



# Washington County Employee Handbook

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## INTRODUCTION

The following Employee Handbook is designed to inform Washington County employees of the County's operating policies and practices as they apply to all County employees. Additional policies and practices may be adopted by the individual elected officials, provided that they do not conflict with the policies contained herein. County employees are defined as those deputies and others employed by and serving at the pleasure of the elected officials. Each County employee is responsible to the elected official who hires and/or appoints that employee.

For additional information, employees should ask their supervisor, the elected official under whom they serve, or the Human Resource Administrator.

( Rev. April 14, 1988)

1. GENERAL POLICY PROVISIONS: EQUAL EMPLOYMENT OPPORTUNITY:

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A. PURPOSE:

The purpose of this document is to familiarize the employee with the County's employee policies. Nothing herein creates a property right in employment nor establishes grounds upon which discipline or dismissal must be based.

B. General County Policy:

1. The County is to treat all employees and citizens in a manner that is: i) rationally related to the effectuation of legitimate County objectives and ii) uniformly applied to all persons similarly situated.
2. No official or employee of the county is to abuse or misuse his or her governmental power.
3. No official or employee is to engage in any overt act that is either illegal (contrary to applicable statutes or judicial rulings) or unconstitutional (contrary to the U.S. Constitution or the Arkansas Constitution).
4. No official or employee is to omit the performance of any duty that is affirmatively required by applicable laws (statutes or judicial rulings).
5. No official of county government shall "be interested, either directly or indirectly, in any contract or transaction made, authorized, or entered into on behalf of the county...or accept or receive any property, money, or other valuable thing, for his (or her) use or benefit on account of, connected with, or growing out of any contract or transaction of a county," except as provided by ordinance pursuant to Ark. Code Ann.14.14.1202.
6. No official of county government is to engage in any act that would constitute "corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office." Ark. Code Ann. 14.14.1311.

7. Each elected official of the County is to fully and completely administer the day-to-day affairs of his or her office of County government on behalf of the County, in a manner that is in accord with applicable laws (statutes or judicial rulings), the constitutions (U.S. and Arkansas), and this general County policy.

C. County Employment Policy:

1. All County employees are "at will" employees. County employment is not for a specific period of time and may be terminated at any time without notice or liability of any kind (except for wages earned and unpaid) and with or without cause. Unless rehired by a newly elected supervising county official, an employee's employment shall cease at the biennium (December 31 of even numbered years). If, notwithstanding this document, any employee contends that he or she has a property right in his or her employment or a substantial expectancy of continued employment (express, implied, written, or oral) until "just cause" exists for reduction or removal in pay or position, then that employee shall assert such contention at a "property right" grievance hearing requested in the time and manner set forth in this policy.
2. It is the County's policy to provide equal opportunity for all qualified persons; to prohibit unlawful discrimination in employment practices, personnel procedures, and administration of benefit plans; and to otherwise provide the same or similar treatment and opportunities to all persons similarly situated.

D. Rational Basis for Removal of Pay or Position:

1. A County Official may reduce or remove pay or position for any reason that is rationally related to the effectuation of any conceivable legitimate County objective.
2. Examples: It is not possible to list all "rational bases" for reduction or removal of pay or position; however, examples include (without limitation):

- a. Misrepresentation, dishonesty, or self-dealing conduct;
- b. Intemperate conduct;
- c. Insubordination, including the failure or refusal to follow the legal orders of your supervisor or other supervisors;
- d. Negligent, reckless, knowing, or intentional destruction of County property;
- e. Abuse or misuse of your position as a County employee;
- f. Any conduct, acts, or omissions that interfere with or impair your ability to properly and effectively perform your duties as a County employee;
- g. Any rational change in the mode or manner of operations, including any rational decision regarding the persons selected by the County Official for the delivery of County services.

E. Constitutionally Protected Conduct:

- 1. It is the policy of this county not to violate the Constitution or the laws of Arkansas or the United States.
- 2. Should any applicant, employee, or person requesting County assistance or services contend that he or she has been unlawfully discriminated against because of the race, color, religion, gender, national origin, age, or disability or that he or she has been unlawfully punished for the exercise of a constitutionally protected liberty right (e.g., free speech, free association, political patronage, access to courts, privacy, etc.) or treated in any other unlawful or unconstitutional manner, the applicant or employee shall request, in the time and manner set forth in this county employment policy, a "liberty right" hearing before the county grievance committee to provide the county's final policymaker with authority and opportunity to learn of the

alleged unlawful discrimination or unlawful punishment and to thereby have an opportunity to voluntarily conform the conduct of county officials and county employees to the requirements of county policy.

F. Hiring and Promoting:

1. The at-will employment policy applies equally to hiring and promoting. Nothing herein shall create a property right in employment, entitlement to be hired or promoted, or an expectancy of continued employment. Nothing herein establishes grounds upon which hiring or promoting must be based.
2. Prospective employees who are required to register with the selective service system must certify compliance with the Military Selective Service Act as a condition of employment.

G. Employee Benefits

1. Eligibility for vacation leave or other employee benefits does not create any property right in employment or any expectancy of continued employment.

(Rev. April 13, 2000)

## **2. RECRUITMENT, SELECTION, AND HIRING PROCEDURES:**

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- A. The Human Resources' Office will be notified of the elected official's intent to hire by means of a "Notice of Job Opening." This form must contain the necessary information to identify the position to be filled, provide the rate of pay, and be authorized by the responsible official.
- B. When the personnel request has been received, the Human Resources' Office will:
  - 1. Verify the availability of the position and funds; and
  - 2. Verify compliance with the Washington County Job Evaluation and Salary Administration Program.
- C. If the request is in conformance with County policy establishing an open position, the Human Resources' Office shall use the following practices for recruiting applicants for the selection and hiring of Washington County employees.

