



# **SAMPSON COUNTY PERSONNEL RESOLUTION**

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## ARTICLE I. ORGANIZATION OF PERSONNEL SYSTEM

### Section 1. Purpose

The purpose of this policy is to establish a personnel system which will recruit, select, develop and maintain an effective and responsible work force. This policy is established under the authority of Chapter 153A-Article 5 and Chapter 126 of the General Statutes of North Carolina.

### Section 2. Coverage

- (a) All employees in the County's service shall be subject to this policy except as provided in this section.
- (b) The following officials and employees are exempt:
  - (1) elected officials;
  - (2) the County Manager;
  - (3) County attorneys;
  - (4) employees of the Sampson Regional Medical Center;
  - (5) employees of the Sampson County Board of Education;
  - (6) employees of the Clinton City School Board;
  - (7) employees of Eastpointe LME;
  - (8) employees of the Cooperative Extension Service who are paid by state funds; and
  - (9) volunteers.
- (c) Articles and sections of this policy will specifically designate those employees covered by that particular article and section. For those departments/agencies subject to the State Personnel Act, the State Personnel Act will prevail where there is a conflict with sections herein or where regulations/requirement exceed.

### Section 3. Definitions

- (a) **General County Employee.** A County employee assigned to a department not subject to the State Personnel Act.
- (b) **Competitive Service Employee.** An employee of Sampson County Department of Social Services, Sampson County Health Department, or a position in the Sampson County Emergency Management Office that is paid partially or completely with federal grant-in-aid funds.
- (c) **Probationary Employee.** A person appointed to a permanent position who has not completed the probationary period as outlined in Article IV Section 10.



- (d) **Part-time Employee.** An employee in either a permanent or temporary position, who is regularly scheduled less than the number of hours per work week designated by the Board of County Commissioners as full-time.
- (e) **Full-time Employee.** An employee in either a permanent or temporary position, who is regularly scheduled to work the number of hours per work week designated by the Board of County Commissioners as full-time.
- (f) **Regular Employee.** An employee in a permanent position who has successfully completed the designated probationary period.
- (g) **Permanent Position.** A position authorized for the budget year (12 months) and scheduled to work twenty or more hours per week for an indefinite duration and qualifies for membership in the retirement system. All County positions are subject to budget review and approval each year by the Board of County Commissioners and all employees' work and conduct must meet County standards. Therefore, reference to "permanent" positions or employment should not be construed as a contract or right to perpetual funding or employment.
- (h) **Temporary Position.** A position authorized for a definite duration. This includes employees whose position is funded in whole or part by grant funds and any position requiring work of less than 1,000 hours in a twelve month period. Persons appointed to these positions are not entitled to benefits.
- (i) **Appointing Authority.** Any Board or position with legal or delegated authority to make hiring decisions.
- (j) **Grievance.** A claim or complaint based upon an event or condition which affects the circumstances under which an employee works; alleged causes of such event or condition, including, but not limited to, misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.
- (k) **Adverse Action.** A demotion, dismissal, reduction in pay, reduction in force, or an undesirable transfer or suspension.
- (l) **Completed Year.** A period of twelve (12) calendar months in which the employee is in active pay status or is receiving Worker's Compensation payments while on leave without pay.
- (m) **Active Pay Status.** To be considered in active pay status an employee must be working in their position or be on approved leave.
- (n) **Completed Month.** Any calendar month in which an employee works on-half or more of the work days.

- (o) **School Term Employee.** A person under contract with the Sampson County Head Start Program to carry out specific duties as a specified rate of pay and benefits for a stated Head Start school year.
- (p) **Hiring Rate.** Pay rate established for each grade that is five percent (5%) below the minimum rate.
- (q) **Detailed Employees.** The loan of an employee to a different position for a specified period of time, with the employee returning to the regular duties at the end of the detail.
- (r) **Bonus Pay.** Payment to an employee whose current salary is at or above the maximum pay rate allowed for the grade. A bonus does not increase base pay and is awarded for meritorious work. Bonus pay may not exceed the maximum allowed for merit increases for the fiscal year in which it is awarded.
- (s) **Work Against Status.** A status reserved for employees who have the responsibilities of a job classification but do not meet all of the established requirements for the job classification.
- (t) **Non-Exempt Employee.** An employee status defined by the Fair Labor Standards Act (FLSA). All County job classifications have been classified as exempt or non-exempt.
- (u) **Exempt Employee.** An employee status defined by the Fair Labor Standards Act FLSA. All County job classifications have been classified as exempt or non-exempt.
- (v) **Compensatory Time.** Leave granted by the County and or earned by an employee who works over-time or works on a holiday.
- (w) **Longevity Pay.** An amount paid to permanent employees annually in recognition of 10 or more years of continuous service to the County.
- (x) **On-call.** Time outside the regularly scheduled work day when an employee must carry a page or other communication device and must respond immediately to calls for service.
- (y) **Traditional Work Schedule.** A normal work schedule consisting of five (5) eight (8) hour work days per week.
- (z) **Flextime Work Schedule.** A work schedule that offers employees choices of job arrival and departure times while still working the required number of hours each day.

- (aa) **Compressed Work Schedule.** A work schedule that allows employees to work eighty (80) hours in fewer than ten (10) days.
- (bb) **Immediate Family.** Immediate family shall be deemed to include spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren plus various combinations of half, step, in-law and adopted relationships that can be derived from those named.
- (cc) **Unsatisfactory Job Performance.** Work related performance that fails to satisfactorily meet job requirements as set out in the relevant job description, work plan or as directed by the management of the work unit or department.
- (dd) **Grossly Inefficient Job Performance.** Failure to satisfactorily meet job requirements as set out in the relevant job description, work plan, or as directed by the management of the work unit or department, and the act or failure to act causes or results in death or serious bodily injury, loss of or damage to County property or funds, or a loss of credentials.
- (ee) **Unacceptable Personal Conduct.** An act or conduct for which no reasonable person should expect to receive prior warning and which may lead to immediate dismissal.
- (ff) **Insubordination.** Willful failure or refusal to carry out the reasonable and lawful instructions of a supervisor.

#### **Section 4. Merit Principle**

All appointments and personnel actions shall be made on the basis of merit and fitness. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and salary grade. No applicant for County employment or employee shall be deprived of employment opportunities or otherwise be adversely affected as an employee because of an individual's race, color, religion, sex, national origin, political affiliation, non-job related disability, or age.

#### **Section 5. Responsibility of Board of Commissioners**

The Board of Commissioners shall establish personnel policies and rules, including the classification and pay plan and shall confirm the appointments of all Department Heads, based on the recommendation of the County Manager, except for the Sheriff, Register of Deeds, and Department Heads for those departments subject to the State Personnel Act.

## **Section 6. Responsibility of County Manager and Department Heads**

The County Manager shall be responsible to the Board of Commissioners for the administration of the personnel program. The County Manager shall make appointments, dismissals, and suspensions for Department Heads in accordance with Articles IV, VII, and IX of this personnel administration policy. The Department Heads (or in the case of Head Start, the Policy Council) shall make appointments, dismissals, and suspensions in accordance with Articles IV, VII, and IX of this personnel administration policy.

The Sheriff and Register of Deeds have the exclusive right to hire, discharge, and supervise the employees in their respective departments under the authority of 153A-103 of the General Statutes of the State of North Carolina.

The Health Director and the Social Services Director shall exercise their rights to hire, discharge and supervise employees in their respective departments under the authority of 130A-41 and 108A-14 of the General Statutes of the State of North Carolina, respectively.

The County Manager shall:

- (a) recommend rules and revisions of the personnel system to the Board of Commissioners for consideration;
- (b) recommend revisions to the position classification plan to the Board of Commissioners for approval.
- (c) prepare and recommend revisions to the pay plan to the Board of Commissioners for approval;
- (d) determine which employees shall be subject to the overtime provisions as provided for in Article III, Section 9;
- (e) develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the County;
- (f) develop and coordinate training and educational programs for County employees.

## **Section 7. Responsibility of the Finance Officer**

The Finance Officer will be responsible to the County Manager for the regular maintenance of the personnel program. The Finance Officer will:

- (a) establish and maintain a roster of all persons in the County service, such roster to set forth each officer and employee, class title of position, salary, any changes in class title and status, and such data as may be deemed desirable or useful;
- (b) investigate periodically the operation and effect of the personnel provisions of this policy and at least annually report findings and recommendations to the County Manager; and
- (c) perform other duties in accordance with this policy which may be assigned by the County Manager.

### **Section 8. Responsibilities of Supervisors and Employees**

Responsibilities of supervisors in the implementation of these policies include:

- (a) ensuring an orientation session is conducted with each new employee to make certain employee is aware of existing policies;
- (b) accurately applying and following the personnel policies consistently with all employees;
- (c) communicating performance expectations and document relevant employee performance issues; and
- (d) Identifying potential problems with personnel policies and procedures and recommend improvements to the appropriate authority.

Responsibilities of employees include to follow the personnel policies, request clarification when needed, and make recommendations for improvement.

### **Section 9. Responsibility of Human Resources Management Director**

The Human Resources Management Director is available to provide guidance to supervisors and department heads in the administration of disciplinary action. This includes review and advice on any written warning or other notice to the employee.

As appropriate, the Human Resources Management Director may advise the supervisor and employee as to the availability of the Employee Assistance Program as a source of assistance, on a voluntary basis, to the employee who has a personal situation which may be causing a work performance or conduct problem.

As requested, the Human Resources Management Director advises the County Manager, Health Director or Social Services Director as to any dismissal, disciplinary demotion or disciplinary suspension without pay.

Any memorandum, letter or other document used to notify the employee of any dismissal, disciplinary demotion, disciplinary suspension without pay or investigative suspension requires the advance approval (or advance review in the case of Health Social Services) of the County Manager or his designee.

### **Section 10. Department Rules and Regulations**

Due to the particular personnel and operational requirements of the various departments of the County, each department is authorized to establish supplemental rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the Appointing Authority or designee, **and shall be reviewed by the County Manager or his designee, on behalf of the Board of Commissioners, to ensure that such supplemental rules and regulations do not** in any way conflict with the provisions of this Resolution but shall be considered as a supplement to this Chapter. Copies of such rules and regulations shall be maintained in the office of the Personnel Director.

### **Section Coverage**

Employees subject to State Personnel Act should also refer to Appendix G.

All employees     Excludes other (specify: \_\_\_\_\_).

## **ARTICLE II. CLASSIFICATION PLAN**

### **Section 1. Adoption**

The position classification plan, as set forth in Appendix A, is hereby adopted as the position classification plan for the County.

### **Section 2. Allocation of Positions**

The County Manager shall allocate each position covered by the classification plan to its appropriate class in the plan.

### **Section 3. Administration of the Position Classification Plan**

The County Manager shall be responsible for the administration and maintenance of the position classification plan so that it will accurately reflect the duties performed by employees in the classes to which their positions are allocated. Department Heads shall be responsible for bringing to the attention of the County Manager (1) the need for new positions, and (2) material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classifications of any existing positions.

**New positions shall be established only with the approval of the Board of Commissioners** after which the County Manager shall either (1) allocate the new position to the appropriate class within the existing classification plan, or (2) recommend that the Board of Commissioners amend the position classification plan to establish a new class to which the new position may be allocated.

When the County Manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the County Manager shall (1) direct that the existing class specification be revised, (2) reallocate the position to the appropriate class within the existing classification plan, or (3) recommend that the Board of Commissioners amend the position classification plan to establish a new class to which the position may be allocated.

### **Section 4. Amendment of Position Classification Plan**

Classes of positions shall be added to and deleted from the position classification plan by the Board of Commissioners based on the recommendations of the County Manager.

### **Section 5. Request for Reclassification**

Any employee who considers the position in which classified to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request through the chain of command to the Personnel Director. Upon receipt of such request, the Personnel Director may forward the request

to an independent contractor for consideration. The Personnel Director will share the information with the Department Head for necessary changes to maintain a fair and accurate classification plan.

## **Section 6. Detail of Employees Authorized**

The County Manager may authorize the detail, or temporary reassignment, of a non-department head employee as a temporary measure to accomplish essential work or to assist another organization in accomplishing its work. Details are generally authorized to fulfill certain needs or to resolve particular situations such as emergencies occasioned by abnormal workloads, significant changes in the organization or unanticipated and critical absences of employees. There is no formal position classification change, status or pay for the employee during the detail period. Therefore, this is not considered an adverse action. The employee returns to the official position of record and their regular duties at the end of the detail. The employee's regular position remains encumbered for the length of the detail. The assignment of an employee to a position in an acting capacity is also considered a detail if it is not clearly stated in the employee's job description.

Detailing may not be used to circumvent merit promotion procedures. Except for brief periods and compelling reasons, an employee will not be detailed to perform work of a higher grade level. Details to the same or lower grade positions may be made in 120 day increments for up to one year. Beyond an initial 120-day detail, the Manager will consider the use of a temporary promotion, if the employee is otherwise qualified.

The detail assignment will be documented a personnel action form and by a memorandum from the County Manager to the employee and the department heads for the sending and receiving departments stating the purpose and duration of the detail. A copy of the memorandum will be furnished to the Finance Office for filing in the employee's official personnel file.



## Section Coverage

Employees subject to State Personnel Act should also refer to Appendix G.

All employees     Excludes other (specify: \_\_\_\_\_).

### ARTICLE III. THE PAY PLAN

#### Section 1. Adoption

The schedule of salary ranges and class titles assigned to salary ranges, as set forth in Appendix B is hereby adopted as the pay plan for the County. As required by the State Personnel Act, this plan shall be submitted annually to the State.

#### Section 2. Maintenance of the Pay Plan

The County Manager shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions, when considered in relationship to ranges of pay for other classifications, general rates of pay for similar employment in the private sector and in other public jurisdictions in the area, changes in the cost of living, the financial condition of the County and other factors. To this end, the County Manager will from time to time make comparative studies of all factors affecting the level of salary ranges and will recommend to the Commissioners such changes in salary ranges as appear to be warranted.

#### Section 3. Use of Salary Ranges

Salary ranges are intended to furnish administrative flexibility in recognizing individual performance and seniority differences among employees holding positions in the same classification by rewarding employees for meritorious service. The following general provisions will govern the granting of within-the-range pay increments:

- (a) The hiring rate established for the class is the normal hiring rate, except in those cases where unusual circumstances appear to warrant appointment at a higher rate. Appointment above the hiring rate may be made when the Department Head justifies that it is in the best interest of the County. Above-the-hiring rate appointments will be based on such factors as the qualifications of the applicant being higher than the desirable education and training for the classification, a shortage of qualified applicants available at the hiring rate, and the refusal of qualified applications to accept employment at the hiring rate.
- (b) Once an employee is hired, pay above the minimum rate may be used to reward employees for meritorious service. Each year, the County Manager may require Department Heads to consider the eligibility of employees to receive merit pay adjustments. Department Heads shall submit their recommendations in writing, including the most recent performance appraisal, giving the reasons whether to advance the employee or retain him at the same rate. All such advancements and retentions must be approved by the County Manager.

- (c) Career Path adjustments are subject to the availability of funding and the annual approval by the Board of Commissioners, and will be generally applicable to all employees as follows:
- i. When an employee with above-average appraisal ratings serves three (3) years in his or her current position, the salary is increased one-half the distance from the current salary to the mid-point of the pay grade.
  - ii. When an employee with above-average appraisal ratings serves five (5) years in his or her current position, the salary is increased to the mid-point of the current pay grade.
  - iii. If an employee's job has been reclassified to a higher grade, the date he or she originally went into the position is used to calculate the three or five year salary movement.
  - iv. If an employee is promoted, the date of this action will be used to calculate the three or five year salary movement.
  - v. To ensure an employee is not penalized for taking a promotion or reclassification, his or her salary should be higher than if he or she had remained in the old position (the salary should be at least \$500 more if a five year salary increase was due).
  - vi. Certified law enforcement officers are currently subject to career path adjustments as defined in Appendix B.

#### **Section 4. Payment at a Listed Rate**

All employees covered by the salary plan shall be paid at a listed rate within the salary range established for their respective job classifications. Exceptions are as follows:

- (a) Employees in a “work against” status;
- (b) Employees whose present salaries are above the established maximum rate following transition to a new pay plan;
- (c) Employees who are granted “bonus pay” for meritorious service (see Section 6, Pay Rates in Promotion, Demotion, Transfer and Reclassification, paragraph (e).)

## **Section 5. Salary of an Employee in a Work Against Status**

An applicant hired or an employee promoted to a position in a higher classification, who does not meet all established requirements of the position, may be appointed at a rate in the pay plan below the minimum established for the position. In such cases, a plan for training, including a time schedule, will be prepared. "Work against" salaries may be below the minimum salary established for the position for which the person is being trained. An employee will remain a "work against" status until the Department Head certifies that the employee is qualified to assume the full responsibilities of the position and the County Manager approves the certification. The Department Head shall review the progress of each employee in a "work against" status every six (6) months or more frequently as necessary to determine when the employee is qualified to assume the full responsibilities of the position.

## **Section 6. Pay Rates in Promotion, Demotion, Transfer and Reclassification**

When an employee is promoted, demoted, transferred or reclassified, the rate of pay in the new position will be established in accordance with the following rules:

- (a) An employee who is promoted shall receive a pay increase within the higher level or an increase to the minimum of the new pay range.
- (b) An employee, who voluntarily requests a demotion, shall have responsibilities, work load, and longevity reviewed by the Department Head. Based upon this review and with the County Manager's approval, the voluntary demotion may be granted, and the employee's salary shall be decreased to the proportionate range on the lower salary scale. Demotions for cause shall result in the reduction of salary and to a lower range.
- (c) An employee who is transferred from a position in one class to a position in another class at the same pay range shall continue to be paid at the same rate.
- (d) An employee whose position is reclassified to a classification having a higher salary range shall receive an increase within the higher range or an increase to the minimum of the new pay range (the greater of 5% from the present salary or minimum of the new range). If the position is reclassified to a lower pay range, his/her salary will remain unchanged. If the position is reclassified to a lower pay range and the result is that the employee will receive a rate of pay above the maximum rate established for the new classification, that employee will not be eligible for merit pay adjustments until such time as the employee either receives a promotion or benefits from a general classification-wide pay increase thereby bringing the employee's rate of pay at or below the maximum established for that classification. However, the employee may be eligible for bonus pay as described in paragraph (e).

