months, the County will attempt to return an employee to the same or, similar position for which the employee is qualified. The position of an employee on leave without pay, for more than three (3) months, shall not be guaranteed.

B. Use of All Leave

Prior to going on leave without pay, an employee requesting leave without pay shall use all available annual leave, except for those going on military leave without pay. If the employee is seeking leave without pay for medical or pregnancy-related reasons, the employee shall first use all available annual and sick leave.

C. Physician's Certificate

Leave without pay requested because of medical reasons or pregnancy-related reasons must be accompanied by a physician's written statement indicating the estimated time of disability or recommended time for postnatal recovery. An employee returning to work from leave without pay due to medical or pregnancy-related reasons must be released by the employee's physician to return to work. Proof of release must be presented to the employee's department head.

D. Benefits at Employee's Expense

An employee on leave without pay does not accrue leave, nor does the employee receive County benefits. An employee wishing to continue receiving insurance benefits may do so at the employee's expense by submitting the employee's and the County's share of the premium to the administrative assistant on the regular day.

10.17. DONATION OF LEAVE TIME. County employees who have accumulated annual leave time under §10.4 or sick leave time under §10.5 are hereby authorized, but are neither required nor urged, to donate the time to other County employees. Such donations shall be made under the terms and conditions specified herein.

- A. Nonprobationary County employees who have accumulated more than eighty (80) hours of annual leave may donate any excess over eighty (80) hours of that annual leave time to other nonprobationary County employees who have exhausted all annual leave and sick leave time due to a nonwork-related injury or illness.
- B. Nonprobationary County employees who have accumulated more than eighty (80) hours of sick leave may donate any excess over 80 hours of that sick leave time to other nonprobationary County employees who have exhausted all annual and sick, leave due to a nonwork-related injury or illness.

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- C. Donations of time shall be on forms provided by the County, signed by the donating employee and witnessed by the department head. Donations of time shall be in hourly increments, payable at the hourly rate of the donor.
- D. Donated time accrues to the employee receiving the donation and no time shall be returned, if not used. Under no circumstances shall time donated to any employee exceed the maximum cumulative time allowed under §10.4 F (annual leave) or §10.5 B (sick leave).
- E. Donations of time are voluntary. No employee, supervisor, or elected official shall demand the donation of time from any employee, although a request from an employee may be communicated to other employees either orally or by written notice.
- F. Terminated employees are ineligible to receive donations.
- G. No right of donation is hereby created in any employee, regardless of circumstance.

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SECTION 11. MISCELLANEOUS

11.1. DESIGNATED WORK AREAS

All employees are to be at their designated work areas on time and ready to work. They shall work until the scheduled quitting time, unless permission of the supervisor has been obtained for different work hours. Employees shall not litter work areas and will keep them neat and clean.

11.2. PERSONAL BUSINESS. Personal business shall not be conducted during work hours while on County premises.

11.3. SAFETY. The County is committed to having all work conducted in a safe manner. All safety precautions shall be followed.

11.4. COUNTY PROPERTY. Employees shall not misuse County property, records, or other material in their care, control, custody, or remove, any County property, records, or other material from the premises of the County offices unless permission has been given by the department head. Employees shall not use County property, records or equipment for personal use.

11.5. TERMINATION; RETURN OF COUNTY PROPERTY. At the time that an employee is voluntarily or involuntarily terminated, the employee shall return all County property to the appropriate department head, including but not limited to: keys, vehicles, supplies, equipment, and uniforms that may be in the employee's possession. The department head shall notify the administrative assistant in writing that the employee returned all equipment.

11.6. COUNTY VEHICLES. No County vehicles will be taken out of Union County without permission of the department head and employees shall notify the department head of their destinations and, itineraries. County vehicles may be used only for County business and commuting to and from work, if required for a work-related purpose. County vehicles shall not be used, for personal business, except as is incidental in commuting determined by the employee's department head.

11.7. DRESS AND APPEARANCE. Employees are constantly in the public eye; consequently it is important that the employees present the best possible image to the public. Employees should always be clean and neatly dressed in clothing suitable for their work assignments.

11.8. CONTENTS OF PERSONNEL FILE. Subsequent to hiring, a separate file shall be prepared and maintained for each employee. These records shall be kept in the administrative assistant's office. It is the responsibility of each department head and the employee to ensure that the records of the employees are completed and up-to-date. The file shall contain the following records:

1. the original application form;
2. the originating personnel action showing occupation, date of beginning employment and salary;

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3. copies of personnel action forms;
4. copies of all performance evaluations;
5. copies of all favorable or unfavorable letters or memorandums such as letters or certificates of appreciation or records of other outstanding achievements regardless of origination;
6. records or certificates of educational training or orientation achievement completion;
7. records of disciplinary actions such as reprimand, suspension, demotion, or termination;
8. application for retirement program; and
9. other related actions/forms concerning payroll deductions, insurance payment records, etc.

11.9. INSPECTION OF PERSONNEL FILES. Personnel files, except records pertaining physical or mental examinations and medical treatment persons confined to any institution; letters of reference concerning employment, licensing; or permits; or letters or memoranda which are matters of opinion in personnel files are subject to the New Mexico Public Records Act, NMSA 1978, §14-2-1 (1995 Repl. Pamp.) and are open for public inspection. Any employee wanting to review his personnel file may do so by making arrangements with the administrative assistant.

11.10. ADDITIONAL RULES. Employees shall obey all additional rules, directives and requests stated verbally or in writing by their supervisors. Employees are generally required to follow all standards, rules, procedures and policies that are similar or normally expected the workplace.

PASSED, APPROVED, AND ADOPTED THIS DAY ___ OF _____, 2011.

BOARD OF COUNTY COMMISSIONERS UNION COUNTY, NEW MEXICO.