(Rev. April 14, 1994)

## **3. RECRUITMENT**

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### **A. Intra-department:**

- 1. An elected official is encouraged to fill open positions by promotion or transfer, where possible. Positions filled by Intra-departmental personnel do not require any advertising or listing with the Employment Security Department.
- 2. The Human Resources' Office will be notified of the position by means of a "Notice of Job Opening." This form must contain all identifying information and method of recruitment should indicate promotion or transfer.
- 3. An employee promoted into a position with a higher grade may receive an increase up to the amount specified in the Program of Salary Administration without the Personnel Committee Approval.

4. Persons being transferred or promoted into a new position will be paid for any compensatory time earned and will transfer any sick leave or vacation time accrued.

B. Inter-Department

1. A position that is to be filled by recruitment from other County departments will remain open a minimum of three (3) working days.
2. County-only positions will be advertised by bulletin board posting. Applications are obtained from and returned to the Human Resources' Office.
3. An employee promoted into a position with a higher grade may receive an increase up to the amount specified in the Program of Salary Administration without the Personnel Committee approval.
4. Persons being transferred or promoted into a new position will be paid for any compensatory time earned and will transfer any sick leave or vacation time accrued.

C. Open:

1. All County positions must remain open for a minimum of five (5) working days before hiring and may remain open longer if unfilled at the request of the hiring official. No person may be hired until the position is closed. (See 2 below.) In an emergency, an employee can be hired on a temporary basis, with the understanding that the position must remain open the full waiting period, be advertised, and the most qualified applicant will be hired.

Note: Persons hired on an emergency basis are limited to 20 days employment and are not eligible for rehire until they have been separated from County employment for 60 days.

2. An open position will close at 11:59 p.m. on the last day it is advertised and may not be filled until the following day. In person applications will not be accepted after close of business on the final day of

the listing, but applicants will be able to submit applications online through the position close time.

3. All County positions will be listed with the Arkansas Employment Security Department and posted on the web page.
4. Applications remain active for three months and must be retained for one year.
5. All County positions will be advertised in the public media and may be advertised in any other manner deemed necessary by the elected official or dictated by recruitment areas.
6. The Human Resources' Office will also notify any minority agency or school placement office as requested, and will publish a list for bulletin board posting.

D. Retirees:

1. An elected official may fill open positions by hiring an individual, who has been retired for at least one hundred and eighty (180) days and is drawing a monthly annuity from Arkansas Public Employee's Retirement System (APERS). Positions filled by qualified Retirees do not require any advertising or listing with the Employment Security Department. (Refer to Act 154 of 2001).

Note: 1. Retirees are usually highly qualified and dependable workers, thus saving the county the cost of training.

2. The county is not required nor allowed to make retirement contributions to APERS for employees receiving retirement benefits from APERS, for a cost savings.

3. If a retiree is hired he or she will receive all other benefits accorded

other County employees and when said retiree retires again he or she will be afforded all the rights and benefits to which all retirees are entitled.

4. Elected Officials are barred from rehire for one year.
2. The Human Resources' Office will be notified of the position by means of a "Notice of Job Opening". This form must contain all identifying information and method of recruitment should indicate retiree.
3. An employee promoted into a position with a higher grade may receive an increase up to the amount specified in the Program of Salary Administration without the Personnel Committee approval.
4. Persons being transferred or promoted into a new position will be paid for any compensatory time earned and will transfer any sick leave or vacation time accrued.

(Rev. April 13, 2000)

(Rev. May 9, 2002)

(Rev. April 13, 2006)

(Rev. Feb 8, 2007)

(Rev. Aug. 10, 2012)

#### 4. SELECTION:

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- A. All qualifications required for hiring must be "bona fide occupational qualifications." (Do not require that applicants possess qualifications beyond those actually required for the performance of the job.)
- B. All applicants for the same position must be asked the same interview questions and the questions must be work related. During the pre-offer stage, an applicant may not be asked if they have a particular disability, disabling condition, or asked about the severity of a disability. An applicant also cannot be asked about their workers' compensation history.
- C. If an elected official or department head chooses to screen applicants before interviewing, 10% of the applicants or a minimum of three must be interviewed before a job offer is made.
- D. No job offer may be made before all applications have been reviewed and the position has been open for five working days.
- E. A record why applicants interviewed were rejected will be maintained and submitted to applicants upon request.
- F. When the elected official or department head makes a job offer which is accepted, the Human Resources' Office must be notified immediately so that the position can be closed and no further applications accepted.

(Rev. December 10, 1998)  
(Rev. April 13, 2000)

## **5. HIRING:**

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- A. New employee data should be submitted to the Human Resources' Office immediately. An employee cannot receive a paycheck unless all paperwork is received the Human Resources' Office no later than the Wednesday preceding the day time cards are due.
- B. When the hiring official has made the job offer and it has been accepted, the hiring official should call the Human Resources' Office to schedule the newly hired employee for orientation and to insure that all employees are equally informed concerning the benefits and policies of Washington County employment.
- C. The Immigration Reform and Control Act of 1986 requires that persons hired after May 31, 1987 complete a Form I-9 within three business days of the date of hire. (If a person is employed for less than three (3) days the Form I-9 must be completed before the end of the employee's first working day.)

(Rev. December 10, 1998)  
(Rev. April 13, 2000)

## **6. NEPOTISM:**

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- A. An elected official shall not hire or appoint for employment any person who is related by blood or marriage to the third degree. An elected official shall not hire or appoint for employment any person in the immediate family of any person in the same department or office if either one will have direction or supervision of the other.
- B. "Immediate family" shall be defined as spouse, child, parent, brother, sister, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, grandparent, and grandchild.
- C. "Persons related by blood or marriage to the third degree" shall include members of the immediate family plus first cousins, aunts, uncles, nieces, and nephews.