- (e) An employee whose position is at the maximum established for that employee's classification may be eligible for a bonus for meritorious work. The bonus shall not increase the base pay of the employee. Bonus eligibility will be considered on a per case basis and is not an entitlement during any year. Bonus pay must be recommended by the Department Head and approved by the County Manager. The bonus pay may not exceed the maximum allowed for merit increases for the fiscal year in which it is awarded.

Any exceptions to these salary policies for promotions, demotions, transfers, reclassifications, or bonus pay must be recommended by the Department Head and approved by the County Manager.

### **Section 7. Pay Rates in the Salary Range Revisions**

When the Commissioners approve a change in salary range for a class of positions, employees whose positions are allocated to that class may have their salaries raised or left unchanged.

- (a) When a classification of positions is assigned to a higher pay range, employees in that classification will receive a pay increase within the new higher range or an increase to the minimum of the new pay range (the greater of 5% from the present salary or minimum of the new range).
- (b) When a classification of positions is assigned to a lower pay range, the salaries of employees in that classification will remain unchanged. If this classification to a lower pay range results in an employee being paid at a rate above the maximum established for the new classification, the salary of the employee shall be maintained at that level until such time as the employee's pay range is increased above the employee's current salary or he/she is promoted to another classification. However, the employee may be eligible for bonus pay as described in Article III, Section 6, Pay Rates in Promotion, Demotion, Transfer and Reclassification, paragraph (e).

### **Section 8. Pay for Part Time Work**

The pay plan established by this policy is for full time service. An employee appointed for less than full time service will be paid at the same hourly rate that has been established for a full time position in that classification.

### **Section 9: Overtime**

Employees of the County can be requested and may be required to work overtime hours as necessitated by the needs of the County and determined by the supervisor, especially in emergencies of unusual circumstances. All overtime work must be authorized in advance by the Department Head or authorized representative of the

Department Head and approved by the County Manager.

Supervisors shall attempt to arrange employee work and schedules so as to accomplish the required work within the standard workweek and without incurring overtime.

The County will comply with the Fair Labor Standards Act (FLSA). The County Manager shall determine which jobs are "Non Exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

**Non-exempt and Exempt Employees under FLSA:**

Non-exempt employees: Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (usually 40 hours in a 7 day period or alternative FLSA approved full time schedule). Employees in law enforcement job classes may earn overtime based on up to a 28 day time period. The established work week (168 consecutive hours) for the County is from Friday at 5:00 p.m. to the following Friday at 5:00 p.m.

Hours worked beyond the FLSA established limit will be compensated in time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes.

Whenever practicable, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees, instead of paying overtime. When time off within the work period cannot be granted, overtime worked will be given in the form of compensatory time off or paid in accordance with the FLSA.

Compensatory time off may be granted whenever feasible and determined by the County Manager, based on recommendations from the Department Head. Accumulation of more than eighty hours of compensatory time is discouraged and must have the approval of the County Manager. The maximum compensatory time that may be accumulated by non-exempt employee is 240 hours, and the maximum accumulation for sworn law enforcement officer is 480 hours. When compensatory leave balances for non-exempt employees or law enforcement officers exceeds 240 or 480 hours respectively, the employee will be paid for those hours in excess of the maximum allowable hours.

Emergency medical personnel will be paid in accordance with the fluctuating overtime provisions of the FLSA. Their overtime rate will be the minimum amount required by FLSA, but may be increased at the discretion of the Board of Commissioners.

Nonexempt employees separating from employment shall be paid for their compensatory time balances.

In declared disaster or emergency situations where employees are required to work long and continuous hours, the County Manager may approve compensation at a rate up to double time for those hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions.

Exempt employees: Employees in positions determined to be "exempt" from the FLSA (as Executive, Administrative, or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees may be granted compensatory leave by their supervisor where the convenience of the department allows and in accordance with procedures established by the County Manager. Exempt employees may accumulate up to forty hours of compensatory time. Such compensatory time is not guaranteed to be taken and ends without compensation upon separation from the organization.

The County intends to make deductions from the pay of exempt employees for authorized reasons and prohibits improper pay deductions. Exempt employees who wish to question deductions they believe to be improper may use the County's Grievance procedure, as explained in this policy. If the deduction is found to be improper the County will reimburse the employee for lost pay.

In declared disaster or emergency situations requiring long and continuous hours of work, exempt employees may be compensated at a rate of up to double time for the duration of the emergency period, at the approval of the County Manager.

Use of compensatory time: The use of accrued compensatory time by non-exempt or exempt employees cannot count as part of the 12 weeks of eligible Family and Medical Leave (FMLA).

## **Section 10. Payroll Deductions**

There are three (3) classes of payroll deductions. All payroll deductions must be authorized by the County Manager.

- (a) Statutory deductions, mandatory for all County employees.
  - 1. FICA (Cooperative Extension employees are exempt from FICA)
  - 2. Federal Income Tax
  - 3. State Income Tax
  - 4. LGERS (Local Government Employees Retirement System)
  - 5. Medicare FICA
  
- (b) Voluntary deductions. These deductions must be authorized in writing by the employee.

1. Life Insurance
  2. Hospitalization Insurance
  3. Dental Insurance
  4. Credit Union Deductions
  5. Deferred Compensation
  6. United Way
  7. 401-K Voluntary
  8. Cafeteria Plans
  9. Wellness Center
- (c) Special deductions. These deductions may be as required, upon authorization by the County Manager, but will not require approval of the employee.
1. Tax Garnishments
  2. Overpayment of Wages
  3. Under-deductions of Statutory Deductions
  4. Court Orders

**Section 11. Longevity Pay**

Annual longevity pay amounts for permanent employees are based on the length of continuous County service and a percentage of the employee’s annual base rate of pay as of November 30 in any calendar year. Longevity pay shall be distributed to the employees no earlier than December 1 and no later than December 15. Longevity pay amounts are computed by multiplying the employee’s annual base rate by the appropriate percentage, rounded to the nearest dollar, in accordance with the following table:

<u>Years of Continuous County Service</u>	<u>Longevity Pay Rate</u>
10 but less than 15 years	1.50 percent
15 but less than 20 years	2.25 percent
20 but less than 25 years	3.25 percent
25 or more years	4.50 percent

Longevity pay shall be made in a lump sum. Longevity pay is not considered a part of annual base pay for classification and pay purposes, nor is it to be recorded in personnel records as a part of annual base salary.

Fractional permanent employees’ longevity pay shall be based upon the percentage of time worked, i.e., an employee working 50 percent of the normal work schedule would receive 50 percent of the amount scheduled for their years of service.

An employee will not be eligible to receive longevity pay who:

- a. Terminates employment with the County, either voluntarily or by

administrative dismissal with cause, prior to the longevity pay date.

- b. Is placed on long term disability prior to the longevity pay date.

An employee who is transferred or promoted or given a specified leave of absence without pay shall be considered to be in continuous service. Employees on leave of absence without pay will receive their longevity payment upon their return to active service with the County. Longevity pay shall be computed on the basis of the last earned salary before the employee's leave.

Longevity payments made to employees in violation of the requirements (due to County or employee error) must be returned to the County.

### **Section 12. On-Call Compensation**

The County provides a continuous twenty-four hour a day, seven day a week service to its citizens. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. One of the conditions of employment with the County is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal by the appointing authority.

**On-call.** On-call time is defined as that time outside the regularly-scheduled work day when an employee must carry a pager or other communication device and must respond immediately to calls for service.

Non-exempt employees required to be on "on-call" duty will be paid \$1 for each hour of on-call time.

### **Section 13. Pay for "Interim" Assignment in a Higher Level Classification**

An employee who is formally designated for a period of at least one month to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification shall receive an increase for the duration of the "acting" assignment. The employee shall receive a salary adjustment to the entry level (hiring rate) of the job in which the employee is acting or an increase of 10%, whichever is higher. Criteria involved in determining the amount of compensation shall include

- (a) the difference between the existing job and that being filled on a temporary basis, and
- (b) the degree to which the employee is expected to fulfill all the duties of the temporary assignment.



The salary increase shall be temporary and the employee shall go back to the salary he or she would have had if not assigned to the “acting” role upon completion of the assignment.

This section does not apply to interim department head assignments, as salary for interim department assignments will be negotiated by County Manager or Board of Commissioners.

#### **Section 14. Bilingual Premium**

Departments with a proven business need for bilingual skills may identify positions to function in this role subject to approval by the County Manager. Departments must submit written justification for this need in advance. Employees in positions requiring proficiency in a second language including, but not limited to, Spanish Chinese, Vietnamese, Korean, and American Sign Language are eligible for 5% increase in base pay not to exceed the maximum rate of pay identified for the job. To function in the capacity, employees will be required to pass a proficiency test arranged by the department through Sampson Community College or an appropriate alternate site. The acceptable proficiency level for the County is advanced or superior as defined by the American Council on the Teaching of Foreign Languages (ACTFL). All eligible employees, including native speakers, are required to be tested. Testing is paid for by the County. Employees must complete the appropriate request form prior to being tested. Premium pay increases are effective the pay period following the results of the proficiency test and are not retroactive. Premium pay increases will be removed from an employee's salary if they cease to use this skill or move into a position that does not require bilingual skills.

#### **Section 15. Shift Differential Pay**

Shift differential pay is applicable to non-exempt sworn law enforcement, jail personnel and telecommunicators. Shift differential rate of pay for hours worked from 7:00 p.m. to 7:00 a.m. is equal to employee's rate of pay plus 5%.

### Section Coverage

Employees subject to State Personnel Act should also refer to Appendix G.

All employees     Excludes other (specify: \_\_\_\_\_).

## ARTICLE IV. RECRUITMENT AND EMPLOYMENT

### Section 1. Statement of Equal Employment Opportunity Policy

It is the policy of the County to foster, maintain, and promote equal employment opportunity. The County shall select employees on the basis of applicants' qualifications and without regard to age, sex, race, color, creed, religion, or national origin except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary for job performance. Applicants with disabilities shall be given equal consideration with other applicants for positions in which their physical handicaps do not represent an unreasonable barrier to satisfactory performance of duties.

### Section 2. Implementation of EEO Policy

All personnel responsible for recruitment and employment will continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable performance-related job requirements is being actively observed, to the end that no employee or applicant will suffer discrimination because of age, sex, race, color, creed, religion, national origin, or physical handicap. Notices with regard to equal employment matters shall be posted in conspicuous places on County government premises, in places where notices are customarily posted.

### Section 3. Recruitment

When positions are to be filled within the County, Department Heads shall notify the Human Resources Director concerning the number and classification of positions which are to be filled. The Human Resources Director shall publicize these opportunities for employment including applicable salary ranges and employment qualifications. Information on job openings and hiring practices shall be provided to recruitment sources including organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments. Individuals shall be recruited from a geographic area as wide as is necessary to insure that well qualified applicants are obtained for County service.

### Section 4. Job Advertisements

Any posted employment advertisements shall contain assurances of equal employment opportunity and shall comply with federal and state statutes regarding discrimination in employment matters, based on age, sex, race, color, creed, religion, national origin, or disability.

## **Section 5. Applications for Employment**

All persons expressing interest in employment with the County shall be given the opportunity to file an application for employment when a position is vacant or when the County is advertising to fill such positions. Persons applying for a vacancy must complete and submit the official application form designated by the County. It is not necessary for the County to accept official application forms in the absence of an actual vacancy under active recruitment.

When a job opening occurs, the initial screening of applicants and applications may be conducted by the local Employment Security Commission (ESC) office. The best qualified candidates shall then be referred to the respective Department Head for final processing including interviews, reference checks, and any other steps deemed necessary. The approval of the Appointing Authority is required.

## **Section 6. Inactive Application File**

Applications for candidates not selected will be kept on file with the Personnel Director for a period of two (2) years, in accordance with Equal Employment Opportunity Commission guidelines.

## **Section 7. Qualification Standards**

- (a) Employees will meet the employment standards established by the position classification plan and such other reasonable minimum standards of character, aptitude, ability to meet the public, and physical condition as may be established by the County Manager with the advice and recommendations of the Department Head.
- (b) The County's policy includes the responsibility for insuring that hiring qualifications for both entry level and promotional level jobs are fair and will continue to be fairly administered. Qualifications will be reviewed periodically to assure that requirements conform to the actual job performance requirements.
- (c) In keeping with both these responsibilities, but understanding that the pool of available fully-qualified candidates for some positions may be limited from time to time, the County may hire applicants who do not meet minimum requirements for the position, provided that the deficiencies are such that they can be eliminated through orientation and on-the-job training and provided that the applicant is appointed at a rate in the pay plan below the minimum established for the position (See Article III, Sec. 5; Salary of an Employee in a Work Against Status).

## **Section 8. Testing**

- (a) Tests administered by the County or the North Carolina Employment Security Commission for the County will conform to applicable legal regulations and will be appropriately validated.
- (b) All tests given to applicants will be administered and evaluated by qualified employees, or by Employment Security Commission personnel who are fully acquainted with the County's policy on equal employment opportunity.

## **Section 9. Appointments**

It is the policy of the County to employ according to ability, training, and experience. To that end, it will be the policy of the County to use all available means to attract qualified candidates for employment, and to make such investigations and examinations as are deemed appropriate to assess fairly the aptitude, education and experience, knowledge and skills, character, physical fitness, and other qualities required for positions in the service of the County. It is the County's policy to create career opportunities for its employees when possible.

Before any commitment is made to an applicant, the Department Head shall forward the applicant's completed application form with a recommendation concerning the classification of the position to be filled, the salary to be paid and the reasons for selecting the particular applicant over others to the Human Resources Director who will verify that all needed information is attached and then forward the application to the County Manager. The County Manager shall determine the classification and starting salary of all employees. The Sheriff and the Register of Deeds shall make the appointment and the County Manager will determine the classification and starting salaries of new employees in those departments.

By the authority of Chapter 153A-103 of the North Carolina General Statutes, the Board of Commissioners must approve the appointment by the Sheriff or Register of Deeds of a relative by blood or marriage of nearer kinship than first cousin or of a person who has been convicted of a crime involving moral turpitude.

Prior to the completion of certification requirements established by the State of North Carolina, any County law enforcement personnel shall be required to successfully complete a series of tests designed to determine physical condition, drug dependency, and other general health conditions required of the job classification being sought.

The Personnel Officer will maintain a list of those positions that involve the handling of funds, direct client or child care, or as designated as safety sensitive. Employment with Sampson County shall be denied with respect to such positions for those persons convicted of any crime against a person, crimes against property where the intent is an element, any drug or gambling related offense, or any motor vehicle offense related to the applicable position. It shall be a precondition of employment that an applicant for

any of these positions shall, upon request, provide fingerprints and all other necessary personal identification including a birth certificate, social security number and drivers license, if available, so that the Sheriff's Department or designee may cause a thorough search to be made of local and state criminal records to determine whether the applicant has a history of criminal convictions for the offenses above named. An evaluation of any offense for purposes of employment will take into account the nature and circumstances of the offense and the time of the offense as they relate to the essential job functions for the position applied. No action to deny employment will be taken until the Sheriff's Department or designee confirms the identity of the applicant by a match of the applicant's fingerprints to the State Bureau of Investigation or a Certified True Copy of the public record document is retrieved from the Clerk of Superior Court.

### **Section 10. Probationary Period of Employment**

An employee appointed to a full-time or part-time permanent position will serve a probationary period of six (6) months, except that law enforcement officers will serve a twelve (12) month probationary period. An employee may be dismissed during the probationary period at any time the appointing authority feels the employee is not satisfactorily performing the assigned duties. This action is not subject to appeal.

In unusual cases, for specific reasons approved by the County Manager, the probation period may be extended for a maximum of six (6) months. In such cases, the employee must be notified of the purpose of the extension, the conditions and performance expectations, and the length of time of the extension.

An employee serving a probationary period following initial employment in a permanent position will receive all benefits provided in accordance with this ordinance, with the following exception of as otherwise provided:

Employees serving a probationary period following a promotion will continue to receive all benefits provided in accordance with this policy and under other supplementary rules and regulations.

Before completion of the probationary period, all Department Heads except the Sheriff and Register of Deeds shall indicate in writing to the County Manager:

- (a) That the supervisor has discussed the new employee's progress (accomplishments, strengths, and weaknesses) with the new employee.
- (b) Whether the new employee is performing satisfactory work.
- (c) Whether the probationary period should be extended.
- (d) Whether the County should retain the employee in the present position or should release, transfer, or demote the employee.

No employee shall remain on probation for more than one year.

## **Section 11. Promotion**

Candidates for promotion for existing or anticipated job openings will be chosen on the basis of their qualifications and work records – without regard to age, sex, race, color, creed, religion, national origin, or non job-related disability. Performance appraisals and work records for all personnel will be carefully examined when openings for higher level positions occur.

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the County's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, that applicant shall be appointed to that position. The County will balance three goals in the employment process:

- (a) the benefits to employees and the organization of promotion from within;
- (b) providing equal employment opportunity and a diversified workforce to the community; and
- (c) obtaining the best possible employee who will provide the most productivity in that position.

Therefore, except in situations where previous County experience is essential, or exceptional qualifications of an internal candidate so indicate, the County will consider external and internal candidates rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Internal candidates shall apply for promotions using the same application process as external candidates. At a minimum, all vacant positions will be advertised within all county government departments.

Department heads are responsible for developing staff capacity to provide back-up for coworkers and higher level positions; to prepare staff and the organization for smooth transitions; and to insure capability to cover interim absences and vacancies.

When a vacancy occurs, the appointing authority in whose department the vacancy occurs will review all applications, including those from current County employees wishing to be promoted to the position. If a current County employee is chosen for promotion, the appointing authority will forward the employee's name to the County Manager with recommendations for classification and salary.