## 7. POLITICAL ACTIVITY

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- A. No County employee shall participate in partisan politics during normal County working hours. "It shall be unlawful for any public officer, deputy or assistant to devote any time or labor during office hours toward the campaign of any other candidate for office for the nomination to any office." Ark. Code Ann. 7.1.
- B. Use of County property or facilities (cars, computer, Internet, electronic mail, stationery, telephones, offices, etc.) for campaigning is prohibited.
- C. "It shall be unlawful for any public servant, as defined in §21-8-402(17), to use any office or room furnished at public expense to distribute any letters, circulars, or other campaign materials, unless such office or room is regularly used by members of the public for such purposes without regard to political affiliation. It shall further be unlawful for any public servant to use for campaign purposes any item of personal property provided with public funds." Ark. Code Ann. 7.1.103
- D. "It shall be unlawful for any campaign banners, cards or campaign literature to be placed on any cars, trucks, or tractors belonging to the State of Arkansas or any municipality or County in the State." Ark. Code Ann. 7.1.103
- E. "It shall be unlawful for any person to assess any County employee for any political purpose whatever, or to coerce by threats or otherwise any such employee into making subscriptions or contributions for such purpose." Ark. Code Ann. 7.1.103
- F. Any employee who becomes a candidate for election to a county, judicial district, state or national office may take his or her accrued vacation leave or be granted a leave of absence without pay during the time he or she campaigns.
- G. County meeting rooms may be used on an equal basis by all political parties with permission of the County Judge.

(Rev. April 13, 2000)  
(Rev. June 14, 2001)

**8. USE OF COUNTY PROPERTY:**

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- A. No County official or employee may use the County property for his or her own personal use.

## 9. JOB CLASSIFICATION:

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### A.

1. Full-time Regular – Upon completion of the three-month waiting period, an employee shall be considered a regular employee and shall be entitled to all rights and benefits in accordance with Washington County policy. Vacation and Sick Leave accrual shall be retroactive to the date of hire.
2. Contingent – An employee hired to work 80 or more hours per month, on a short term basis, not to exceed 89 days, shall be considered contingent. A contingent employee shall not be eligible to participate in any benefit plan or to receive paid leave.

Retention on the payroll for more than 89 days, either as extended contingent service in an emergency situation or as promotion to a full-time position is conditional upon Quorum Court approval and their appropriation of funds to pay retirement benefits and penalties retroactive to the date of hire. A contingent employee who is granted full-time status shall not have his or her temporary service applied to the satisfaction of the benefit waiting period, and sick leave hours, vacation hours, and holiday hours accrual shall not be retroactive to the date of hire. Date of hire for insurance enrollment purposes, leave benefit calculation, and other employment purposes shall be the date of promotion to full time service.

3. Part-Time – An employee hired to work less than 35 hours per week on a regular basis shall be considered part-time. Part-time employees shall be eligible for vacation, sick leave, and holiday pay in accordance with County personnel policy. A part-time employee who is granted full-time status shall not be required to satisfy a benefit waiting period for purposes of leave. Date of hire for insurance enrollment and other employment purposes shall be the date of promotion to full-time service.
4. Appointed – A person designated or selected to fill a Board or Commission position for a specified period of time at a prescribed rate per diem shall not be eligible to participate in any benefit plan and shall not receive paid leave.

5. Benefit Waiting Period – An Employee hired to fill a full-time position shall have a benefit waiting period of three months.  
(Rev. April 13, 2000)  
(Rev. March 8, 2007)

**10. DISCIPLINARY ACTION:**

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- A. To assure satisfactory performance of the duties assigned, elected officials may adopt necessary disciplinary policies.

**11. TERMINATION:**

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- A. Washington County is an at-will employer. Employment with Washington County may be terminated at any time by the employee or the County for any or for no reason, with or without notice. Any agreement abrogating the at-will relationship must be in writing and signed by both employee and employer.

Employees are encouraged to give two weeks notice.  
(Rev. April 13, 2000)

**12. REINSTATEMENT:**

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- A. An employee may, at the discretion of the elected official, be reinstated at the same employment status which the employee held before termination, if employee terminates in good standing and is re-employed within 30 days of termination in the same position. Employees being considered for reinstatement under other circumstances must have final approval by the Personnel Committee of the Quorum Court.

(Rev. January 12, 1984)

**13. MANDATORY RETIREMENT AGE:**

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- A. There is no mandatory retirement.  
(Rev. October 8, 1998)

#### **14. STANDARD WORK WEEK:**

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- A. The standard work week for Washington County shall begin at 12:00 A.M. on Monday and end at 11:59 P.M. the following Sunday. A pay period shall consist of two standard work weeks.
- B. All employees are expected to work those hours prescribed by their elected official. The scheduling of these hours is the responsibility of each elected official. The elected official should schedule the hours of his or her employees so that each employee works no more than forty (40) hours in any work week.
- C. All employees who are not exempt from the minimum wage and overtime provisions of Washington County policy, whether full-time or part-time, shall record on a time card their total hours worked each workday. At the end of the pay period the employee must sign his or her time card to certify accuracy of hours worked and submit the time card to his or her elected official or department head for verification and approval. Payroll processing shall be based on this documentation. Employees shall be paid on Friday following the close of the pay period. In the event Friday is a holiday, payday will be the last workday before Friday.
- D. All employees who are exempt from the minimum wage and overtime provisions of Washington County policy shall provide the Human Resources' Office with a report of any hours not worked in the workweek. Missed hours may be charged to the appropriate leave (vacation, sick, holiday, etc.) in accordance with the county personnel policies.

Note: Washington County will define "exempt" by Department of Labor regulations and may resolve any question by requesting an Administrative Letter Ruling from the Department of Labor.