## **Section 12. Demotion**

Any employee whose work in his/her present position is unsatisfactory or whose conduct is unsatisfactory may be demoted by the appointing authority with the approval of the County Manager (or in the case of the Sheriff's Department and the Register of Deeds Office, by the respective Department Head) provided the employee shows promise of becoming a satisfactory employee in another position. Such a demotion will

be preceded by the warning procedures outlined in Article IX. An employee who wishes to accept a position with less complex duties and responsibilities may be demoted for reasons other than unsatisfactory performance or failure in personal conduct by the appointing authority, with the approval of the County Manager. If the demotion is for failure in performance of duties or in personal conduct, the employee and the County Manager will be provided with a written notice citing the recommended effective date and reasons for demotion and the appeal rights available to the employee as noted in Article XI.

Representative causes for demotion because of failure in work performance and failure in personal conduct are listed in Article IX, Section 4.

### **Section 13. Transfer**

Any employee who has successfully completed a probationary period may be transferred to the same or similar class in a different department without serving another probationary period. An employee desiring to be transferred should make the request to the Department Head (or in the case of Department Heads, to the County Manager).

As vacancies occur in other departments to which the employee desiring transfer would be eligible for transfer, that employee's name will be submitted to the various Department Heads for consideration. If a Department Head wishes to hire that employee, the employee must request a transfer to that specific department and have it approved by the current Department Head and the Department Head receiving the employee, and by the County Manager (or in the case of Department Heads, by the County Manager). Any employee transferred without his/her having requested it may appeal the action in accordance with the grievance procedure outlined in Article XI.

## Section Coverage

Employees subject to State Personnel Act should also refer to Appendix G.

All employees     Excludes other (specify: \_\_\_\_\_).

## ARTICLE V. CONDITIONS OF EMPLOYMENT

### Section 1. Traditional Work Schedule

Full-time employees normally work five (5) eight (8) hour days per work week and are subject to the overtime provisions set forth in Article III, Section 9. Employees in administrative, professional or managerial positions shall work the number of hours necessary to assure the satisfactory performance of their duties. Law enforcement officers shall work assigned hours in a 28-day cycle to comply with the federal Fair Labor Standards Act.

### Section 2. Non-Traditional Work Schedules

Non-traditional work schedules may be beneficial to the County and the employee. Such work schedules may be authorized by the County Manager, upon the recommendation of a Department Head, when such schedules maximize the use of resources, increase departmental efficiency or improve customer service. Alternative work schedules may be developed provided:

- (a) lunch periods within the non-traditional schedule remain at one hour
- (b) departments must continue to operate as if on normal work schedules
- (c) such non-traditional work schedule does not result in additional expense to County
- (d) non-traditional work schedule does not diminish services provided to citizens
- (e) 10-hour work days will not be authorized except for those departments currently operating on such schedule as of the date this personnel policy is adopted.

Options for non-traditional work schedules include:

Temporary Work Schedules When the activities of a particular department require some other schedule to meet work needs, the County Manager may authorize a deviation from the normal schedule upon recommendation by the Department Head.

Flextime Flextime provides work schedules that offer employees choices of job arrival and departure times while still working the required number of hours each day. Before a department head recommends flextime variances, he/she must define "block time", the designated hours in the work day when all employees who are scheduled to work must be on duty unless they are on approved leave. (Block time is most often established between 9:00 a.m. and 4:00 p.m.) Flextime is defined as hours outside the established block time but within the work day. Hours worked during flextime, when added to block



time, must equal the typical 8-hour day, otherwise non-exempt employees face the possibility of lost income. Hourly employees using flextime will be paid for only the hours actually worked in any given work day. Hourly employees will not be permitted to work more than an 8-hour day or 40-hour week unless specially authorized to work overtime. Hourly employees who work overtime must be given equal time off within the work week or be compensated according to the requirements of the Fair Labor Standards Act (FLSA).

Compressed Work Week A compressed work schedule allows full time employees to work 80 hours in fewer than 10 days in exchange for a partial day or an entire day off in the work week. Non-exempt employees may condense hours worked according to the County's pay week beginning Monday and ending the following Friday. Example:

M	T	W	TH	F	S	S
9	9	9	9	4		

### **Section 3. Gifts and Favors**

The proper operation of County government requires that public officials and employees be independent, impartial, and responsible to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In compliance with NCGS 160A-86 , the Sampson County Board of Commissioners has adopted a Code of Ethics to guide the Board and its individual members in lawful decision-making.

As stewards of public resources and holders of the public trust, County employees are also expected to uphold the highest standards of ethical conduct while fulfilling their job duties and responsibilities.

- (a) No official or employee of the County shall accept any valuable gift, whether in the form of service, loan, thing or promise from any person who to the employee's knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the County. This includes valuable gifts from persons, businesses or other organizations with whom the County does business either directly or indirectly.
- (b) No official or employee shall accept any gift, favor or thing of value that may tend to influence that employee in the discharge of duties.
- (c) No official or employee shall grant in the discharge of duties any improper favor, service, or thing of value.

#### **Section 4. Physical Requirements**

Each County employee shall have the continuing responsibility to meet the physical requirements of his/her position. Should there be reasons to question an employee's condition to perform the duties of his/her position, then the employee may be required to complete a physical examination, a drug dependency test, and/or other tests to determine the employee's general health condition as it relates to his/her abilities to perform effectively required job responsibilities. All such required examination or testing shall be at the sole expense of the County.

#### **Section 5. Political Activity Restricted**

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States of America. However, no employee shall

- (a) engage in any political or partisan activity while on duty;
- (b) use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;
- (c) be required as a duty of employment or as a condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes;
- (d) coerce or compel contributions for political or partisan purposes by another employee of the County;
- (e) use any supplies or equipment of the County for political or partisan purposes; or
- (f) be a candidate or nominee for Board of Commissioners

Competitive service employees and employees in certain federally aided programs are subject to the Hatch Act as amended in 1975. This federal act, in addition to prohibiting (2), (3), and (4) above, also prohibits candidacy for elective office in a partisan election.

Any violation of this section shall subject such employee to dismissal or other disciplinary action.

#### **Section 6. Outside Employment**

The work of the County will take precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission, and all self-

employment must be reported and approved by the Department Head in advance of beginning employment. Outside employment by Departments Heads must be approved by the County Manager. The department head or County Manager is responsible for reviewing such employment for possible conflict of interest and deciding whether to approve the work. Conflicting or unreported outside employment is grounds for corrective action, up to and including dismissal. A Request to Engage in Outside Employment (see Appendix C) must be completed annually as long as the employee has other outside employment. A copy shall be maintained in the employee's official personnel file.

Examples of conflicts of interest in outside employment *include but are not limited to*:

- (a) employment with organizations or in capacities that are regulated by the employee or the employee's department; or
- (b) employment with organizations or in capacities that negatively impact the employee's perceived integrity or reputation related to performance of the employee's County duties

**Off the job injuries:** An employee who sustains an injury or illness in connection with outside employment and is receiving Workers' Compensation from that employer shall not be eligible to use accrued sick leave.

In cases where such an employment-related injury or illness results in temporary disability, an employee must either

- (a) request and obtain a leave of absence without pay;
- (b) request and use accrued vacation leave; or
- (c) be subject to termination because of lack of availability of work, following a three month absence.

## **Section 7. Dual Employment**

When employees, solely at their option, work occasionally or sporadically on a part-time basis for another department in a different capacity from their regular employment, the hours worked in the different job shall not be combined for the purpose of determining overtime liability. Such hours worked are excluded from computing overtime only where the assignments are not within the same occupational category as the employee's regular work. Normal withholdings apply.

## **Section 8. Limitation of Employment of Relatives**

The County prohibits the hiring of any person into a permanent position who is an immediate family member of individuals holding the following positions: a sitting County Board of Commissioners Member or the County Manager.

The employment of close relatives within the same department is to be avoided unless significant recruitment difficulties exists.

- (a) Members of an immediate family shall not be employed at the same time if such employment would result in an employee directly or indirectly supervising a member of the immediate family.
- (b) This policy shall not be retroactive, and no action will be taken concerning those members of the same family employed in conflict with (a) above prior to the adoption of this policy.
- (c) Immediate family is defined for the purpose of this section as spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.
- (d) The Board of Commissioners shall approve the appointment by the Sheriff or the Register of Deeds of a relative by blood or marriage or nearer kinship than first cousin as required by Chapter 153A-103 (1) of the North Carolina General Statutes.

## **Section 9. Employee Safety**

Sampson County will provide a safe and healthful working place for all employees in accordance with the Occupational Safety and Health Act. The County Manager will insure a safe and healthful working place for all employees, through proper administration, implementation and enforcement of the provisions of these regulations. The Manager may appoint a Safety Director to plan and recommend a continuing program of safety that adheres to all applicable Federal, State and Local laws, codes and regulations pertaining to employee safety. It shall be the responsibility of every employee of the County to display a positive attitude toward safety and injury prevention by following all safety rules and regulations established in the County's Safety Program. See current Safety Manual in Appendix I. The employee will report all accidents and unsafe conditions to his/her immediate supervisor, whether or not employee injury was involved.

## **Section 10. Unlawful Workplace Harassment Prohibited**

Harassment on the basis of race, color, religion, gender, national origin, age or disability constitutes discrimination. The County opposes harassment by supervisors, co-workers and the public in any form.

Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, gender, sexual orientation or preference, national origin, age, or disability, or that of his or her relatives, friends, or associates. Harassing conduct includes, but is not limited to: epithets, slurs, negative stereotyping or threatening, intimidating or hostile acts that relate to one of these attributes

Written or graphic material which denigrates or indicates hostility or aversion toward an individual or group is prohibited from display on the county's premises, or being circulated in the workplace.

A particular form of harassment, sexual harassment (Quid Pro Quo) is also prohibited. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when

- (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Hostile Work Environment is one that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abuse. A hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with an employee's work performance.

Any employee who believes that he or she may have a complaint of harassment shall follow the Grievance Procedure, found in Article XI of this Policy. The Manager will insure that an investigation is conducted into any allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation.

Any retaliation against an individual who has complained about harassment or retaliation against individuals for cooperating with an investigation of a harassment complaint will also not be tolerated.

Employees witnessing harassment shall also report such conduct to an appropriate County official.

## **Section 11. Use of County Time, Equipment, Supplies, and Vehicles**

County supplies and equipment are to be used exclusively for the County's business. During working hours, an employee shall only conduct County business. Use of County time, supplies, or equipment for personal or other purposes not related to the employee's County duties and responsibilities is prohibited and subjects the employee to disciplinary action, up to and including dismissal.

All employees, who use County vehicles, are required to follow applicable motor vehicle and safety requirements and the County Vehicle Use Policy (See Appendix D.) Violation of this policy also subjects the employee to disciplinary action, up to and including dismissal.

County equipment, materials, tools and supplies shall not be available for personal use and are not to be removed from County property except in the conduct of official County business, unless approved by the Board. No employee shall purchase for personal use any equipment or supplies through County purchase accounts.

**Telephones, e-mail and Internet:** Usage of County telephones and computers for personal communications and Internet connections or e-mail for personal reasons should be brief. Employees shall not access pornographic sites through County equipment or use County phones for personal long-distance calls.

Under North Carolina law e-mail sent or received by the County is considered a public record and is subject to inspection upon request.

**Surrender of property:** An employee who terminates employment shall be required to return all items of equipment, including uniforms, owned by the County.

## **Section 12. Substance Abuse**

The County is firmly committed to maintaining a drug and alcohol free work environment in order to insure the safety and welfare of the general public and all County employees and to insure an efficient and effective work force. The County also seeks to aid employees experiencing substance abuse problems by offering rehabilitation opportunities. The County Manager has the authority to establish, administer, and enforce substance abuse processes and procedures within the County.

### **Alcohol and Drug Free Workplace Policy**

**Purpose:** This policy is intended to comply with all applicable federal and state laws governing anti-drug and alcohol programs, including those adopted by the U.S. Department of Transportation (DOT), and is designed to safeguard employee privacy rights to the fullest extent of the law.

**Scope:** This policy covers applicants and all County employees to include regular employees, temporary employees and contract employees. Under federal guidelines, certain classes of employees are subject to special actions, such as random testing. For the County, these classes included employees in safety-sensitive and security-sensitive positions. The Human Resources Director will maintain a comprehensive list of these positions subject to special actions, but generally the list will include, but is not to be limited to, sworn law enforcement officers; detention officers; employees who are responsible for testing or treating water; employees who handle hazardous materials in large quantities; anyone who operates, maintains, or provides direct supervision of the operation or maintenance of heavy equipment or any vehicle requiring a CDL to operate.

## **Policy**

This policy provides for:

- Assistance in treatment and rehabilitation for employees who notify an appropriate authority in their department of an abuse problem prior to being discovered. In such cases, medical plan coverage is provided for both inpatient and outpatient treatment and use of accrued leaves may be approved for treatment and rehabilitation purposes.
- Training and guidelines for employees and supervisors.
- Drug and alcohol abuse testing; pre-placement screening; post-accident; reasonable suspicion; random, and return-to-duty and follow-up.
- Accountability for violations or enforcement failures through appropriate disciplinary actions.

This policy prohibits:

- The unauthorized use, consumption, possession or storage, manufacture, distribution, dispensation or sale of alcohol, controlled substances, illegal drugs or drug paraphernalia on County premises or any County work area, in County vehicles or while on County business.
- Reporting to work or working while under the influence of illegal drugs, non-prescribed drugs or alcohol, on County premises or any County work area, in County vehicles, or while on County business.
- The use or possession of alcohol or illegal drugs off County premises and while not on duty where such conduct could likely have a direct and material adverse impact on the County's interests, including public image.
- Conviction of selling illegal drugs or of possession with intent to sell illegal drugs at any time or place. Conviction of any criminal drug or alcohol statute any time or place – for some positions, to be evaluated on a per case basis for relevancy to job.
- Failure to notify the County of any arrest or conviction under any criminal drug or alcohol statute by the next work day following the arrest or conviction.
- Failure to notify the employee's supervisor, before beginning to work, that the

employee is taking prescription or over-the-counter drugs which may interfere with the safe and effective performance of duties.

- Refusal to immediately submit to an alcohol and drug test when requested by a supervisor, in accordance with this policy.
- Failure to adhere to the requirements of any drug or alcohol treatment program in which the employee is enrolled as a condition of continued employment.
- Tampering with or obstruction of a drug or alcohol test being administered by or for the County.

## **Responsibility**

The Human Resources Director is responsible for ensuring that employees are informed of the County policy during the new employee orientation. Any confidential information on substance abuse may be communicated by the Human Resources Director to the proper authority on a need-to-know basis. A list of positions designated to be safety-sensitive and security-sensitive for special actions, such as random testing, will be maintained by the Human Resources Director and will be made available upon request.

Alcohol and drug free workplace issues in the Sheriff's Office will be the responsibility of the Sheriff. The Sheriff will be responsible for reporting test results as required to the North Carolina Sheriff's Education and Training Standards Commission on employees holding certification from that Commission.

Department directors are responsible for administering this policy and for the proper application of the procedures in their departments and for holding supervisors accountable for the daily implementation of the policy. Department directors and supervisors shall be responsible for identifying abuse-related behavioral and performance problems, following the proper referral for testing, and taking appropriate disciplinary measures. Failure to take action when the supervisor has reasonable cause to believe an employee is impaired while at work will result in disciplinary action being taken against the supervisor. If in doubt about what action to take, the supervisor should consult with the department director, the Human Resources Director or the County Safety Officer. It is also the supervisor's responsibility to protect the privacy, confidentiality, and dignity of employees by minimizing the number of employees who learn of suspicions involving a co-worker's possible substance abuse or actions taken against that employee.

As a condition of employment, all employees are responsible for knowing and following the requirements of this policy. Employees are expected to report for work and perform their jobs in a sober condition, free of any illegal drugs or alcohol, or abuse of any legal prescribed or over-the-counter drugs. Employees shall inform their supervisor if they are taking or intending to take any prescribed or over-the-counter drugs or other substance which might impair their ability to satisfactorily and safely perform their job. They need not give the supervisor specific medical information, but rather simply inform the supervisor of the impact on job performance to allow the supervisor to evaluate and determine the appropriate course of action.



## **Procedures – Employee Rehabilitation**

An employee who voluntarily reveals a substance abuse problem to a supervisor before being notified to be tested, before testing positive for substance abuse and before other discovery of a substance abuse problem, may voluntarily enroll in a drug or alcohol rehabilitation program and is encouraged to use the Employee Assistance Program (EAP) to do so.

An employee who voluntarily notifies his supervisor of a dependency may be granted a medical leave in accordance with County policy on leaves of absence to undergo an agreed-to certified rehabilitation program which requires the employee to be absent from his duties. Return to work will be authorized upon certification to the Human Resources Director of successful completion of the program and a negative test result. Return to work will be conditional upon consent for random follow-up testing for a period of two (2) years. Positive results on a test will result in immediate dismissal with no opportunity for reemployment.

## **Procedures – Conditions and Procedures for Testing**

To enforce this policy, drug/alcohol tests may be administered as follows:

Pre-employment: Applicants accepting a conditional offer of employment in any position will be required to submit to a test before being hired. Failure to submit to a test or a positive test will exclude an applicant from being hired. Applicants who test positive will not be considered for employment with the County for two (2) years after the test date and then only when they have presented acceptable proof of successful completion of a rehabilitation program and they pass a pre-employment drug/alcohol test.

**Job Changes:** Employees accepting a promotion, demotion or transfer to any position may be required to submit to a test before the personnel action can be completed, just as applicants are subject to pre-employment testing. Failure to submit to a test or a positive test may result in termination of employment with the County.

Recruitment advertisements include the requirement for pre-employment drug screening so that applicants know of this requirement before applying. When the hiring department makes a conditional offer to a candidate, it arranges for the candidate to be tested. The Human Resources Director receives the results and notifies the hiring department.

**Reasonable Suspicion:** Employees may be required to submit to a test if reasonable suspicion of illegal drug use or drug/alcohol use/abuse exists. “Reasonable suspicion” is a belief based on objective facts sufficient to lead a reasonable person to suspect an employee is impaired and incapable of satisfactorily and safely performing assigned duties and responsibilities. It is a quantity of proof or evidence that is more than just

intuition or strong feeling: it must be based on facts. Facts supporting a reasonable suspicion determination include, but are not limited to, any one or more of the following: direct observation of prohibited drug or alcohol use; slurred speech; irregular or unusual speech patterns; impaired judgment; marijuana or alcohol odor; uncoordinated walking or movement; unusual or irregular behavior such as inattentiveness listlessness, hyperactivity, hostility or aggressiveness; a pattern of excessive absenteeism, tardiness or deterioration in work performance; a pattern of unexplained preventable accidents or information based on specific, objective facts that an employee has caused or contributed to an accident at work while under the influence of alcohol or drugs; a report of alcohol or drug use by an employee while at work by a credible source; possession of alcohol or drugs; evidence an employee is involved in the unauthorized possession, sale, solicitation or transfer of alcohol or drugs while working or while on the County's premises or operating a County vehicle, machinery or equipment; arrests, citations and deferred prosecutions associated with drugs or alcohol.

When there is reasonable suspicion, the supervisor shall:

- Arrange for another supervisor to verify reasonable suspicion, if possible.
- Confront the employee privately about the performance/behavioral issues, stating suspicions, and allow the employee to state a reasonable explanation. A second party, preferably a supervisor, should be present.
- The supervisor will inform the employee that a reasonable suspicion test is an obligation and refusal to submit to it will result in termination. If the employee agrees to take the test, the employee will be informed that s/he is suspended with pay and will be notified whether or not and under what circumstances s/he will be allowed to return to work. The supervisor will transport the employee to the appropriate testing facility. The sample should be taken as soon as is practicable from the time the employee is suspected, but no later than two (2) hours following the determination of reasonable suspicion. If the test is not administered within two (2) hours, the supervisor must document the reason(s) that the test was not properly administered. If the testing is not done within two (2) hours due to some reason other than the employee's refusal, the following should occur:
  - The employee shall be allowed to remain on duty until negative test result is obtained or
  - Twenty-four (24) hours have elapsed following the determination of reasonable suspicion.
- If an employee is observed using a suspected substance, the supervisor may demand that the employee surrender the item and related paraphernalia.
- Any employee who is unable to drive safely or is in need of medical assistance will be transported by a supervisor to a medical facility or to his/her home, as appropriate. If the employee refuses, s/he will be advised that local law enforcement authorities will be notified that an employee who seems to be "under the influence" is trying to leave the premises.

- If the employee refuses to take the test, s/her will be suspended without pay and scheduled for a pre-dismissal hearing with the department director.

**Post-accident:** Employees will be tested following an on-the-job accident or other occurrence that involves one or more of the following events: a fatality, a serious injury to an employee or other individual, substantial damage to vehicles or other property, or if the employee receives a citation under state or local law for a moving traffic violation arising from the accident. Employees may also be tested after a series of minor on-the-job accidents or injuries as determined by the department director.

Following such an accident, the employee must immediately notify the supervisor and must submit to a test as soon as is practicable. The supervisor is responsible for transporting the employee to the appropriate testing facility. If a test is conducted by a law enforcement officer at the scene of the accident, the employee is required to immediately contact his/her supervisor to report the test result and to provide the supervisor with the name, badge number, and telephone number of the law enforcement officer who conducted the test. If the employee is hospitalized for injuries, arrangements will be made for the testing to be conducted at the medical facility to which the employee has been admitted.

Post-accident tests will be administered as soon as possible, but ideally not more than eight (8) hours after the accident. An alcohol test should be administered within two (2) hours of an accident. If unable to test within (2) hours, the supervisor must document the reason(s) for the time delay. If the test is not performed within eight (8) hours, the supervisor will cease attempts to administer the test and will document the reason(s) why the test was not conducted. The employee must refrain from consuming alcohol for eight (8) hours following an accident or until the alcohol test has been completed, whichever comes first. The employee must remain available for drug and alcohol testing or it will be considered a refusal, unless the employee is seriously injured.

**Return-to-duty and follow-up:** Employees who have voluntarily removed themselves from their job duties and have voluntarily undergone and successfully completed treatment for drug or alcohol abuse must submit to and furnish a negative test result prior to returning to duties. The return-to-duty test may involve both drug and alcohol tests, if the treating substance professional indicates a multiple-substance abuse problem exists. These employees will also be subject to random, unannounced tests six (6) times a year for a period of up to two (2) years, as a condition of continued employment.

**Random:** Employees in designated safety-sensitive and security-sensitive positions will be subject to random, unannounced drug and alcohol screening. The Human Resources Director will develop and maintain a list of jobs approved for random testing. The rate of random selection for drugs and alcohol will be a percentage of the annual average employee base. Every employee in the pool has an equal chance of being chosen each time a random selection is made. When an employee is required to submit to random testing, s/he will be notified verbally by a supervisor. Failure to submit

to testing will result in termination of employment.

### **PROCEDURES – Inspections and Searches**

When there is reasonable suspicion, the County reserves the right to search employer-owned items used by the employees (e.g., desks, lockers, vehicles, equipment, etc.) and employees should not expect privacy in these containers. Search efforts may be conducted by the employee's supervisor or department director and a minimum of one (1) individual in a management, administrative or Human Resources position. Law enforcement officials and department directors will be notified in appropriate cases.

### **PROCEDURES – Employee Options**

Employees may appeal disciplinary actions resulting from violations of this policy in accordance with the Grievance Procedures found in Article XI. Employees covered by the State Personnel Administration must follow state and agency disciplinary appeal policies.

Employees will be given an opportunity to seek assistance through the County's Employee Assistance Program (EAP) or another drug and alcohol rehabilitation program approved by the County. However, involvement in these programs after the fact of a violation will not influence the disciplinary action taken. The employee is eligible for this benefit for a limited period of time following termination.

### **Section 13. Credentials and Certifications**

Some duties assigned to positions in local government service may be performed only by persons who are duly licensed, registered or certified as required by the relevant law, rule or regulation. Employees in such classifications are responsible for maintaining current, valid credentials as required by law, rule or regulation. Failure to obtain or maintain the required credentials is a basis for dismissal. An employee who is dismissed shall be given a written statement of the reason for the action and his/her appeal rights.

### **Section 14. Personal Indebtedness**

It is expected that employees will keep their financial affairs arranged in such a way that the County will not be embarrassed by excessive personal indebtedness. Failure to pay taxes, water bills, or other fees owed to the County shall be considered during an employee's annual appraisal. Such failure to pay could also result in suspension without pay and could result in termination of employment.

### **Section 15. Disaster Response Assignment**

Under its authority to provide for the protection of life and property and to ensure the continuity of its operations, Sampson County has identified a disaster response

classification/assignment for each of its employees as a condition of employment. It is the responsibility of Department Heads to notify each of their employees of their disaster response classification/assignment, and to ensure that such assignment has been acknowledged by employee. If a state of emergency or disaster is declared, employees may be required to remain at work after regular business hours, to return to work after hours, or to report to work in an alternate location. It is the duty and obligation of each employee to report in a timely manner to their disaster response assignment in the event he/she is activated. Employees are expected to have an emergency preparedness plan for their families, property and personal affairs so that they are readily available to report as directed. Willful failure to report as directed may result in disciplinary action. The County Manager has the authority to suspend an employee's disaster response assignment for an employee with a predetermined, approved conflict or situation, or a temporary, unforeseen conflict or critical personal emergency. If an exemption is necessary, a disaster exemption form must be completed and signed by the County Manager.

Any work performed by an activated employee is considered to be within the scope of the employee's official duties whenever the employee is assisting any emergency unit of the County or performing an activity that contributes to the protection of life, property, or mitigating the effects of an emergency. The County of Sampson's Emergency Operations Plan is developed to be consistent with Homeland Security Presidential Directive (HSPD-5), the National Incident Management System (NIMS), the North Carolina Emergency Management System (NCEMS), and Incident Command System (ICS) requirements. As such, training may be mandated for certain position classifications.

**Section 16. Residency Requirement for County Manager, Assistant County Manager, Clerk to the Board, Finance Officer, Deputy Finance Officer and Department Heads**

Personnel employed or appointed as County Manager, Assistant County Manager, Clerk to the Board, Finance Officer, Deputy Finance Officer or department heads will be required to establish and maintain residence in Sampson County during their tenure of employment in such positions. The term "residence", as used in this section, shall be construed to mean the actual living quarters which must be maintained within the County by an employee. Neither voting in the County nor payment of taxes of any kind by employee, by itself, shall be deemed adequate to satisfy the requirements of this section, nor shall the provisions of this section be satisfied by the maintaining of a rented room or rooms by an employee solely for the purpose of establishing residency when it appears that the employee's residence is outside the County. Ownership of real property within the County when not coupled with the maintenance of actual living quarters in the County, as herein required, shall be deemed insufficient to meet the requirements of this section.

- A. Non-county residents recruited and employed as County Manager, Assistant County Manager, Clerk to the Board, Finance Officer, Deputy Finance Officer or

department head after the date of adoption of this section March 4, 2013 will be required as a condition of employment to establish and maintain their actual bona fide residence within the boundaries of the County within 12-months of the date of their regular employment or appointment to a department head position.

- B. Employment will be deemed conditional until legal residence is established in Sampson County. In the event of hardship in meeting the residency requirement, the Board of County Commissioners may in their discretion grant such additional time for establishing residence as they determine to be reasonable.
- C. Personnel employed as County Manager, Assistant County Manager, Clerk to the Board, Finance Officer, Deputy Finance Officer or a department head currently residing in Sampson County as of the date of adoption of this section (March 4, 2013) will be required as a condition of employment to maintain residence in Sampson County during their tenure of employment as a department or agency head.
- D. A change in legal residency to a location outside Sampson County by personnel holding the position of County Manager, Assistant County Manager, Clerk to the Board, Finance Officer, Deputy Finance Officer, or department head may constitute grounds for termination of employment, unless such change in residence is approved in advance by the Board of County Commissioners.

## Section Coverage

Employees subject to State Personnel Act should also refer to Appendix G.

All employees                       Excludes other (specify: \_\_\_\_\_).

## ARTICLE VI. LEAVES OF ABSENCE

### Section 1. Holidays

The following days and such other days as the Board of Commissioners may designate are holidays with pay for employees and officers of the County working the basic work week.

New Year's Day  
Martin Luther King, Jr.'s Birthday  
Good Friday  
Memorial Day  
Independence Day

Labor Day  
Veteran's Day  
Thanksgiving Day & Day After Thanksgiving  
Christmas - two or three days, in accordance  
with State government schedule

Holiday leave earned by employees having a work week with greater or fewer hours than the basic work week shall be determined in accordance with the formula set forth in Section 20 of this Article.

In order to be eligible for holiday pay, a temporary County employee must have worked a regularly scheduled workday before and after the holiday. Permanent employees must be at work or on paid leave status on the workdays before and after the holiday to be paid for the holiday.

The Head Start Policy Council will designate official holidays for school-term employees in order to conform generally to the local educational agency holiday program.

### Section 2. Effect of Work on Holidays on Other Types of Paid Leave

Regular holidays, which occur during a vacation, sick or other paid leave period of any officer or employee of the County shall not be charged as vacation, sick or other paid leave.

### Section 3. Holiday - When Work Required

Employees required to perform work on regularly scheduled holidays shall be granted compensatory time off or paid at their hourly rate for the hours actually worked in addition to any holiday pay to which they may be entitled. The use of compensatory time shall be granted whenever feasible.

### Section 4. Annual Leave

Annual leave may be used for rest and relaxation, and may be used for medical appointments and when sick leave is exhausted. It may also be used in lieu of sick leave with supervisory approval.

## **Section 5. Annual Leave - Initial Appointment Probationary Employees**

Employees serving a probationary period following initial appointment may accumulate annual leave but shall not be permitted to take annual leave during the probationary period unless the denial of such leave will create an unusual hardship. Annual leave may be taken during this period only with the prior approval of the appointing authority. Law enforcement officers shall be allowed to take accumulated annual leave after six (6) months of service.

## **Section 6. Annual Leave - Manner of Accumulation**

Any employee working the basic work week shall earn annual leave at the following rates:

Years of Aggregate Service	Hours Earned Each Month	Days Earned Each Month	Days Earned In One Year
Less than 2 years	6.67	.833	10
2 but less than 5 years	8.00	1.000	12
5 but less than 10 years	10.00	1.250	15
10 but less than 15 years	12.00	1.500	18
15 but less than 20 years	14.00	1.750	21
20 years or more	16.00	2.000	24

Annual leave earned by employees having a work week with different hours than the basic work week shall be determined in accordance with the formula set forth in Section 20 of this Article.

Employees must be at work or on paid leave status for one half or more of the work days in a month to earn leave for that month. The only exceptions are those on worker's compensation leave; they continue to earn monthly leave credits as outlined in Section 24.

## **Section 7. Annual Leave - Maximum Accumulation**

Annual leave may be accumulated without any applicable maximum until December 31 of each calendar year. However, if the employee separates from service, payment for accumulated annual leave shall not exceed 30 days. On December 31 any employee with more than 30 days of accumulated leave shall have the excess accumulation transferred to their sick leave account so that only 30 days are carried forward to January 1 of the next calendar year. For law enforcement (12-hour shift personnel), the maximum accumulation paid upon separation for carried forth January 1 of each year shall be the number of hours normally earned in a 30-day period.

Employees are cautioned not to retain excess accumulation of annual leave until late in the calendar year; due to the necessity to keep all County functions in operation, large numbers of employees cannot be granted annual leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take



such leave because of staffing demands, the employee shall receive no special consideration either in having annual leave scheduled or in receiving any exception to the maximum accumulation.

### **Section 8. Annual Leave - Manner of Taking Leave**

Annual leave may be taken as earned by the employee and must be taken in quarter hour increments, subject to the approval of the supervisor. The Department Head may, with the approval of the County Manager, advance annual leave in an amount not to exceed the amount an employee can earn during a calendar year.

Any accumulated compensatory time shall be used before requesting the use of annual leave accounts.

Department Heads and employees who handle cash or cash equivalents are strongly encouraged to take 5 consecutive work days as vacation at least once during a calendar year. The other vacation time may be used at the employee's discretion with approval from their supervisor and/or Department Head.

### **Section 9. Annual Leave - Previous Leave Credit**

Annual leave credit accumulated by each employee as of the adoption of this personnel administration policy shall be retained as of the effective date of this policy.

### **Section 10. Annual Leave - Terminal Pay and Repayment of Vacation Leave**

Upon submission of a resignation, an employee will be paid for annual leave accumulated to the date of separation, not to exceed a maximum of thirty (30) days. An employee who is involuntarily separated without failure in performance of duties or personal conduct, as defined in Article IX, Section 4, will be paid for annual leave accumulated to the date of separation. For involuntary separation due to failure in performance of duties or personal conduct, accumulated annual leave pay may be withheld at the discretion of the County Manager. At the time of an employee's separation, any annual leave owed the County will be deducted from the employee's final compensation. Employees who do not give proper notice (2 weeks for most employees, 30 days for Department Heads) will not be paid for their accumulated vacation upon termination unless the notice is waived by the County Manager.

### **Section 11. Annual Leave - Payment for Accumulated Vacation Leave Upon Death**

The estate of an employee who dies while employed by the County shall be entitled to payment for all of the accumulated annual leave credited to the employee's account not to exceed a maximum of 30 days.

## **Section 12. Aggregate County Service (for Vacation leave)**

Aggregate years of County service shall include on a month for month basis, all full-time and part-time (half-time or more) employment with the County. Employees having a work week with greater or fewer hours than the basic work week (40 hours) shall have their time calculated by the formula defined in Section 20.

Credit shall also be given for:

Employment with the Sampson County Cooperative Extension Service, Sampson Community College, the Sampson County Public School System and the Clinton City Public School System, with the provision that a school year is equivalent to one full year, Sampson Regional Medical Center, employment with Eastpointe LME; and employment under the Sampson County Comprehensive Employment Training Act Program.

*EXAMPLE: If an employee worked for the County ten (10) years ago for a period of three (3) years, resigned to teach school in the Sampson County Public School System and then returned to County service, he/she would have thirteen (13) years aggregate service for leave purposes. Or*

*An employee worked 20 hours per work for a period of 10 years as a part-time employee and then became a full time permanent employee (40 yours per week). The employee would have 5 years aggregate service for leave purposes.*

## **Section 13. Sick Leave**

Sick leave with pay is not a right which an employee may demand but a privilege granted by the Board of Commissioners for the benefit of an employee when sick. Sick leave may not be used as personal or vacation time.

Sick leave shall be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, period of certified disability for maternity purposes, required physical or dental examinations or treatment, or exposure to a contagious disease when continuing to work might jeopardize the health of others.

Sick leave may also be used for the care of sick family members (immediate family members) when care of the employee is required and necessary prior approval is granted by the supervisor and/or Department Head.

Immediate family shall be deemed to include spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law and adopted relationships that can be derived from those named.

A serious illness or medical condition which causes an employee to be absent from work for longer than three days may trigger Family Medical Leave. The Department

Head is responsible for ensuring FMLA requests are completed and returned to the Personnel Director.

#### **Section 14. Sick Leave - Manner of Accumulation**

Each full-time permanent and full-time probationary employee will earn sick leave at the rate of one (1) day for each completed month, or twelve (12) days for each completed year of service. Sick leave earned by employees having a work week with different hours than the basic work week shall be determined in accordance with the formula set forth in Section 20 of this Article. Employees must be at work or on paid leave status for one-half or more of the work days in a month to earn leave credits for the month. The only exceptions are those on worker's compensation leave; they continue to earn monthly leave credits.

The Department Head with approval from the County Manager, may advance sick leave to an employee who has exhausted sick leave because of a major operation or illness. This advanced sick leave may not exceed the amount an employee can earn during a calendar year. At the time of an employee's separation, if more sick leave has been taken than earned, he employee must pay the County for all extra leave taken. The minimum amount of sick leave which may be taken is one (1) hour, and sick leave must be taken in increments of a quarter hour. Any accumulated compensatory time shall be used before requesting the use of sick leave accounts.