(Rev. October 11, 1990)

## **15. OVERTIME COMPENSATION:**

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- A. Elected officials, executive, administrative, and professional employees, and other employees exempted by the Fair Labor Standards Act are not subject to the minimum wage and overtime provisions of Washington County Policy. An employee designated as 207(k) shall not be eligible for over-time until he or she works hours in excess of the number designated for his or her work period. Any employee that meets the definition of an executive, administrative, or professional employee, as set forth in the Fair Labor Standards Act, shall be paid as an exempt employee by Washington County.
- B. No County employee may work more than 40 actual hours in one week without prior Elected Official authorization. Work weeks may be restructured on an individual basis to accommodate particular situations.
- C. Hours worked in excess of 40 actual work hours per week shall be compensated by compensatory time at the rate of one and one-half hours for each hour of overtime actually worked in a work week.
- D. An employee who has accrued compensatory time and who has requested the use of such compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not disrupt the operation of the employee's office or department.
- E. No County employee may accrue more than 40 hours compensatory time. After any employee has accrued the maximum compensatory time and not used it as leave, all overtime in excess of maximum limits must be paid in cash at the rate of 1 ½ times his or her regular rate of pay for each additional overtime hour worked.
- F. Employees being considered for promotion who have a compensatory time balance shall either be given such compensatory time off or paid for the compensatory time at their current rate of pay before the promotion can become effective.
- G. Upon termination of employment with Washington County, an employee who has accrued compensatory time shall be paid for unused compensatory time at a rate of compensation not less than:
  - 1. The average regular rate received by the employee during the last three (3) years of the employee's employment, or
  - 2. The final regular rate received by the employee, whichever is higher.

3. If a county employee is paid for accrued compensatory time subsequent to the time such compensatory time is earned other than upon termination of employment, the employee shall be paid for such compensatory time at the regular rate earned by the employee at the time the employee receives the payment.
- H. Overtime pay at the rate of one and one-half (1 ½) times the regular rate may be paid to the county employees in accordance with Quorum Court approved appropriations.
  - I. If an employee agrees, and with the approval of his or her elected official and solely at the option of the individual, to substitute during scheduled work hours for another such employee, hours worked as a substitute shall be excluded in the calculation of the hours worked for which the employee is entitled to overtime compensation.
  - J. The term "compensatory time" shall mean hours worked during the applicable work week or other work period for purposes of overtime compensation, and for which the employee is compensated at the employee's regular rate.
  - K. The Fair Labor Standards Act prohibits employees from volunteering to perform the same type of services, which the individual is employed to perform for Washington County, in excess of 40 hours without compensatory time or overtime pay as compensation.
  - L. Procedures to document the accrual and use of compensatory time have been developed by the County Human Resources' Office and must be followed by all County offices and employees.

(Rev. October 12, 2000)  
(Rev. June 12, 2003)

## 16. FAIR LABOR STANDARDS ACT:

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A. The Fair Labor Standards Act establishes a general minimum hourly wage for those employees who are within its coverage and not exempt from its requirements. It also provides for equal pay regardless of sex and the establishment of minimum wage rates. Except for child labor restrictions, the FLSA does not impose any limitation on the number of hours that may be worked by employees covered under the Act. Instead, it seeks to limit the number of hours worked by requiring additional pay, in the form of overtime pay or compensatory time, for hours worked in excess of the established 40-hour maximum.

B. The FLSA does not require:

1. Extra pay for Saturdays, Sundays, or holidays, as such.
2. Pay for vacations or holidays, or severance pay.
3. Discharge notices.
4. Limits on the number of hours of work for persons 16 years of age or older, as long as overtime pay provisions are met.
5. Time off for holidays or vacation. (If employees work on holidays, they need not be paid at time and one-half, or any other premium rate. Under the Act, holidays and Sundays are treated as other days.)
6. Not all workers are covered by the FLSA. Certain workers who are outside the reach of the Act include: elected officials and their personal staffs, political appointees, legal advisors, bona fide volunteers, independent contractors and prison laborers. Other employees, while covered by the record keeping provisions of the Act, are exempt from the overtime and minimum wage requirements. These include executive, administrative, and professional employees.

(Adopted April 14, 1988)

**17. REST PERIODS:**

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- A. Each elected official shall set rest and lunch periods for his or her office but at no time shall an office be left without adequate staff to perform necessary duties.

(Rev. June 9, 1988)

**18. INCLEMENT WEATHER:**

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- A. Employees are expected to work regardless of the weather unless the County Judge declares the County offices officially closed. If the said offices are closed, then employees will be paid for the hours they normally work. If there is a delay in the opening of offices, employees shall likewise be paid if they work the remainder of the hours normally worked. Any employee unable to work due to the inclement weather when the offices are not closed or delayed in opening, then the employee will be charged vacation hours earned, if any, after compensatory time accrued, if any, for each day he or she does not report to work.

(Rev. May 9, 2002)

- B. However, "essential" personnel, must remain at work or report to work for scheduled shifts even when County offices have been officially closed for safety reasons. For the purpose of this policy, "essential" personnel are defined as the Road Department, Juvenile Detention Center employees, Communication Officers, Law Enforcement Officers, Jail personnel and other employees who may be designated as such by their elected officials. "Essential" personnel who need transportation to their jobs should call their supervisor and a County vehicle may be sent when possible.

- C. Employees who are not scheduled to work because of vacation, sick, or other leave will not receive inclement weather pay because the weather is not the reason for their absence.

- D. The term "Essential Personnel" will be a factor in job rating.

- E. "Non-essential" employees who have worked more than eight hours on any given day; but who do not actually work more than 40 hours during the work week due to inclement weather shall be entitled to additional pay at their regular rate or time off as determined by the elected official.

(Rev. February 9, 2001)

(Rev. March 8, 2007)

**19. ABSENCE WITHOUT AUTHORIZED LEAVE:**

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- A. Absence without authorized leave, including any day or part of a day, shall be considered a violation of work rules. Absence without authorized leave for three consecutive days shall be sufficient grounds for dismissal.

(Rev. April 13, 2000)

**20. LEAVE BENEFITS:**

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- A. Each elected official shall be responsible for keeping records of the leave taken by his or her employees and shall make regular reports of such on the payroll worksheets. The report shall include type and length of leave.