#### **Section 15. Sick Leave - Maximum Accumulation**

Sick leave shall be cumulative with no maximum accumulation, and may be used as credit for service as allowed under the NC Local Governmental Employees' Retirement System at the time of the employee's retirement.

#### **Section 16. Sick Leave - Physician's Certificate**

The employee's supervisor, Department Head and/or the County Manager may require a physician's certificate stating the nature of the employee or immediate family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the Department Head deems desirable. The Department will pay the co-pay for the medical examination required. The Department Head shall be responsible for the application of this provision to the end that:

- (a) Employees shall not be on duty when they might endanger their health or the health of other employees; and
- (b) There will be no abuse of leave privileges.

Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action.

### **Section 17. Sick Leave - Retirement Credit for Accumulated Sick Leave**

The North Carolina Local Governmental Employees' Retirement System may offer retirement credit for accrued sick leave. Employees should seek current information on available retirement credit from NCLGERS.

### **Section 18. Sick Leave - Previous Leave Credits**

Sick leave credits accumulated by each County employee shall be retained as of the effective date of this policy.

Employees returning to work for Sampson County within 9 months will have their unused sick leave balance reinstated. Employees returning after 9 months but not exceeding 1 year will have ½ of their unused sick leave balance reinstated. Six days will be credited on date of hire and the balance will be credited after the probation period.

New employees who have transferred from NC State or Local Government Agencies and Sampson Regional Medical Center within 30 days of the date hired by Sampson County can have up to 20 days of sick leave transferred. Six days will be granted at the beginning of employment and the balance (14 days) will be granted at the end of the probation period. Documentation must be provided.

### **Section 19. Bereavement Leave**

Accrued sick or annual leave may be used for death in the employee's immediate family but may not exceed three (3) days for any one occurrence, except by special permission from the Department Head.

Immediate family shall be deemed to include spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law and adopted relationships that can be derived from those named.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or within two (2) hours after the beginning of the scheduled workday.

### **Section 20. Calculation of Holiday Leave, Vacation Leave, Sick Leave, and Bereavement Leave**

Holiday Leave, vacation leave, and sick leave earned by permanent employees having a work week with greater or fewer hours than the basic work week (40 hours) shall be determined in accordance with the following formula:

- (a) The number of hours worked by such employees shall be divided by the number of hours in the basic work week.
- (b) The proportion obtained in step (a) shall be multiplied by the number of hours of leave earned annually by employees working the basic work week.
- (c) The number of hours in step (b), divided by twelve, shall be the number of hours of leave earned monthly by the employees concerned.

### **Section 21. Leave - Manner of Recording**

Absences from work during scheduled working hours shall be charged to the appropriate leave account of each employee. A record of leave accruals and leave taken credits and debits shall be maintained as a part of the service record of each employee. Administration of the leave program within the scope of the policies established by the County Commissioners shall be retained and maintained in the Finance Office. Reports of leave taken shall be recorded in leave records. Heads of departments for which leave records are maintained by the County Finance Officer should report leave taken by employees of their department on a monthly basis to the Finance Officer.

### **Section 22. Leave Without Pay - Policy**

A permanent full-time, part-time or probationary employee may be granted a leave of absence without pay for up to 52 consecutive weeks by the Department Head with the approval of the County Manager. The needs of the department are paramount in the decision to grant leave without pay. The leave will be considered for reasons of personal or family disability, continuation of education, maternity leave, or special work that will permit the County to benefit by the experience gained or the work performed.

If the reason for leave falls under the conditions for the Family and Medical Leave Act, the twelve (12) weeks for said FMLA will be considered as being part of the time frame requested. While under the FMLA, all paid leave will be used before leave without pay. If the requested leave does not fall under the conditions of FMLA, but the employee has paid leave on the books, all paid leave applicable will be used prior (ie. sick leave cannot be used for personal leave) to leave without pay.

The employee will apply in writing to the Department Head for leave. Failure to report at the expiration of leave of absence, unless an extension has been approved, will be considered a resignation. Except in those instances where the position is protected under provisions of FMLA, the employee shall not be guaranteed a position, or that the position shall remain at the same classification, seniority or pay.

### **Section 23. Leave Without Pay - Retention and Continuation of Benefits**

In order to earn leave and benefit credits for a month, an employee must work or have leave credits to cover more than one-half the work days in the month.

The employee may continue to participate in the County's group insurance plans, provided that the employee pays the individual premium during the time the employee is on leave without pay (excluding worker's compensation leave).

An employee on paid leave before going on leave without pay will continue to be in a leave earning capacity, be entitled to holidays, be eligible for merit increments, or time in service pay increases and be eligible to receive the benefits offered under the County's group insurance policies while exhausting the paid leave.

### **Section 24. Worker's Compensation Leave**

When an employee is injured on the job, he/she will receive medical and compensatory (if applicable) benefits due under the Worker's Compensation Act; then he/she can go on leave without pay and receive all benefits adjudged eligible under the Worker's Compensation Act. Any unused sick and annual leave may be retained for future use.

Upon reinstatement an employee's salary will be computed on the basis of his/her last salary plus any increment or other salary increase to which he/she would have been entitled during his/her first twelve months on worker's compensation.

An employee receiving worker's compensation will continue to earn annual and sick leave credits for a period not to exceed six (6) months. An employee is allowed to be paid one third of either vacation or sick (or combined total of one third of his/her salary) during disability of worker's compensation. If he/she elects, a lump sum payment of one third of his/her salary can be paid if the employee is unable to return to work within 30 days following the twelve month period. The costs for the employee's individual insurance coverages will be maintained by the County, in accordance with the provisions of the current budget ordinance, for a period of 6 months.

An employee involved in a third party accident, while on the job, will have the option of either worker's compensation or filing under the third party's liability.

Injuries due to work-related smallpox vaccination are covered by the North Carolina Worker's Compensation Act in the same manner as other workplace injuries. The County will grant additional smallpox-only sick leave for employees who suffer an adverse reaction of less than seven days duration (i.e., the worker's compensation waiting period). In addition, the County will make up the difference in the 66 2/3% of salary payment and the employee's regular salary during the time the employee is out sick from the vaccination, not to exceed 10 days.

Employees who contract vaccinia (the virus in the smallpox vaccine) by living in the same house as someone who has been vaccinated as part of the program are not covered by the County. They may use their sick leave or vacation leave and file the claim under their hospitalization insurance.

### **Section 25. Return to Work Policy**

Refer to Appendix J.

### **Section 26. Military Leave**

Permanent employees who are members of the National Guard or Armed Forces Reserve will be allowed fifteen (15) working days military training with pay per year. On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee shall be granted an additional 15 days of military leave during the same calendar year. Employees receiving the additional 15 days shall turn in the pay they receive from the military in order to get paid county pay or they may elect to use their vacation and thus get paid by the military and the county. If such military duty is required beyond this fifteen (15) work day period, the employee will be placed in a leave without pay status, or may take prior earned annual leave. While taking military leave with or without pay, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the County during this period. Permanent employees who are Guardsmen and Reservists have all job rights specified in the Veteran's Readjustment Assistance Act.

An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond the period for which called, shall be reinstated with full benefits (including service credits for the time on duty) provided the employee:

- (a) Applies for reinstatement within ninety days after the release from military service; and
- (b) Is able to perform the duties of the former position or similar position; or
- (c) Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of military service, but is able to perform the duties of another position in the service of the County. In this case, the employee shall be employed in such other position as will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided, if available.

### **Section 27. Civil Leave**

A County employee called for jury duty or as a witness in any civil or criminal legal proceeding will be entitled to leave with pay for such duty during the required absence. If the employee is not in court for their full work day, they are expected to return to work

or use vacation leave or leave without pay. Documentation of time served is required. When a County employee attends court in connection with official duties, no leave is required. An employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation, except that employees must turn over to the County any witness fees or travel allowances awarded by that court for court appearances in connection with official duties.

Employees in court for their own case or appearing voluntarily as a witness in another person's case must use annual leave or leave without pay for their time in court.

### **Section 28. Inclement Weather Leave**

During periods when the County Manager deems inadvisable for employees to report to work, such as inclement weather, an administrative leave may be authorized, which shall not be charged to sick or annual leave. Employees, who feel endangered getting to and from work because of hazardous driving conditions, shall charge time not worked to vacation or leave without pay if he/she does not have any vacation time.

### **Section 29. Administrative Leave**

During periods when the County Manager deems it inadvisable for employees to report to work, such as power outage, no heat or air conditioning, he/she may authorize administrative leave to provide wage replacement for employees unable to report to work. Administrative leave may also be granted for partial periods of a work day. Except where sick, comp time, vacation leave, scheduled day off or leave without pay is in effect at the time administrative leave is authorized, employees shall not be required to charge this time to sick, comp or vacation leave.

Eligible Employees: Everyone who is in an "at work" status at the affected department when administrative leave is declared shall be qualified to receive the benefit of that leave. However; employees in a pre-approved leave status (sick, vacation, comp time, leave without pay, regular scheduled day off) that is scheduled to last the duration of the administrative leave shall not be eligible for administrative leave. When the pre-approved leave is scheduled to end prior to the end of administrative leave, the employee shall be eligible for that leave on the date they are scheduled to return to work.

### **Section 30. Family and Medical Leave Act**

The Family and Medical Leave Act of 1993 gives "eligible" employees the right to take leave for a period of up to twelve (12) work weeks in a twelve (12) month period for eligible medical reasons and for compelling family reasons. The twelve (12) months period will be measured forward from the date any employee's first FMLA leave begins.



### **Section 31. FMLA - Eligible Employees**

Permanent and temporary employees who (1) have worked for the County for at least twelve (12) months and (2) have worked at least 1250 hours during the year preceding the start of the leave are eligible for FMLA.

Employees, regardless of his/her classification, will be exempt if their salaries are considered to be in the top 10% of the County's salary range. Percentages will be based on the actual earnings for employees on the W-2 forms each calendar year, plus any increases during the months preceding the request for leave (i.e. overtime, promotions, etc.).

A husband and wife who are eligible for the FMLA and are both employed by the County are permitted to take only a combined total of 12 weeks of leave during any twelve (12) month period for the same purpose (i.e. maternity leave, adoption, placement of foster child, care of sick child).

### **Section 32. FMLA - Purpose of Leave**

- (a) For the birth of a child and to care for the child after birth, provided the leave is taken within a twelve (12) month period following birth.
- (b) For the employee to care for a child placed with the employee for adoption or foster care provided the leave is taken within a twelve (12) month period following the placement of the child.
- (c) For the employee to care for the employee's child, spouse, or parent, where that child, spouse, or parent has a serious health condition; or
- (d) Because the employee has a serious health condition that makes the employee unable to perform the functions of the employee's position.
- (e) For a spouse, son, daughter, parent or next of kin to take care of a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on temporary disability retired list for a serious injury or illness (up to 26 work weeks).
- (f) For any qualifying exigency (determined by Secretary of Labor), arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.

### **Section 33. FMLA - Manner of Taking Leave**

The County requires a thirty (30) day advance notice of FMLA from the employee when practical. A request form should be picked up at the Finance Office to be submitted to the Department Head. Final approval will come from the County Manager. In addition, the County will require an employee to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the employee or the employee's immediate family member. The first certification will be at the employee's expense and must be submitted with the request for leave to the Department Head.

If a question still exists, the County, at its own expense, can require up to two (2) more certifications, with the third certification binding on both parties. Verification of information pertaining to the leave may be obtained from the provider by the County (Department Head or Finance Office). The County may require an employee to present a certification of fitness to return to work when the absence was caused by the employee's serious health condition. The County may deny restoration to employment without such a certificate.

For leave involving adoption or foster care, the request must be supported by reasonable proof of the event. Intermittent leave or a reduced work schedule may be requested if a medical need for the leave (as distinguished from voluntary treatments and procedures) is justified. Intermittent leave may not be for less than one (1) hour. Employees must attempt to schedule their leave so as not to disrupt the employer's operations. For part-time employees and those who work variable hours, leave is calculated on a pro-rata or proportional basis.

All certifications are required to be given to the Department Head within fifteen (15) calendar days in case of emergencies. The County reserves the right to request subsequent certifications to support the continuing of a leave.

The employee shall be deemed to have applied for leave under this policy when: (1) the employee is on approved leave but has not given written notice of the intent to take family or medical leave to the Department Head; (2) the employee utilizes leave for any purpose whether with or without pay for a period in excess of 30 days; and (3) the basis for the leave falls within the scope of this policy. In these cases, the agency shall notify the employee that time spent on paid leave or leave without pay is a part of the twelve (12) FMLA weeks of leave by mail or within two (2) days of returning to work. An employee on Worker's Compensation will be considered to be on Family and Medical Leave.

Failure to comply with these requirements may result in the denial of the leave. Failure to report to work at the expiration of the leave, unless an extension has been approved, may be considered as a resignation.

### **Section 34. FMLA - Employment and Benefits Protection**

Where an employee has earned or accrued paid vacation, or sick leave, this leave will be exhausted before leave without pay begins. Comp time will not be used unless it is the employee's request. As long as any comp time is being used, the leave cannot be considered as Family and Medical Leave.

The employee shall be reinstated without loss of benefits accrued when the leave began. All benefits accrue during any period of paid leave; however, no benefits will be accrued during any period of leave without pay. (ie. vacation/sick)

The County shall maintain coverage for the employee under the County's group health and dental plans for the duration of leave. The employee will still be responsible for any dependent premiums. Coverage for dependents will be due in the Finance Office by the 25th of the month prior to the month of coverage (ie. money received in January would be for February coverage). An employee will be sent a notice when the payment is fifteen (15) days late; the employee will have an additional fifteen (15) days to make the payment before cancellation. Failure to pay for dependent coverage will result in lapse coverage. The County will recover premiums paid during the FMLA if the employee fails to return to work after his/her entitlement has expired.

Premiums which are payroll deductions on other insurance and loans are still the responsibility of the employee. The County will not maintain these deductions and coverage will lapse if payment is not received in the Finance Office. The payment is due in the Finance Office by the 25th of the month prior to the month of coverage (ie. money received in January would be for February coverage).

Employees will forego unemployment checks and other government compensation while they are out on leave.

### **Section 35. FMLA - Defining "Serious Health Condition"**

One which requires either inpatient care or continuing treatment by a health care provider. The term is intended to cover conditions or illness affecting one's health to the extent that inpatient care is required, or absences are necessary on a recurring basis for treatment or recovery.

Some examples cited for serious health conditions are: heart attacks, heart conditions requiring special treatment, most cancers, back conditions requiring extensive therapy or surgical procedures, strokes, severe respiratory conditions, serious accidents on or off the job, severe arthritis, severe nervous disorders, extensive therapy or treatment resulting from an illness or an accident and complications from pregnancy which interferes with an employee being able to carry out her job responsibilities. (Department of Labor definitions attached as Appendix E.)

Voluntary or cosmetic treatments (such as most treatments for orthodontia or acne) which are not medically necessary are not included unless inpatient hospital care is required.

### **Section 36. FMLA - Record Keeping**

The original of all requests, approvals, and certifications are to be kept in the Finance Office. A copy may be kept in the employee's home department for record keeping. Records of the amount of FMLA an employee has used, and his/her remaining balance will be kept in the Finance Office. The employee will receive confirmation of approval or disapproval of the requested leave. Errors should be brought to the attention of the Payroll Technician.

All medical records concerning an employee or their families shall be considered confidential information.

### **Section 37. Educational Leave With Pay**

A leave of absence at full or part pay during regular working hours may be granted to an employee upon the recommendation of the supervising Department Head, and prior approval from the County Manager, to permit an employee to take courses of study which will better equip the employee to perform assigned duties. An employee on educational leave with pay must sign a contractual agreement to work for agency involved for twelve (12) months for every nine (9) months of training or repay any expenses incurred by the County.

### **Section 38. Educational Leave Without Pay**

Employees may be granted leave without pay to further their education in a way that it will benefit the employee and County. Educational leave will not exceed twelve (12) months at a time. The County may reimburse the employee for training expenses. An employee on educational leave without pay must sign a contractual agreement to work for agency involved for twelve (12) months for every nine (9) months of training or repay any expenses incurred by the County.

### **Section 39. Parent Involvement in Schools**

A parent, guardian or any person standing "in loco parentis" of a child will be granted four (4) hours per calendar year to attend or otherwise be involved in activities at the child's school. No less than one (1) hour increments will be approved.

A school is defined as public, private, pre-school or day care facility. The Department Head may require an employee to provide a written verification from the child's school and at least 48 hours advance notice in regard to the activity.

Vacation and/or comp time will be required to be used to offset the leave or leave without pay in the event of no paid leave. Time sheets will show "LPI", for record keeping, each time an employee takes a portion of the leave.

Department Heads will approve leave unless leave without pay is requested. The County Manager has to approve all leave without pay requests as stated in the County Personnel Resolution.

#### **Section 40. Voluntary Shared Leave**

The purpose of voluntary shared leave is to provide economic relief for employees who are likely to suffer financial hardship because of a prolonged absence or frequent short-term absences caused by a serious medical condition.

#### **Section 41. Voluntary Shared Leave - Eligibility**

Only permanent employees who have exhausted **all** accumulated paid leave (sick leave and annual vacation leave, if applicable) and compensatory time are eligible to receive donated leave.

The County Manager shall approve or deny all requests for receipt of donated leave.

#### **Section 42. Voluntary Shared Leave - Application**

An employee, due to a serious medical condition of self or his or her immediate family, faces prolonged or frequent absences from work may apply to their Department Head for donated leave. Application may also be made by a third party acting on the employee's behalf if the employee is unable to make application. The application will be forwarded by the Department Head to the Voluntary Shared Leave Committee (this five-member committee will be appointed by the County Manager). The Committee will forward the application and their recommendation to the County Manager.

For purposes of receipt of Voluntary Shared Leave, Immediate family shall be deemed to include spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law and adopted relationships that can be derived from those named.

- (a) Spouse
- (b) Children
- (c) Parents, and
- (d) Dependents living in the employee's household.
- (e) Also included are the step relationships.

An employee may make application for shared leave at such time as medical evidence is available to support the need for leave beyond the employee's available accumulated leave.

The following items must be included in the application:

- (a) A doctor's statement, and
- (b) An authorization for release of medical information signed by the person who is suffering the medical condition (or parent or guardian of a minor). This release may also be signed by any legally authorized party.

It is the responsibility of the employee or the person acting on the employee's behalf to let other employees know they need a donation of leave. A Leave Donation form must be submitted to the Finance Office to adjust the leave balances of the donating employee and the recipient.

### **Section 43. Voluntary Shared Leave - Donation of Leave**

- (a) Annual Vacation Leave: Any eligible employee of the County of Sampson may donate annual vacation leave to any approved employee. (This annual leave will convert to sick leave for the recipient.) There is no provision for county employees to donate or receive sick leave from employees of family members in State agencies, institutions, community colleges, technical institutes, or positions covered by the State Personnel Act in county agencies of mental health.

A donating employee may not donate more annual vacation leave that he or she could earn in one year. Additionally, the amount donated must not reduce the donor's annual vacation leave balance below one-half of what that person can earn in the year.

- (b) Sick Leave: Sick leave may be donated only to an employee who is a family member of the donor. There is no provision for county employees to donate or receive sick leave from employees of family members in State agencies, institutions, community colleges, technical institutes, or positions covered by the State Personnel Act in county agencies of mental health.

Family eligible to give or receive sick leave includes only the employee's:

1. Spouse,
2. Children,
3. Parents, and
4. Dependents living in the employee's household
5. Also included are the step relationships.

A donating family member may not reduce his or her sick leave balance below one-half of what that person can earn in a year.

- (c) All leave donations must be to a designated employee approved by the County Manager for receipt of donated leave and **may not** be made to a pool or bank.
- (d) All donations must be in writing and must be signed by the donating employee. The employee receiving the leave must be named and the amount and type of leave donated must be specified.
- (e) For the purposes of voluntary shared leave, all leave donated will be credited to the recipient's sick leave account.
- (f) The minimum amount of leave donated must be one-half of a day.
- (g) The donating employee may not receive compensation in any form for the donation of leave. Acceptance of remuneration for donated leave will result in dismissal.

#### **Section 44. Voluntary Shared Leave - Length of Leave**

- (a) The County Manager will determine the length of the leave. The leave granted may not exceed the maximum described below in (b). Under no circumstances may the use of voluntary shared leave exceed the employee's period of treatment and recovery.
- (b) An employee may normally receive no more than 130 workdays of donated leave (computed on employees working 260 8-hr. workdays per year – employees working more or less than 260 8-hr. workdays per year will be prorated according to the formula for vacation time), either continuously or for the same condition on a recurring basis. After 130 workdays have been used, the County Manager may extend this limit on a month-to-month basis until the maximum number of working days occurring between the first day of use of donated leave and twelve months have been used.

#### **Section 45. Earning Leave While Using Voluntary Shared Leave**

- (a) Holidays occurring while the employee is using donated leave will be paid. Annual vacation and sick leave will continue to be earned by the employee when he or she is using donated leave. Available earned leave accrued during this period must be used by the employee prior to continued use of any voluntary shared leave.
- (b) An employee receiving pay from worker's compensation may use donated leave during the required waiting period.

## **Section 46. Voluntary Shared Leave - Unused Leave**

At the expiration of the period approved for voluntary shared leave as determined by the County Manager, any donated leave in excess of 40 hours must be returned on a pro-rata basis to the donors.

## **Section 47. Adverse Weather/Hazardous Conditions**

The County has responsibility for emergency services including law enforcement. Adequate staff is required to operate these critical services seven days per week and 24 hours per day in all weather. Department heads should designate which staff members are required to report to work regardless of weather or other hazardous conditions.

The adverse weather/hazardous conditions policy is established to be as fair as possible to all employees applying the following principles:

- (a) Maintain adequate staffing at all times of emergency services;
- (b) Provide for as much safety as possible for all employees in traveling to and from work in hazardous conditions; and
- (c) Not pay regular salaries to some employees for not working when others are required to be at work.

County offices and departments shall remain open for the full scheduled working day unless authorization for closing or other deviation is received from the County Manager's office. The Manager will consider the hazard of driving conditions and other relevant factors in determining whether to close County offices. All departments and offices will be given sufficient advance notice of any authorized closing of non-critical County functions. Upon authorizing a closing, non-designated staff may use vacation, earned compensatory time, or time without pay for the hours not worked. Employees who leave work before an official early closing time, as well as employees who report for work late or do not report for work because of hazardous conditions may also use earned vacation or compensatory leave for days or hours not worked.

Under unusual situations the Manager may grant administrative leave with pay when offices are closed, and grant compensatory time off to those employees required to report.

Designated staff is required to report in emergency situations and should make preparations for care of family and personal needs to allow them to report for duty when required.



#### **Section 48: Reasonable Accommodation for Religious Holidays**

The county will make reasonable accommodations as provided by law for county employees desiring to observe a religious holiday. Any such employee shall advise the employee's immediate supervisor of this desire at least one (1) week in advance of the date, and the employee's work schedule may be adjusted accordingly to permit such observance. Vacation leave, compensatory leave or leave without pay may be used for this purpose.

### Section Coverage

Employees subject to State Personnel Act should also refer to Appendix G.

All employees     Excludes other (specify: \_\_\_\_\_).

## ARTICLE VII. SEPARATION, AND REINSTATEMENT

### Section 1. Types of Separation

All separations of employees from positions in the service of the County will be designated as one of the following types and will be accomplished in the manner indicated: resignation, reduction in force, departmental reorganization, separation due to unavailability, disability, retirement, dismissal, or death.

### Section 2. Resignation

A minimum of two (2) weeks notice is expected of resigning personnel. Such notice should be given to the Department Head. In the case of Department Heads, a thirty (30) day notice is expected. Employees who do not give proper notice (2 weeks for most employees, 30 days for Department Heads) will not be paid for their accumulated vacation upon termination, unless this requirement is waived by the County Manager.

### Section 3. Voluntary Resignation Without Notice

An employee who is absent from work and does not contact their supervisor or department head for three consecutive workdays may be separated from employment as voluntary resignation. Such separations create no right of grievance or appeal.

### Section 4. Reduction in Force

For reasons of curtailment of work or lack of funds, the County Manager (or in the case of the following departments: the Sheriff, the Register of Deeds, the Director of Social Services, or the Public Health Director) may separate employees. At the time the reduction in force is determined to be necessary, the County Manager, with the assistance of Department Heads, will develop the criteria for the reduction in force plan. Retention of employees in classes affected shall be based on systematic consideration, a type of appointment, length of service, and relative efficiency of performance as documented by current performance appraisals. Employees who are laid off because of reduction in force will be given at least two (2) weeks notice of anticipated lay-off. No permanent employee shall be separated while there are emergency, intermittent, temporary, provisional, or trainee employees serving in the same class in the department, unless the permanent employee is not willing to transfer to the position held by the non-status employee.

An employee in permanent, temporary, probationary, or trainee status who is separated in accordance with these provisions may retain his/her status upon separation for one year from the date of separation. If suitable employment becomes available during this period, the employee may be reinstated at the request of the Department Head.

A permanent employee who is separated due to a reduction in force shall have the right of appeal as set forth in Article XI, Grievance Procedure, of this policy, for a review to assure that systematic procedures were applied equally and fairly.

### **Section 5. Reorganization of Department**

The County Manager may authorize the reorganization of any department even if reorganization results in elimination of occupied or unoccupied position(s) and even if reorganization results in a change in the position classification for one or more employees. The County Manager must inform the Board of Commissioners thirty (30) days prior to any reorganization which may cause reduction in force. No department director may reorganize their department without prior consultation and approval of the County Manager. The administrative procedures for a reduction in force shall apply to any reorganization that results in the elimination of an occupied position and the termination of any employee. Such procedures shall not apply to any employee who is offered employment by another employer with whom the County has contracted to provide the same or similar services performed by the employee whose position is eliminated.

### **Section 6. Due to Unavailability**

An employee may be separated on the basis of unavailability when the employee becomes or remains unavailable for work after all applicable leave credits have been exhausted and Department management does not grant a leave without pay, or does not extend a leave without pay period, for reasons deemed sufficient by the Department. Such reasons include, but are not limited to, lack of suitable temporary personnel, criticality of the position, budgetary constraints, etc. Such a separation is an involuntary separation and not a disciplinary dismissal as described in the North Carolina General Statutes, and may be grieved or appealed.

Definitions:

- (a) Unavailability – (1) the employee’s inability to return to all of his/her position’s essential duties and work schedule due to a medical condition or the vagueness of a medical prognosis; or (2) the employee and the agency cannot reach agreement on a return to work arrangement that meets both the operating needs of the agency and the employee’s medical/health needs.
- (b) Applicable leave credits – the sick and/or vacation/bonus leave the employee chose to exhaust prior to going on leave without pay.

When an employee is separated while in receipt of workers’ compensation benefits, leave shall be administered in accordance with the Workers’ Compensation Leave Policy.

Prior to separation, pursuant to Section 4, the employing agency shall meet with or at least notify the employee in writing of the proposed separation, the efforts undertaken to avoid separation and why the efforts were unsuccessful.

Involuntary separation pursuant to this section may be grieved or appealed. The employing agency must also give the employee a letter of separation stating the specific reasons for the separation and setting forth the employee's right of appeal. The burden of proof on the agency in the event of a grievance is not just cause as that term exists in North Carolina General Statutes. Rather, the agency's burden is to prove that the employee was unavailable.

### **Section 7. Disability**

An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment. Action may be initiated by the employee or the County, but in all cases it may be supported by medical evidence as certified by a competent physician. The County may require an examination at its expense and performed by a physician of its choice. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the County's service for which the employee may be suited.

### **Section 8. Death**

Separation will be effective as of the date of death. All compensation due for work performed plus payment earned for annual leave will be paid to the estate of the deceased employee.

### **Section 9. Voluntary Retirement**

An employee who meets the conditions set forth under the provision of the North Carolina Local Government Employees Retirement System may elect to retire and receive all benefits earned under the retirement plan.

### **Section 10. Dismissal**

An employee may be dismissed in accordance with the provisions and procedures of Article IX.

### **Section 11. Exit Interviews**

It is recommended that all regular permanent full-time and part-time employees who leave County employment voluntarily to participate in an exit interview. Each department head or designee will conduct the exit interview no later than the last working day of the employee's employment. The purpose of the interview is to provide feedback on the reason the employee is leaving County employment, offer suggestions

for improvement in County operations, return County property, and receive information on pay and benefits, including retirement. The interview will be conducted in private. The person conducting the interview will have information regarding the employee's accrued leave benefits, the date the employee will receive the final pay check, conversion/withdrawal options for insurance and retirement benefits, any outstanding financial obligations the employee may owe the County, and property the employee must return, including security badges and keys. All County issued property is to be returned and a repayment plan determined for any financial obligation owed to the County prior to the last date of employment. The interviewer will also obtain a correct mailing address for the employee to facilitate the forwarding of correspondence, including COBRA notification and W-2 forms. At the conclusion of the interview, the employee and interviewer will sign and date an exit interview checklist. A copy of the completed checklist will be returned to the Finance Office, and any feedback provided by the employee on improvements or concerns regarding County operations should be shared with appropriate County officials.

## **Section 12. Reinstatement**

An employee who resigns while in good standing or who is separated because of reduction in force shall be eligible for consideration for reinstatement within a specified time period based upon length of continuous service. If the continuous service was less than three years, the employee shall be eligible for consideration of reinstatement within three (3) years following the date of separation. If the period of continuous service was three (3) years or longer, the time for eligibility for reinstatement is unlimited. Before being reinstated, an individual must meet the current minimum qualifications for the class to which he/she is being appointed. The employee will return as a new employee and at the pay applicable for the position received. Previous sick and vacation leave balance remaining at the time of termination will not be credited to the employee's new employment.

An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service or with a Reserve component of the Armed Forces will be granted reinstatement rights commensurate with Chapter 43 of Public Law 93-508. The employee's leave credits and other benefits shall continue to accrue during this period.

## Section Coverage

Employees subject to State Personnel Act should also refer to Appendix G.

All employees     Excludes other (specify: \_\_\_\_\_).

### Article VIII: PERFORMANCE APPRAISAL

#### Section 1. Purpose

Sampson County expects its employees to progressively achieve and maintain competency in the duties and responsibilities for their assigned job classification.

The purpose of this Article is to set out the requirement for the conduct of performance appraisals to measure these competencies, to identify when employees are subject to performance appraisals, and the procedures by which performance appraisals are conducted.

#### Section 2. Responsibility

It is the responsibility of each department head to assure that supervisors conduct timely reviews of the work performance of employees under their supervision in accordance with the provisions of the personnel policy. The County Manager shall conduct work performance appraisals of all County Department Heads, excluding those which are elected officials, the Director of Social Services, Public Health Director, Head Start Director, Natural Resources Conservation Service Director and Elections Director.

#### Section 3. Policy

Properly conducted performance appraisals are valuable tools in the evaluation of individual employee competencies and provide a consistent method for making decisions with regard to promotions, demotions and transfer, and the movement of salaries within established salary ranges; the identification of training needs and the development of training programs; and the application of disciplinary or remedial actions. Effective performance measurements are those which are consistent with departmental and county goals and values.

#### Section 4. Timing of Appraisal/Assessments

While this section specifies certain occasions and frequencies with which appraisals must be conducted, appraisals may be conducted at any time a supervisor determines one would be of value.

Probationary Employees A probationary employee shall be assessed at least once during their probationary period to determine if permanent employment is warranted. If performance is unsatisfactory and probationary period is extended, a corrective plan must be developed and included with written appraisal. More frequent appraisals may be conducted if the supervisor determines they would be of value.

Annual All permanent and part-time permanent employees shall be assessed in writing at least once a year, whether or not employee is eligible for a salary increase.

Change in Classification An employee's performance must be assessed in writing prior to a promotion, demotion, transfer or recommendation for pay adjustment (i.e. merit pay).

Separation A performance appraisal is required before an employee may be separated from County service when it has been more than nine (9) months since the affected employee's performance has been evaluated.

Special Circumstances A follow up performance appraisal shall be conducted three (3) months after an employee receives a rating of "below expectations" or "unsatisfactory" , or equivalent terminology, on his/her annual performance appraisal.

A performance appraisal shall be conducted when an employee's performance substantially drops during a review period or when there is a question regarding an employee's performance or conduct.

## **Section 5. Performance Evaluation Process**

The performance management process involves on-going discussions between the employee and supervisor.

1. At the beginning of the performance management process, the employee and the supervisor meet to discuss the employee's major job responsibilities, review expected outcomes, and set performance objectives for the review period. This meeting can also be used to identify plans for training or development and for future performance planning.

Employees should complete a self-appraisal prior to the supervisor completing the performance appraisal. The self-appraisal form allows employees to summarize major accomplishments within the review period, list any educational activities accomplished during the review period, state goals and objectives, and provide an opportunity to address other issues.

2. Throughout the performance management cycle, the supervisor is encouraged to periodically assess an employee's progress toward meeting expected outcomes and objectives and to communicate these assessments when appropriate. Ongoing written notes are encouraged.
3. At the end of the cycle, the employee's supervisor prepares a written assessment of the employee's progress towards meeting previously defined expectations. Supervisors are strongly encouraged to initiate discussion with the employee in preparation for the written performance assessment. The employee and supervisor should meet to discuss the assessment and allow the employee to provide feedback. Employees are welcomed and encouraged to bring evidence of performance to this interview. The supervisor must assure that the employee has the opportunity to ask questions and to comment on the appraisal.

4. If an employee's overall work performance has been appraised as "below expectations" or "unsatisfactory", a follow up performance appraisal shall be conducted within three (3) months to assess improvement (see Section 4 above). Additional strategies and communications, including training sessions, coaching sessions, counselings which may be used to improve performance and correct deficiencies during this period. Documentation of such strategies should be maintained in the employee's file and provided to the employee, but are not considered disciplinary actions. However, if performance has not improved nor deficiencies corrected within the three month period, the continued unsatisfactory job performance is subject to disciplinary action as outlined in Section IX.

#### **Section 6. Form of Appraisal/Assessment**

All appraisal/assessment must be in written form. Appraisals should be signed by the employee, the supervisor conducting the appraisal, and the department head indicating their review and approval. See Appendix F for a guide to the minimum criteria for appraisal forms.

#### **Section 7. Employee Disagreement with Appraisal**

If an employee disagrees with any statement in a performance appraisal, he or she may attach a written rebuttal which shall be maintained along with written appraisal. Performance appraisals are not grievable.

#### **Section 8. Records and Reports**

The original, signed performance appraisal shall be retained in the employee's personnel file pursuant to the County Records Retention and Disposition Schedule and applicable state and federal guidelines.



## Section Coverage

Employees subject to State Personnel Act should also refer to Appendix G.

All employees     Excludes other (specify: Register of Deeds and Sheriff's Office employees).

### Article IX. DISCIPLINARY ACTION

#### Section 1. Purpose

Sampson County expects performance and personal conduct on the job to be governed by good judgment and consideration of others. It is important that each employee's performance and conduct support and advance the goals of the department and the County.

The purpose of this Article is to set out for County employees and supervisors the causes and reasons for disciplinary action and the procedures required to be followed in implementation.

#### Section 2. Policy

It is the intent of Sampson County in establishing this policy to provide a fair, clear and useful tool for employees and management for correcting performance or conduct problems, as well as to provide a process to assist management in addressing unacceptable personal conduct and unsatisfactory job performance.

When employee actions warrant, steps to discipline the employee or separate the employee from County service will be taken by the department head and/or the Manager (as necessary). These steps are to be implemented fairly and objectively.

An employee may be warned, demoted, suspended or dismissed for just cause. The degree and type of action taken shall be based on the sound and considered judgment of the appropriate authority in accordance with the provisions of this Article.

#### Section 3. Coverage

This Section applies to permanent employees who have completed the probationary period except for those exclusions noted at the beginning of this Article.

#### Section 4. Disciplinary Actions Defined

Any disciplinary action taken in accordance with this policy must be for just cause under one of the two following bases:

- Discipline, including dismissal, imposed on the basis of ongoing unsatisfactory job performance (see Article VIII - Performance Appraisal), including grossly inefficient job performance ; and/or
- Discipline, including dismissal, imposed on the basis of unacceptable personal conduct.