(Rev. December 10, 1998)

(Rev. April 13, 2000)

**21. ADMINISTRATIVE LEAVE:**

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- A. Leave with pay while conducting an investigation to determine the propriety of an employee's action may be imposed by the Elected Official.
- B. Administrative leave must be documented on the time worked records as such. Hours paid will not be deducted from the employee's leave time.

(Adopted April 13, 2000)

## 22. MILITARY LEAVE:

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- A. **FEDERAL LAW; STATE LAW; 15 DAY ANNUAL LEAVE** Full time Washington County employees are entitled to military leave in Accordance with the Federal Law (The Uniformed Services Employment and Re-employment Rights Act of 1994; 38 USC part III chapter 43 as amended; USERRA) and applicable State Law regardless of anything herein to the contrary. Full-time employees who are members of the National Guard or any of the reserve branches of the armed forces of the United States shall be granted fifteen (15) days leave annually plus necessary travel time for annual training requirements. Pursuant to A.C.A. §21-4-102 employees are entitled to their regular salary during this fifteen (15) day period in addition to their military pay, unused leave under this provision may be carried forward to the next year for a maximum of thirty (30) days in any one year. The employee must report to his or her supervisor the next scheduled work period after his or her return home, allowing for hospitalization and necessary travel time. Failure to report to work at the next regularly scheduled working period shall make the employee subject to the conduct rules of Washington County pertaining to absence from scheduled work.

(Rev. August 10, 2006)

(Rev. September 13, 2007)

- B. **EXTENDED AND EMERGENCY MILITARY LEAVE** A full-time employee who is drafted or called to active duty in the armed forces of the United States or who volunteer for military service shall be placed on extended military leave without pay. Upon application within ninety (90) days after the effective date of his or her release from active duty or from hospitalization incident to that duty, the employee shall be permitted to return to his or her former position or to a comparable position, with the seniority, status, pay and benefits that the employee would have had if he or she had not been absent for military purposes. An employee who enlists or reenlists for a second consecutive tour of military duty shall forfeit his or her re-employment rights. Military personnel called to duty in emergencies by the Governor or by the President of the United States shall be granted leave with pay not to exceed thirty (30) working days, after which leave without pay will be granted in addition to regular vacation leave. Leave under this provision shall be in addition to all other leave.

(Rev. September 13, 2007)

- C. **USE OF SICK OR VACATION TIME** No employee will be permitted to use sick leave or required to use vacation leave for military purposes.

D. **HEALTH INSURANCE** If a full time employee is on active duty for more than thirty (30) days, that employee and his or her dependents should be covered by military health care. However, pursuant to the USERRA an employee has the right to elect continued health insurance coverage through the county for his or her self and his or her dependents for up to eighteen (18) months. If military service is for thirty (30) or fewer days, the employer and his or her family may continue coverage at the same cost as before service. If military service is longer, the employee and his or her family may be required to pay as much as 102% of the full premium for coverage. Pursuant to the USERRA the employee has the right to immediate reinstatement of health insurance coverage provided by the County upon return to the job.

(Adopted September 13, 2007)

E. **PENSION/RETIREMENT PLANS** The USERRA provides that an employee returning from military leave must be treated as not having incurred a break in County employment with regard to the County's retirement plan. Also, military service must be considered employment with the County for vesting and benefit accrual purposes.

(Adopted September 13, 2007)

F. **OTHER ENTITLEMENTS** As an employer, the County is required to provide a returning employee four basic entitlements:

- a. Prompt reinstatement;
- b. Accrued seniority, as if continuously employed;
- c. Training or retraining;
- d. Special protection against discharge, except for cause. The period of this protection is one hundred eighty (180) days following periods of service of thirty-one to one hundred eighty (31-180) days. For periods of service longer, the protection period is one (1) year.

(Adopted September 13, 2007)

G. **FURTHER INFORMATION** Any military leave should be discussed with the Human Resources' Office for full information on Veterans' re-employment rights.

## **23. CATASTROPHIC LEAVE BANK;**

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### **A. PARTICIPATION:**

Participation in the Catastrophic Leave Bank (CLB) is available to all full time employees who meet the eligibility requirements. These requirements include the following:

1. The employee must be a regular/full-time employee.
2. The employee must have been continuously employed by Washington County in a full-time capacity for a minimum of two years prior to the plan's effective date.

An employee becomes a member of the CLB by contributing 8 hours of sick time to the bank annually. Eligible employees will be given an opportunity to sign up each year during open enrollment for a plan year effective January 1<sup>st</sup> of the next year. Employees not electing to sign up during the enrollment period will not be eligible to participate until the following plan year. Upon enrollment in the plan and employee will automatically be re-enrolled each year unless the employee signs a cancellation form during open enrollment, or no longer meets the eligibility criteria as of the first day of the plan year.

A declaration of participation and contribution shall be made on a Catastrophic Leave Bank Election Form distributed and collected by the Human Resources Office. The CLB Form is due in the Human Resources Office between November 1<sup>st</sup> and November 30<sup>th</sup> each year for employees electing to participate the next year. Once forms are submitted, the HR department sends the necessary authorization to the Comptroller's office to deduct 8 hours of sick leave from the participating employees sick leave accrued. In no case can donations to the CLB reduce the employees personal leave time to less than 80 hours. Employees not possessing 80 hours of combined sick and vacation leave time at the time of signup, will be ineligible to sign up for the program. However, individuals who do not meet the minimum hour criteria under the plan due to a catastrophic illness or injury in the prior year, may make an appeal to the Catastrophic Leave Committee for special consideration for eligibility, and the committee will review such requests on an individual basis.

Employees wanting to donate additional hours of sick time to the CLB can do so throughout the year as long as donations do not reduce personal accrued leave below 80 hours. Donations must be made in a minimum of 4 hour increments, and require a contribution form to be completed. Once the donation is made, donations cannot be credited back to the donating employee except in instance where a qualifying catastrophic leave request for time is made to the committee and approved.