The categories are not mutually exclusive, as certain actions by employees may fall into both categories, depending upon the facts of each case. No disciplinary action shall be invalid solely because the disciplinary action may have been labeled incorrectly.

**(a) Unsatisfactory Job Performance**

Unsatisfactory job performance is defined as work-related performance that fails to satisfactorily meet job requirements as set out in the relevant job description, work plan or as directed by the management of the work unit or department.

The intent of disciplinary action under unsatisfactory job performance is to assist and promote improved employee performance, rather than to punish. Disciplinary actions are intended to bring about a permanent improvement in job performance and may be taken when employee demonstrates ongoing deficiencies after the process set forth in Article VIII-Performance Appraisal. Should the required improvement not occur, later deteriorate, or other inadequacies occur, the supervisor may deal with this new unsatisfactory performance with further disciplinary action.

This Article does not require that successive disciplinary actions all involve the same type of unsatisfactory performance.

**Examples:**

The following acts comprise a representative, but not exclusive, list of unsatisfactory work performance which may be the basis for a disciplinary action.

1. An overall performance rating of "Unsatisfactory" after the 3-month followup performance appraisal
2. Failure to perform critical tasks
3. Failure to meet established deadlines
4. Pattern of excessive absences or late reporting
5. Failure to meet established standards of customer service, or discourteous treatment of the public or other employees
6. Failure to follow established departmental policies and procedures
7. Failure to meet quality or quantity standards over a period of time
8. Demonstrated inefficiency or incompetence in the performance of duties after the 3-month followup performance appraisal
9. Careless, negligent or improper use of County property or equipment

10. Absence without authorized leave and/or notice.
11. Improper use of leave privileges
12. Failure to follow safety rules, or repeated or serious incidents of unsafe behavior
13. Failure or inability to follow instructions, directions, or procedures

**(b) Grossly Inefficient Job Performance**

Grossly inefficient job performance is defined as the failure to satisfactorily meet job requirements as set out in the relevant job description, work plan or as directed by the management of the work unit or department, and the act or failure to act causes or results in

1. Death or serious bodily injury or creates conditions that increase the chance for death or serious bodily injury to an employee(s) or to members of the public or to a person or persons for whom the employee has responsibility; or
2. The loss of or damage to county property or funds that results in a serious adverse impact on the County and/or work unit.
3. Loss of credentials: By law some County positions may be performed only by persons who are duly licensed, credentialed, registered or certified as required by the relevant law. Failure to obtain or maintain legally required certificates, licenses, bonds or other credentials is treated as grossly inefficient job performance. Thus an employee may receive a warning or any other disciplinary action up to and including dismissal without prior warning. Any such dismissal or disciplinary action is handled in accordance with the process specified in this Article.

**(c) Unacceptable Personal Conduct**

Unacceptable personal conduct is defined as an act or conduct for which no reasonable person should expect to receive prior warning. These include actions of such a serious detrimental nature that the functioning of the County may be impaired, the safety of persons or property may be threatened, or the laws of the government may be violated.

Just cause to warn or take other disciplinary action for unacceptable personal conduct may be created by intentional or unintentional acts. The conduct may be job related or off duty so long as there is a sufficient connection between the conduct and the employee's job.

## **Examples:**

The following acts comprise a representative, but not exclusive, list of unacceptable personal conduct which may be the basis for a disciplinary action

1. Fraud and/or dishonesty
2. Fighting or causing a fight
3. Unauthorized possession of a firearm or other weapon on County property
4. Using abusive, profane, obscene or derogatory language
5. Gambling during work time
6. Sleeping during work time
7. Reporting to work or performing work while under the influence of any intoxicant, drug or chemical which interferes with the employee's work performance or which might adversely affect safety
8. Possessing or consuming alcoholic beverages while on County property during work time
9. Illegally using, possessing, dispensing, distributing, manufacturing or selling controlled substances at the worksite, during work time or while on duty, on stand-by duty or official County business
10. Engaging in acts during or outside duty hours which negatively impact on the image of Sampson County and which interfere with the working relationship between the employee and co-workers or between the employee and the public that employee serves
11. Falsifying an official record
12. Sexual or racial harassment, or any other unlawful workplace harassment or discrimination.
13. Misusing or directing the misuse of County work time, funds, equipment or property
14. Accepting any gift, favor or thing of value which may tend to influence the discharge of duties or granting without authority any favor, service or thing of value

15. Operating a County vehicle or County equipment in an unsafe or unlawful manner
16. Taking without permission, destruction or abuse of County property, including unauthorized use of a County vehicle for non-County business
17. Insubordination, as defined as willful failure or refusal to carry out the reasonable and lawful instructions of a supervisor
18. Engaging in incompatible employment or serving a conflicting interest
19. Serious, willful discourtesy to citizens or employees
20. Failing to maintain legally required confidentiality of records such as medical records or personnel records
21. Engaging in prohibited political activity
22. Job-related conduct which constitutes a violation of State or federal law
23. Conviction of a felony or an offence involving moral turpitude that is detrimental to or impacts the employee's service to the County
24. Willful violation of known or written work rules
25. The abuse of client(s), patient(s), student(s) or person(s) over whom the employee has charge or to whom the employee has a responsibility or of an animal owned by the County
26. Conduct unbecoming of employee which is detrimental to their County service

## **Section 5. Types of Disciplinary Actions**

When the supervisor determines that disciplinary action is appropriate, various disciplinary actions may be taken depending upon the nature of the incident, behavior or performance. The disciplinary actions that can be taken are:

- (a) Written Warning
- (b) Disciplinary suspension without pay
- (c) Disciplinary demotion
- (d) Dismissal

If the department head decides to recommend disciplinary action other than a written warning, he or she reviews the recommendation with the Finance Officer or (and designee) and County Manager and receives the County Manager's approval to proceed with a disciplinary conference with the employee.

(a) Written Warning

When the supervisor determines that disciplinary action is appropriate for unsatisfactory job performance, a written warning is the first type of disciplinary action that an employee must receive. (The supervisor may also elect to issue a written warning for grossly inefficient job performance or unacceptable personal conduct.)

A Written Warning requires the Department Head's advance approval. Although not required, consultation with staff in the Manager's Office is advised.

The written warning, in the form of a memo or letter (see Appendix C), must

1. Inform the employee that this is a written warning and not some other non-disciplinary process such as a counseling.
2. Inform the employee of the specific conduct, actions, deficiencies or omissions that are the basis for the warning.
3. Tell the employee what specific corrections or improvements, if applicable, that must be made to address these specific issues.
4. Tell the employee the timeframe allowed for making the required improvements / corrections. Absent a specified time frame, 30 days is the time frame allowed for correcting unsatisfactory job performance. Immediate correction is required for grossly inefficient job performance or unacceptable personal conduct; and
5. Tell the employee the consequences of failing to make the required improvements/ corrections, including dismissal, and note applicable appeal rights through the county's grievance procedure.

The supervisor meets privately with the employee to review the warning and to allow the employee to give the reasons for the actions or omissions.

The department provides a copy of the Written Warning to the Finance Office for inclusion in the employee's personnel file. The Written Warning shall remain in the personnel file, and it is the responsibility of the supervisor to review the file within twelve months to determine whether or not the reasons for the disciplinary action have been resolved or corrected.

More than one Written Warning may be issued to employees. Three warnings in two years may be cause for dismissal.



(b) Disciplinary Suspension Without Pay

Disciplinary suspension without pay is the removal of an employee from work for disciplinary reasons (either for unsatisfactory job performance or unacceptable personal conduct) without paying the employee. An employee who has been suspended without pay must be furnished a statement in writing setting forth the specific acts or omissions that the reasons for the suspension and the employee's appeal rights. (See Appendix C for form.)

A disciplinary suspension without pay must be for at least one workday and may not be for more than five workdays.

Prior to a disciplinary suspension without pay for unsatisfactory job performance, the employee must have received one prior written warning or other disciplinary action. No prior warnings are required before a disciplinary suspension without pay for grossly inefficient job performance or unacceptable personal conduct.

Procedural requirements for implementation of a disciplinary suspension without pay, including a pre-disciplinary conference, are set out in Section 6 of this Article.

(c) Disciplinary Demotion

A disciplinary demotion is a personnel action (either for unsatisfactory job performance or unacceptable personal conduct) that:

- Places the employee in a position at a lower pay grade with or without lowering the employee's salary, and
- The action was involuntary, and was taken to discipline the employee.

An employee who is demoted must receive written notice of the specific reasons for the demotion, as well as the appeal rights. (See Appendix C for form.) Prior to a disciplinary demotion for unsatisfactory job performance, the employee must have received one prior written warning or other disciplinary action. Prior to a disciplinary demotion for grossly inefficient job performance or unacceptable personal conduct, no prior warning is required.

Procedural requirements for implementation of a disciplinary demotion, including a pre-disciplinary conference, are set out in Section 6 of this Article.

(d) Dismissal

Dismissal is the involuntary termination of the employment of an employee for disciplinary reasons, either for unsatisfactory job performance, including grossly inefficient job performance, or unacceptable personal conduct.



Dismissal requires written notification to the employee. Such notification must include the specific reasons for the dismissal and notice of the employee's rights of appeal. Prior to a dismissal for unsatisfactory job performance, the employee must have received two prior written warnings and/or other disciplinary actions within a two year period. Prior to a dismissal for grossly inefficient job performance or unacceptable personal conduct, no prior warning is required.

Procedural requirements for dismissal, including requirements for a pre-disciplinary conference, are set out in Section 6 of this Article.

## **Section 6. Procedural Requirements Prior to Dismissal, Disciplinary Demotion and Disciplinary Suspension**

Before a permanent (regular) employee may be disciplined (dismissed, demoted, or suspended without pay) the following must occur:

- a. The department head reviews the facts and circumstances, including the nature and extent of prior disciplinary actions, if any, and any action taken (or not taken) as to other employees in similar situations.
- b. If action taken is for Unsatisfactory Job Performance, a minimum of one written warning is required prior to disciplinary demotion or disciplinary suspension; two warnings are required prior to dismissal.
- c. If the department head decides to proceed with consideration of disciplinary action, other than a written warning, he or she reviews the recommendation with the County Manager (or designee) and receives the County Manager's approval to hold a pre-disciplinary conference with the employee. Any memorandum, letter or other document used to notify the employee of consideration of dismissal, disciplinary demotion, disciplinary suspension without pay or investigative suspension requires the advance approval of the County Manager or designee. (See Appendix C for forms.)

### **Pre-disciplinary Conference**

*Notification:* The department head gives the employee written notice of the pre-disciplinary conference. (See forms in Appendix C.) This notice includes the date and time of the conference, the specific reasons for the proposed action, the action or actions being considered, and a brief summary of the information which management believes supports the proposed action.

*Holding the conference:* The department head and/or management representative(s) hold the pre-disciplinary conference with the employee. Management and employee may agree in advance (as evidenced on pre-disciplinary conference form) to have a third party of the employee's choosing present (although not participating) at the pre-

disciplinary conference. A witness or security personnel may be present if management deems appropriate.

The department head and/or management representative(s):

- Review with the employee the facts giving rise to the proposed action and the specific reasons for the proposed action.
- Provide an opportunity for the employee to respond.

If the employee elects not to attend the pre-disciplinary conference, the department head may proceed with the disciplinary action, noting in the eventual communication to the employee that the employee did not participate in the conference. However, efforts should be made to assure that the employee was aware of the time of the conference or was not prevented from attending due to accident or illness.

*Following the pre-disciplinary conference:* Following the pre-disciplinary conference, the department head considers the information the employee has presented and does not make a decision until at least the next working day.

If the department head determines that disciplinary action is not warranted, the employee should be informed in writing and any follow-up actions specified within that communication. (See Appendix C.)

If the department head determines that disciplinary action is warranted following the pre-disciplinary conference, he or she reviews the recommendation with the County Manager. If the Manager concurs with the department head's recommendation, the Manager approves the recommended form of disciplinary action.

*Notification of disciplinary action:* The department head gives the employee written notice of the disciplinary action within a reasonable period of time, not to exceed ten (10) working days. (See forms in Appendix C.) The notice should include:

- The specific reasons for the disciplinary action and a brief summary of the information which management believes warrants the action.
- The employee's appeal rights under the Sampson County Personnel Policy.

## **Section 7. Employee Appeal of Disciplinary Action**

A permanent employee wishing to appeal a disciplinary action - written warning, demotion, suspension or dismissal - may present the matter in accordance with the provisions of the grievance procedure that is provided in Article XI of this Policy.

## Section Coverage

Employees subject to State Personnel Act should also refer to Appendix G.

All employees     Excludes other (specify: Register of Deeds and Sheriff's Office employees).

### Article X. NON - DISCIPLINARY ACTION

#### Section 1. Purpose

The purpose of this Article is to set out for County employees and supervisors those actions which may be taken in response to employee performance or conduct which do not immediately constitute disciplinary action.

#### Section 2. Policy

Non-disciplinary actions are not grievable.

#### Section 3. Coverage

This Section applies to permanent employees who have completed the probationary period except for those exclusions noted at the beginning of this Article.

#### Section 4. Investigatory Placement with Pay

An employee may be placed on investigatory status with pay only:

- To allow management sufficient time to investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action;
- To provide the supervisor an opportunity to seek process guidance and advice;
- To provide time within which to schedule and conduct a pre-disciplinary conference;  
or
- To avoid disruption of the work place and/or to protect the safety of persons or property.

Under no circumstance is it permissible to place an employee on investigatory status with pay for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.

If an employee is placed on investigatory status with pay, the department head directs the employee to leave the County premises **and** to report at a designated time or place, or to remain away until further notice.

As soon as feasible, the department head notifies the County Manager.

The employee continues to receive pay and benefits while not at work due to an investigatory placement.

The department head in consultation with the Manager conducts an investigation of the matter leading to the investigatory placement as soon as possible and reaches a decision as to any disciplinary action with reasonable dispatch. The department head must notify an employee in writing of the reasons for investigatory status with pay not later than 10 calendar days after the beginning of the placement. A period of investigatory status with pay may last no more than thirty calendar days. The department head may approve an extension of the period of investigatory status with pay for good cause. The department head must notify the employee in writing of any such extension, the reasons for extension and the anticipated ending date of the period of investigatory status. If no action has been taken by the department head by the end of the thirty-day period or the extension, the department must either take appropriate disciplinary action on the basis of the findings of the investigation or return the employee to active work status.

If the investigation clears the employee, or if no disciplinary action results from the investigation, then management should place an additional document in the file indicating that the employee was cleared of any wrongdoing and that no disciplinary action was taken.

#### **Section 5. Voluntary Reassignment**

Reassignment is an option for management and employees which may be initiated by either party. Voluntary reassignment is not a component of the disciplinary process or intended to be used in lieu of termination. It may be used as a positive tool to recognize the abilities of employees and the possibility of misplacement in a particular job. Voluntary reassignment represents a mutual decision between the employee and management; therefore it is not subject to appeal. See Article III, Section 6, with regard to compensation issues related to voluntary transfer.

#### **Section 6. Management Referral to Employee Assistance Program (EAP)**

The Employee Assistance Program is a benefit provided to County employees and immediate family members who are experiencing any kind of personal problem. See Article XII, Section 8. If an employee exhibits declining job performance, attendance problems, or on-the-job behavioral problems, after discussing the problems with the employee, a supervisor/department head may suggest that the employee voluntarily seek assistance from the EAP. If the employee does not seek EAP assistance and work related problems continue, the supervisor/department head may require that the employee seek EAP assistance through a management referral. There will be no attempt to intrude upon the employee's private life. However, when a management referral is required, the County may only obtain information from the EAP regarding the employee's attendance at EAP appointments, whether the employee is following recommendations of the EAP, and when the employee will be able to return to work. If an employee does not follow through on a management referral and on-the-job problems continue, an employee may then be subject to disciplinary action up to and including termination. To initiate a referral, the supervisor/department head must contact

EAP by telephone to advise the EAP counselor of the management referral and pertinent work-related issues to be addressed. Either the employee or the supervisor may schedule the initial visit once the EAP is notified of the management referral.

## Section Coverage

Employees subject to State Personnel Act should also refer to Appendix G.

All employees     Excludes other (specify: Register of Deeds and Sheriff's Office employees).

## ARTICLE XI. GRIEVANCE PROCEDURE, DISCRIMINATORY AND ADVERSE ACTION APPEAL

### Section 1. Grievance and Adverse Action Definitions

A grievance is a claim or complaint based upon an event or condition which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions. A grievance may only be filed for those claims which involve alleged safety or health hazards, unsatisfactory physical facilities, surroundings, materials or equipment, unfair or discriminatory supervisory or disciplinary practices, unjust treatment of fellow workers, unreasonable work quotas, or any other grievance relating to conditions of employment.

An adverse action is a demotion, dismissal, reduction in pay, layoff, undesirable transfer or suspension without pay. Former employees may appeal their termination from County employment within required timeframes.

### Section 2. Grievance Procedure and Adverse Action Appeal - Policy

In order to maintain a harmonious and cooperative relationship between the County and its employees, it is the policy of the County to provide for the settlement of problems and differences through orderly grievance or appeal procedures. Every permanent employee shall have the right to present his/her problem, grievance or adverse action appeal in accordance with the established policy free from interference, coercion, restraint, discrimination, or reprisal.

It is the responsibility of supervisors at all levels, consistent with authority delegated to them, to consider and take appropriate action promptly and fairly on a grievance or adverse action appeal of any employee.

The purposes of grievance or appeals procedures include, but are not limited to:

- (a) Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
- (b) Encouraging employees to express themselves about the conditions of work which affect them as employees;
- (c) Promoting better understanding of policies, practices, and procedures which affect employees;
- (d) Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures; and
- (e) Increasing the sense of responsibility exercised by supervisors in dealing with their employees.

- (f) Encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore encouraging conflicts to be resolved at the lowest level possible of the chain of command; and
- (g) Creating a work environment free of continuing conflicts, disagreements, and negative feelings about the County or its leaders, thus freeing up employee motivation, productivity, and creativity.