## **B. GOVERNANCE:**

1. The Catastrophic Leave Bank shall be governed by the Catastrophic Leave Bank Committee
2. The Catastrophic Leave Committee shall oversee the administration of the Catastrophic Leave Bank. The JESAP Committee shall act as the Catastrophic Leave Bank Committee. The committee shall decide on requests based on the committee's rules of operation. Requests for leave from the Catastrophic Leave Bank should be routed to the Human Resources Office.

## **C. RULES OF OPERATION:**

1. Only those employees who have made contributions may make requests for days from the Bank.
2. Catastrophic Leave Bank days will be granted only in cases of physical, mental, or emotional illness of the employee or illness or death in the immediate family. Immediate family shall include the employee's spouse, children, parents, and any other relatives living in the same household.
3. The Catastrophic Leave Bank days may be used only upon exhaustion of all other paid leave. Days used from the Catastrophic Leave Bank are grants and do not require repayment.
4. Before approving a request, the Catastrophic Leave Bank Committee may review sick leave records and/or require appropriate documentation. (This may include a doctor's or psychologist's statement verifying disability and/or expected duration.) Disciplinary records relating to absenteeism will also be reviewed by the committee, and such records will influence the committee's decision to approve or deny requests.
5. Requests for Catastrophic Leave Bank days should be made on a Catastrophic Leave Bank request form and submitted to the Chairperson of the committee through the Human Resource Office. Forms may be obtained by contacting the Human Resource Office. Requests will be considered on a first filed, first reviewed basis.
6. Catastrophic Leave Bank days will not be granted if an applicant is eligible for or receiving income from an income protection insurance policy or similar coverage. Employees receiving Workers Compensation benefits will also be ineligible to receive benefits.
7. Unused days contributed to the Catastrophic Leave Bank will accumulate and carry forward in the Catastrophic Leave Bank. If available

hour balance is exhausted, requests cannot be approved until additional hours are donated to the Catastrophic Leave Bank.

8. In instances where the requesting employee is employed by the department of one of the voting Catastrophic Leave Bank Committee members, that member will be asked to abstain from voting on the request.

9. A person receiving catastrophic leave pay will continue to accrue sick and vacation hours. However, the person will use said leave as it is accrued, and will only be allotted time from the Catastrophic Leave Bank for unpaid hours.

10. Catastrophic leave time will run concurrent with FMLA time, and necessary FMLA paperwork is required to be on file with the Human Resources Office prior to any requests being heard. FMLA rules of certification and re-certification will apply. Catastrophic leave is limited to 6 months, 1040 hours, in and 24 month rolling period. Failing to return to work at the end of the catastrophic leave period will result in termination.

11. Catastrophic leave grants made from the bank shall be granted in up to 20 business day increments per individual, per request. Requests in excess of 20 days will be reviewed monthly by the committee for re-approval of the request. In instances where a single individual presents requests for leave in excess of 3 months, the committee will hold a special meeting to decide whether or not to grant up to a 3 month extension. In no case shall an employee receive leave from the Catastrophic Leave Bank in excess of 6 months.

12. Each Elected Official may make a request to the Catastrophic Leave Bank Committee to open a special donation period, in which the employees of that particular Elected Official would be able to donate hours for the expressed use of a designated employee in need of additional catastrophic leave benefits.

13. Suspected abuse of Catastrophic Leave will be investigated, and wrongdoing will result in termination.

#### **D. TIMEKEEPER REQUIREMENTS:**

The Timekeeper will present an annual report to the Sick Bank Leave Committee with the amounts donated by each employee, the amounts awarded, the names of recipients, the beginning balance and ending balance.

(Adopted Oct. 4<sup>th</sup>, 2010)  
(Revised April 12, 2012)

## 24. BEREAVEMENT LEAVE:

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- A. Leave with pay of up to 3 days (for a total of 24 hours; 36 hours if under a 207(k) work week) may be taken in case of death in the employee's family as defined below. Two additional days (for a total of 16 hours; 24 hours if under a 207 (k) work week) travel time may be granted if out-of-state travel is required.

(Rev. June 12, 2009)

1. Family is defined as:

Spouse

Child

Child's Spouse

Parent or Person in-loco-parentis

Brother/Sister (including Step, Half, Foster, and in-law)

Spouse's Parent, Brother, Sister, Grandparent, or Grandchild (to any degree).

Grandparent (to any degree)

Grandchild (to any degree)

Minor Child's Parent

2. Examples of "to any degree" as used above would be Great Grandparent or Great Grandchild.

(Rev. August 30, 2005)

(Rev. June 12, 2008)

- B. One day's (for a total of 8 hours; 12 hours if under a 207(k) work week) leave with pay may be granted in the case of the death of the employee's:

Aunt/Uncle

Niece/Nephew

Cousin

(Rev. Nov. 10, 2005)

(Rev. June 12, 2008)

- C. Vacation leave, compensatory time or leave without pay may be granted for deaths other than above.

- D. Bereavement leave not used at the time of the death cannot be used later.

(Rev. June 14, 2001)

(Rev. November 10, 2005)

**25. EDUCATION OR TRAINING LEAVE:**

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- A. Full-time County employees may be granted leave with pay for attendance at authorized conferences, seminars, or short courses of instruction designed to advance the county-related technical or professional skills of the person attending.

(Rev. January 14, 1982)  
(Rev. November 10, 2005)

**26. JURY DUTY AND WITNESS PAY:**

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- A. County employees shall be excused from work with pay for the period of time necessary to fulfill their civic duty when subpoenaed for jury duty or as a witness. The county employee will be permitted to retain any funds paid to them for such service.