### **Section 3. Grievance Procedure - Non-Discrimination**

Any permanent County employee having a problem or grievance arising out of or due to his/her employment which meets the definition in Section 1 above and who does not allege discrimination because of his/her age, sex, race, color, national origin, religion, creed, physical disability, or political affiliation shall first discuss his/her problem or grievance with his/her supervisor and follow the grievance procedure established by the County. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. This meeting shall occur within ten (10) working days of the occurrence of the matter causing concern. If the issue is resolved, written documentation of the grievance and resolution is provided to the employee; however, documentation is not maintained in the employee's official personnel file. If the issue is not resolved, the following procedure is followed. It should be noted that the timeframes for response in each of the steps below may be waived by mutual consent, in writing.

Step One. The employee with a grievance or adverse action appeal shall present the matter in writing to his/her immediate supervisor within ten (10) working days of its occurrence or within ten (10) working days of the time the employee learns of its occurrence, with the objective of resolving the matter informally.

The supervisor should be and is encouraged to consult with any employee or officer deemed necessary to reach a correct, impartial, and equitable determination. The supervisor shall meet with the employee and shall give the employee an answer as soon as possible, but within ten (10) working days of receipt of notice of appeal.

If the immediate supervisor is a department head (other than the County Manager), the process begins with Step 2.

If the immediate supervisor is the County Manager, the employee would begin the appeal process at Step 3.

Step Two. If the decision is not satisfactory to the employee in Step 1, or if he/she fails to receive an answer within the designated period provided in Step 1, he/she may file the grievance in writing within ten (10) working days with the Department Head (in Head Start Program, the Director), who shall hear the grievance and render a decision in writing within a maximum of ten (10) working days.

For employees in the Sheriff's Department and the Register of Deeds Office, there shall be no appeal beyond the decision of the respective Department Head.

Step Three. If the decision is not satisfactory to the employee in Step 2, or if he/she fails to receive an answer within the designated period provided in Step 2, he/she may file the grievance in writing with the County Manager within ten (10) working days.

The County Manager shall hear the grievance and render a decision. The County Manager shall provide a written statement to the employee containing the reasons for his determination and a statement of the evidence upon which he relied within ten (10) working days with one copy sent to the employee by certified mail. There shall be no appeal from this decision by the County Manager, except for those employees whose positions are appointed by the Board of Commissioners.

In grievances involving Head Start staff, the Policy Council shall hear the grievance rather than the County Manager. The Policy Council shall render a decision in writing within ten (10) working days. The written statement to the employee shall contain the reasons for its determination and a statement of the evidence upon which it relied.

#### **Section 4. Adverse Action Appeal Procedure - Non Discrimination**

Any permanent County employee believes that an action has been taken against them which meets the definition of adverse action as noted in Section 1 above, and who does not allege such action to be discrimination because of his/her age, sex, race, color, national origin, religion, creed, physical disability, or political affiliation shall first discuss his/her problem or grievance with his/her supervisor and follow the adverse action appeal procedure established by the County. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. This meeting shall occur within ten (10) working days of the occurrence of the matter causing concern. If the issue is resolved, written documentation of the adverse action and resolution is provided to the employee; however, documentation is not maintained in the employee's official personnel file. If the issue is not resolved, the following procedure is followed. It should be noted that the timeframes for response in each of the steps below may be waived by mutual consent, in writing.

For Adverse Action Appeals, Steps One through Step Three are identical to the Grievance Procedures found in Section 3. However, a Step Four is available if the decision rendered in Step 3 is not satisfactory to the employee or if he/she fails to receive an answer within the designated period provided in Step 3.

Step Four. If the decision is not satisfactory to the employee in Step 3, or if he/she fails to receive an answer within the designated period provided in Step 3, he/she may file an adverse action appeal in writing with the County Board of Commissioners within ten (10) working days. The Board of Commissioners shall hold a hearing thereon and within ten (10) working days render a decision to the employee and the County Manager. The



hearing shall be held in Closed Session of the Board of Commissioners pursuant to the provisions of the Open Meetings Law. In a hearing before the Board of Commissioners, the County Manager and Department Head must produce evidence to justify the actions taken regarding the employee. The employee must be given the right at the hearing to examine all the evidence and to cross-examine adverse witnesses. The employee has the right to be represented by a person of his/her choice.

The Board of Commissioners shall provide a written statement to the employee containing the reasons for its determination and a statement of the evidence upon which it relied in writing within ten (10) working days with one copy sent to the employee by certified mail. There shall be no appeal from this decision by the Board of Commissioners.

#### **Section 5. Grievance and Adverse Action Appeal Procedure - Discrimination and Unlawful Workplace Harassment**

Any applicant for County employment, County employee, or former County employee who has reason to believe that he/she has been a victim of unlawful workplace harassment, or who believes that employment, promotion, training, or transfer was denied him/her or that demotion, layoff, or termination of employment was forced upon him/her because of his/her age, sex, race, color, national origin, religion, creed, political affiliation, or physical disability except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration, shall have the right to appeal directly to the County Board of Commissioners. An employee or applicant must appeal an alleged act of discrimination or unlawful workplace harassment in writing within ten (10) working days of the alleged action. A County employee has the right to appeal using the grievance procedure outlined in Section 3 of this Article and/or he or she may file a Title VII Charge with the Equal Employment Opportunity Commission.

The procedure described in Section 5 applies to harassment more fully defined in Article V, Section 10.

#### **Section 6. Back Pay Awards**

Back pay and benefits may be awarded to reinstated employees in suspension, demotion, dismissal, discrimination and unlawful workplace harassment cases.

#### **Section 7. Representation Fees**

When an employee's grievance is declared valid, the Commissioners may authorize partial or full payment of fees incurred by the employee for representation.

### Section Coverage

Employees subject to State Personnel Act should also refer to Appendix G.

All employees

Excludes other (specify: \_\_\_\_\_).

## ARTICLE XII. EMPLOYEE BENEFITS

### Section 1. Purpose

The County strives to enhance the well being of its employees and their dependents by providing competitive and cost effective benefits. The purpose of a benefits program is to attract and retain a quality workforce; to promote prevention and early detection of disease; to promote wellness and reduce healthcare costs and absenteeism, to respond effectively to on the job accidents; to encourage employees to seek assistance for problems; and to insure compliance with all federal and state requirements.

### Section 2: Policy

The availability of benefits to employees is not guaranteed except for those which are mandated by federal or state law. Employment benefits provided are subject to the approval of the Board of Commissioners on a yearly basis. Changes in the availability of benefits are not grievable. Benefits may not be traded for compensation.

### Section 3. Insurance Benefits

The County may make group life and group health and dental insurance programs available for its employees and retirees.

#### (A) Insurance Benefits While Employed

Employees classified as permanent full-time or permanent part-time may elect medical and dental coverage. A waiting period, with a minimum of at least ninety (90) days is required before the insurance is effective the 1<sup>st</sup> of the following month. (Example: Employee is hired May 2<sup>nd</sup> – insurance will become effective September 1<sup>st</sup>. However, if the 1<sup>st</sup> of the month falls on the weekend or holiday, the coverage will be computed as if the employee started on the 1<sup>st</sup> of the month.)

Eligible employees are offered coverage and must enroll or waive their opportunity for coverage at that time. If you are eligible for coverage, you may enroll your eligible dependents. Your eligible dependents include: your spouse, under a legally valid, existing marriage with a person of the opposite sex; your unmarried children or your spouse's unmarried children up to their 19<sup>th</sup> birthday, including newborn children from date of birth, stepchildren, adoptive children from date of placement in anticipation of adoption, foster children from date of placement in a foster home (as defined by North Carolina law), and children for whom health benefit coverage is required under a court or administrative order, and as determined eligible by the insuring corporation; and your unmarried children from age 19 to their 26<sup>th</sup> birthday for medical or 23<sup>rd</sup> birthday for dental who are full time students at an educational institution licensed by the state in which it is located. An unmarried child who is either mentally or physically handicapped

and incapable of self-support may be covered under the program regardless of age if the condition existed and coverage was in effect upon attainment of the limiting age.

Employees are given the opportunity annually during open enrollment to make changes in their medical and dental plans.

Medical and dental rates are established annually by the insurance companies and must be approved by the Board of Commissioners. Rate changes are effective August 1<sup>st</sup> of each year. The County and the employee share the cost of medical and dental coverage.

#### **B. Insurance Benefits After Leaving Employment**

Coverage ends the last day of the month, not the last day of employment. If an employee works at least one half of the work days in the month, the coverage would not end until the last day of the following month (for the individual or family if the employee pays the additional premium). Employees who do not qualify for continued coverage under the County's group health and dental insurance programs will be afforded continued coverage in accordance with the plan contract or any legislative mandates governing the continuation of group health and dental insurance benefits (COBRA).

The County may offer post-employment insurance coverage to retirees under conditions approved by the Board and set forth annually in the County's budget ordinance.

Participants receiving continuation coverage under COBRA provisions will be billed by a third party administrator contracted to administer the County's COBRA program. Nonpayment or late payment to the third party administrator may result in irrevocable cancellation.

#### **Section 4. Federal Insurance Contribution Act (FICA)**

The County, to the extent of its lawful authority and power, has extended social security benefits for its eligible employees and eligible groups and classes of such employees.

#### **Section 5. Retirement Benefits**

The County provides retirement benefits for its employees. Examples of retirement benefits which may be made available include, but are not limited to, the following:

- The North Carolina Local Governmental Employees' Retirement System;
- The North Carolina Local Governmental Employees' Retirement System for Local Law Enforcement Officers
- A plan contracted with a private company; i.e., 401-K.

An employee becomes a member of the Retirement System on the date of hire if a permanent employee and works at least 1,000 hours a year. The County, the

employee, and the investment earnings on total contributions pay the cost of providing retirement benefits.

The employees' share of the cost, which is automatically deducted from the employees' paycheck, is determined by the state. The compensation includes all salaries and wages paid from public funds which are earned while working for the County.

The County's share of the cost is based on the calculations prepared by an actuary, so that benefits will be funded properly.

An employee must meet current State guidelines to be eligible for Retirement benefits for Regular Employees. The most current guidelines are found in Appendix H.

### **Section 6. Worker's Compensation Benefits**

All employees of the County (full-time, part-time, and temporary) are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once.

Employees may use sick leave and/or vacation both during the waiting period before Workers' compensation benefits begin, and afterward to supplement the remaining one-third of salary, except that employee may not exceed the regular salary amount using this provision. This provision also applies to reactions to small pox vaccinations administered to County employees under Section 304 of the Homeland Security Act. Such reactions shall be treated the same as any other workers compensation claim as regards leave and salary continuation.

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee, and such claims should be filed with the North Carolina Industrial Commission within five (5) days of the date of injury. The Finance Officer will assist the employee in filing the claim.

### **Section 7. Unemployment Insurance**

In accordance with Public Law 94-566 and Chapter 1124 of the Session Laws of 1977 of the North Carolina General Assembly, local governments are covered by unemployment insurance effective January 1, 1978. County employees who are laid off or released from the County service may apply for unemployment compensation through the local office of the Employment Security Commission who will determine the employee's eligibility for this benefit.

## **Section 8. Employee Assistance Program (EAP)**

This program will provide highly qualified professional personnel to assess various personal problems and, when necessary, refer employees and their dependents to appropriate providers.

County employees and immediate family members who are experiencing any kind of personal problems are eligible for the EPA program. This program provides free, confidential professional assistance to help employees and their families resolve problems that affect their personal lives or job performance.

The services provided include assessment of personal problems that may be emotional, marital, family related, financial, legal, drug or alcohol related, related to job stress, or any other issues that may cause concern.

Besides being confidential, the program is voluntary. Referral to the EAP is a non-disciplinary action. See Article X, Section 6. It is designed to allow employees or family members to seek help on their own.

## **Section 9. Tuition Assistance Program**

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities within the County service. Employees may be reimbursed eligible expenses as determined by tuition policy and procedures.

**Section Coverage**

Employees subject to State Personnel Act should also refer to Appendix G.

All employees  Excludes other (specify: \_\_\_\_\_).

**ARTICLE XIII. PERSONNEL RECORDS AND REPORTS**

**Section 1. Personnel Records Maintenance**

Such personnel records as are necessary for the proper administration of the personnel system will be maintained by the Finance Office. The County shall maintain in personnel records only information that is relevant to accomplishing personnel administration purposes. Personnel information shall be maintained and released only in accordance with North Carolina General Statute 153A-98(b).

**Section 2: Personnel Records Which Are Public**

The following public information on each County employee shall be maintained:

- (a) Name
- (b) Date of birth
- (c) Date of original employment or appointment to County service
- (d) Terms of any contract by which employee is employed whether written or oral, past or current, to the extent the County has the written contract or a record of the oral contract in its possession
- (e) Current position and position title
- (f) Current salary (as defined in the NCGS 153A-98(b) as pay, benefits, incentives, bonuses, deferred and all other forms of compensation
- (g) Date and amount of each change in salary
- (h) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification
- (i) Date and general description of the reasons for each promotion
- (j) Date and general description of each dismissal, suspension, or demotion for disciplinary reasons (if the disciplinary action was a dismissal, a copy of the written notice of the final decision setting forth the specific acts or omissions that are the basis of the dismissal
- (k) Office to which the employee is currently assigned.

### **Section 3. Access to Personnel Records**

As required by G.S. 153A-98, any employee may have access to information in his/her personnel file as listed in Section 1, Section 2 and Section 4 of this Article for the purpose of inspection, examination, and copying, during the regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Commissioners may adopt. Access to such information shall be governed by the following provisions:

- (a) All disclosures of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information: Name of employee; information disclosed; date information requested; name and address of the person to whom the disclosure is made; purpose for which information is requested. This information must be retained for a period of two (2) years.
- (b) Upon request, records of disclosure shall be made available to the employee to whom it pertains.
- (c) An individual examining a personnel record may copy the information and available photocopying facilities may be provided and the cost may be assessed to the individual.
- (d) Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for a writ of mandamus or other appropriate relief under the NC General Statutes

### **Section 4. Confidential Information**

All information contained in a County employee's personnel file, other than the information listed in Section 2 of this Article will be maintained as confidential in accordance with the requirements of G.S. 153A-98 and shall be open to public inspection only in the following instances:

- (a) The employee or his/her duly authorized agent may examine all portions of his/her personnel file, except (1) letters of reference solicited prior to employment, and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
- (b) A licensed physician designated in writing by the employee may examine the employee's medical record.
- (c) A County employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- (d) By order of a court of competent jurisdiction, any person may examine

all material in the employee's personnel file.

- (e) An official of any agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such information is deemed by the County Manager to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file to assist in a criminal investigation.
- (f) Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.
- (g) A record shall be made of each disclosure and placed in the employee's file (except of disclosures to the employee and the supervisor).

An employee may sign a written release, to be placed in his/her personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.

The County Manager, with concurrence of the Board of County Commissioners, may inform any person of the employment or non-employment, promotion, demotion, suspension, or other disciplinary action, reinstatement, transfer, or termination of a County employee and the reasons for that personnel action. Before releasing the information, the manager shall determine in writing that the release is essential to maintaining public confidence in the administration of County services or to maintaining the level and quality of County services. This written determination shall be retained in the office of the manager or the County clerk, is a record available for public inspection and shall become part of the employee's personnel file.

In accordance with NCGS 153A-98, even if considered part of an employee's personnel file, the following information need not be disclosed to an employee nor to any other person:

- (a) Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the county's service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.
- (b) Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded.



- (c) Information that might identify an undercover law enforcement officer or a law enforcement informer.
- (d) Notes, preliminary drafts and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials.

### **Section 5. Records of Former Employees and Applicants**

The provisions for access to records apply to former employees and applicants as they apply to present employees.

### **Section 6. Remedies of Employees Objecting to Material in File**

An employee who objects to material in the personnel file may place in the file a statement relating to the material considered inaccurate or misleading. The employee may seek the removal of such material in accordance with established grievance procedures. All employees will be informed of all materials placed into their respective file.

### **Section 7. Safeguarding Confidential Information**

In order to insure the security and confidentiality of records, the County Manager or Department Head shall establish administrative, technical, and physical controls to protect confidential information from unauthorized access or disclosure.

### **Section 8. Penalty for Permitting Access to Confidential File by Unauthorized Person**

G.S. 153A-98 provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by a designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars (\$500.00).

### **Section 9. Penalty for Examining and/or Copying Confidential Material Without Authorization**

G.S. 153A-98 provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court but not to exceed five hundred dollars (\$500.00).

## **Section 10. Personnel Action**

The Personnel Director will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. The official personnel files are those which are maintained by the Finance Office. All departments and appointing authorities shall provide original personnel documents, including but not limited to employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents to the Finance Office for inclusion in these official files.

## **Section 11. Destruction of Records Regulated**

No public official may destroy, sell, loan, or otherwise dispose of any public records, except in accordance with G.S. 121-5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) as provided in G.S. 132-3.

**Section Coverage**

Employees subject to State Personnel Act should also refer to Appendix G.

All employees

Excludes other (specify: \_\_\_\_\_).

**ARTICLE XIV. IMPLEMENTATION OF POLICY**

**Section 1. Conflicting Policies Repealed**

All policies, ordinances or resolutions that conflict with the provisions of this policy are hereby repealed.

**Section 2. Separability**

If any provision of this policy or any rule, regulation or order thereunder of the application of such provisions to any person or circumstances is held invalid, the remainder of this policy and the application of such remaining provisions of this policy of such rules, regulations or orders to persons or circumstances other than those held invalid will not be affected thereby.

**Section 3. Violations of Policy Provisions**

An employee violating any of the provisions of this policy may be subject to suspension and/or dismissal, in addition to any civil or criminal penalty, which may be imposed for violation of the same.

**Section 4. Interpretations**

Official policy interpretations shall be made by the County Manager and as necessary by the Board of Commissioners.

**Section 5. Amendments**

Amendments shall be made by a vote of a majority of the Board of County Commissioners.

**Section 6. Effective Date**

The policy shall become effective as of June 6, 2011.