## **26. FAMILY AND MEDICAL LEAVE POLICY:**

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- A. Employees who have been employed for at least one (1) year, and for at least 1,250 hours during the preceding 12-month period are eligible for family and medical leave, each individual's situation will be reviewed separately.
- B. Family or medical leave will consist of appropriate accrued paid leave and unpaid leave. The employee will be paid any accrued sick leave, as needed; then, any accrued vacation leave, as needed. Except that employees on FMLA because of Worker's Compensation reasons will not be paid vacation or sick leave but will be paid "Pre-Determination" Workers' Compensation Benefits from the County. The remainder of the leave period will then consist of unpaid leave. An employee may not use compensatory time for an FMLA reason, (compensatory time cannot be counted for FMLA purposes 29 C.F.R. 825.207). However, if an employee has requested family or medical leave and has exhausted all other accrued paid leave, then said employee shall be paid accrued compensatory time in a lump sum.  
(Rev. April 14, 2005)  
(Rev. Nov. 10, 2005)  
(Rev. Dec. 8, 2005)
- C. All employees who meet the applicable time of service requirements may be granted family or medical leave consisting of appropriate paid leave and unpaid leave, for a period of twelve (12) weeks (during a rolling 12 month period measured backwards from the employee's most recent requested leave) for the following reasons:
1. The birth of the employee's child and in order to care for the child;
  2. The placement of a child with the employee for adoption or foster care;
  3. To care for a spouse, child or parent who has a serious health condition; or
  4. A serious health condition that renders the employee incapable or performing the function of his or her job; or
  5. A Qualifying Exigency (as defined by the Department of Labor) for military service members.

- D. All employees who meet the applicable time of service requirements may be granted family or medical leave consisting of appropriate paid leave and unpaid leave, for a period of twenty-six (26) weeks (during a rolling 12 month period measured backwards from the employee's most recent requested leave) for qualifying Military Caregiver Leave. The employee must be the spouse, son, daughter, parent, or next of kin of the service member in order to qualify.
- E. The entitlement to leave for the birth or placement of a child for adoption or foster care will expire twelve (12) months from the date of the birth or placement.
- F. In all cases, an employee requesting leave must notify the supervisor of a need for leave. In the event that the need for leave is related to the employee's serious health condition, the employee is not required to disclose the specific illness to the supervisor. However, upon being notified of an injury, the Human Resources Department will send out a notice to the employee requiring the employee to complete a "Medical Certification" form. The Employee must return the certification within 15 days of the date the Human Resources Department notifies the employee in writing of the necessity to complete the form.
- G. An employee intending to take family or medical leave because of an expected birth or placement, or because of a planned medical treatment, must submit a Medical Certification for leave at least thirty (30) days before the leave is to begin. If leave is to begin within thirty (30) days, an employee must give notice to his or her elected official and to the Human Resources Office as soon as the necessity for the leave arises.
- H. Requests for leave based on the serious health condition of the employee or the employee's spouse, child or parent must also be accompanied by a "Medical Certification" completed by the applicable health care provider. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition.

If the employee is needed to care for a spouse, child or parent, the certification must so state, along with an estimate of the amount of time the employee will be needed. If the employee has a serious health condition, the certification must state that the employee cannot perform the functions of his or her job.

If the employee is needed to care for an injured Military Service member, the employee must submit the Certification of Military Service Member Caregiver form to the Human Resources Department in order for the time to be designated. Employees are limited to 26 weeks of leave per service member per injury.

- I. An employee requesting leave due to a Qualifying Exigency will be required to complete and submit a Certification of Qualifying Exigency. This form must be submitted within 15 days of the date it is requested by the Human Resources Department. Qualifying Exigency Leave includes but is not limited to the following leave types:
  1. Short-notice deployment
  2. Military events and related activities
  3. Childcare and school activities
  4. Financial and legal arrangements
  5. Counseling
  6. Rest and Recuperation following deployment

Upon receipt of the Certification of Qualifying Exigency, the Human Resources Department will send a "Designation Notice" to the employee identifying whether or not the leave time was designated as FMLA time.

- J. During a period of family or medical leave, an employee will be retained on the Washington County health plan under the same conditions that applied before leave commenced. To continue health coverage, the employee must continue to make any contributions that he or she made to the plan before taking leave. Failure of the employee to pay his or her share of the health insurance premium may result in loss of coverage. If the employee fails to return and work for 30 days after the expiration of the leave, the employee will be required to reimburse Washington County for payment of health insurance premiums during the leave, unless the reason the employee fails to return is the presence of a serious health condition which prevents the employee from performing his or her job or to circumstances beyond the employee's control.
  1. An employee is not entitled to the accrual of any seniority or employment benefits that would have occurred if not for the taking of leave. An employee who takes family or medical leave will not lose any employment benefits that accrued before the date leave began.
  2. An employee eligible for family and medical leave—with the exception of those employees designated as "highly compensated employee"—will be restored to his or her old position or to a position with equivalent pay, benefits, and other terms and conditions of employment. Washington County cannot guarantee that an employee will be returned to his or her original job. A determination of whether

a position is an equivalent position" will be made by Washington County.

3. When an employee returns to work and is required to reimburse the County for Health Insurance Premiums then said Premiums due shall be withheld at twice the rate of the Premiums as originally withheld until the amount owed is paid in full.

Example:

An employee paying \$34.41 per pay period shall have the premiums withheld at \$68.82 per pay period;

An employee paying \$118.69 per pay period shall have the premiums withheld at \$237.38 per pay period;

An employee withheld at \$91.00 per pay period shall have the premiums withheld at \$182.00; and

An employee withheld at \$221.61 per pay period shall have the premiums withheld at \$443.22 per pay period.

K. If an employee wishes to return to work prior to the expiration of a family or medical leave of absence, notification must be given to the employee's elected official at least two (2) working days prior to the employee's planned return. This notice must include a doctor's release.

L. The failure of an employee to return to work upon the expiration of a family or medical leave of absence may subject the employee to immediate termination.

(Rev. May 2, 2007)

M. FMLA leave will automatically run concurrent with all other available leave time.

(Rev. October 8, 1998)

(Rev. April 13, 2000)

(Rev. February 12, 2004)

(Rev. March 12, 2009)

## 28. PAYDAY AND SALARY CHECKS:

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- A. Payday shall be Friday following the close of the pay period. In the event Friday is a holiday, payday will be the last work day before Friday. Pay will be for the preceding pay period.
1. The County Judge may alter a specific pay period for an unusual circumstance.  
(Amended November 21, 2002)
- B. A statement of earnings and deductions will be attached to the paycheck and should be retained as it is the employee's record of:
1. Pay period dates.
  2. Hours worked.
  3. Rate per hour.
  4. Vacation hours paid.
  5. Sick Hours paid.
  6. Holiday Hours paid.
  7. Compensatory hours paid.
  8. Bereavement hours paid.
  9. Miscellaneous paid.
  10. Current and year-to-date mandatory deductions (Mandatory deductions are those deductions mandated by state or federal law including FICA, federal income tax, state income tax, garnishments, and wage attachments for child support.)
  11. Current and year-to-date voluntary deductions (Voluntary deductions shall be limited to those programs endorsed and approved by Washington County.)
  12. Accrued vacation hours and maximum accrual balance.
  13. Sick leave hours.
  14. Compensatory time earnings for current payroll period.
  15. Accrued compensatory time.
  16. Gross pay.
  17. Total deductions.
  18. Net pay.
- C. Questions concerning paychecks should be directed to the department head, elected official, or the Human Resources' Office.
- D. Paychecks will be issued only at the regularly scheduled times. Employees who will be on vacation when checks are issued must make arrangements to have their paychecks picked up or deposited.

- E. Manually prepared payroll checks will be issued only to correct an error on a payroll check which is the fault of payroll processing. (If applicable.)
- F. Terminated employees shall receive their paychecks on their regularly scheduled payday through direct deposit. (If applicable.) Any earned vacation pay or termination pay will be paid at this time if sufficient notice has been given. Failure to give notice may cause a delay in the processing of special pay due on termination. Each employee that signs an acknowledgement that he or she has received and read the employee handbook or this provision hereby agrees to such.

(Rev. December 10, 1998)  
(Adopted by Quorum Court April 12, 2007)

**29. FRINGE BENEFITS:**

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- A. For details, including rates and benefits, check with the Human Resources' Office.

**30. VACATION:**

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A. Full-time Washington County employees who have worked at least fifty weeks shall be entitled to take accrued vacation leave. Vacation leave shall accrue at the following rates:

1. Up to 7 years-.038 hours vacation leave for each hour worked up to 40 hours per week. Maximum accrual balance: 120.00 hours.

COMMENT: From day one of employment, and continuing for the next 182 bi-weekly pay periods, an employee earns .038 hours of vacation for each hour that is worked, up to 40 hours per week. Each 80 hour pay period accrues 3.04 hours of vacation leave.

2. 7 years through 10 years-.046 hours vacation leave for each hour worked up to 40 hours per week. Maximum accrual balance: 144.00 hours.

COMMENT: The second earning level begins with the first earning period after the 7 year anniversary and continues for the next 104 bi-weekly pay periods. An employee earns .046 hours of vacation for each hour that is worked, up to 40 hours per week. Each 80 hour pay period accrues 3.69 hours of vacation.

3. 11 years through 15 years-.058 hours vacation leave for each hour worked up to 40 hours per week. Maximum accrual balance: 180 hours.

COMMENT: The third earning level begins with the first earning period after the 11 year anniversary and continues for the next 104 bi-weekly pay periods. An employee earns .058 hours of vacation for each hour that is worked, up to 40 hours per week. Each 80 hour pay period accrues 4.64 hours of vacation leave.

4. Over 15 years-.069 hours vacation leave for each hour worked up to 40 hours per week. Maximum accrual balance: 216 hours.

B. Part-time employees shall accrue vacation leave at the same rates. The maximum accrual balance for part-time employees is one-half of the maximum accrual balance for a full-time employee with the same length service.

- C. Vacation leave must be earned before it is taken and no one is entitled to any vacation leave until he or she has worked at least fifty weeks for the County. After the first fifty weeks, vacation leave may be taken as it is accrued. Vacation leave schedules are subject to the elected official's approval.
- D. Vacation leave hours will cease accumulating when the accrued balance reaches the maximum accrual balance for the employee's earning rate.
- E. Employees terminating prior to having worked for the County for fifty weeks are not eligible for vacation leave pay. Employees terminating after fifty weeks service shall be paid any accrued vacation leave that has accumulated.  
 (Adopted November 9, 1995)  
 (Rev. April 13, 2000)  
 (Rev. June 14, 2001)  
 (Rev. July 10, 2003)

**30. SICK LEAVE:**

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- A. All full-time employees of the County with at least three months service, are eligible for sick leave with pay which shall accrue at the rate of .046 hours of sick leave for each hour worked.  
 (Rev. October 4, 2010)
- B. Part-time employees that are hired to work 1000 or more hours within a calendar, shall accrue sick leave at .023 hour of sick leave for each hour worked.  
 (Rev. November 10, 2005)  
 (Rev. October 4, 2010)
- C. An employee may use sick leave for personal illness, physical incapacity, or a medical or dental appointment. Sick leave may also be used to care for or medical or dental appointments for a member of the immediate family which is defined in the FMLA as: an employee's spouse, child or parent. The term parent does not include a parent in-law; nor does it include a son or daughter over the age of eighteen (18) unless "incapable of self care" as defined by the Equal Employment Opportunity Commission (EEOC) under the Americans with Disability Act (ADA). Sick leave may be used in any instances where Family and Medical Leave applies and for specified instances of work related accidents or illnesses.  
 (Rev. April 14, 2005)  
 (Rev. August 30, 2005)
- D. Employees shall be charged only for the actual number of hours of sick leave taken.

- E. Sick leave with pay shall be granted only if it has been earned. Sick leave may be accrued up to a maximum of 720 hours for those employees hired before December 18, 1995 and 360 hours for employees hired on or after that date, provided that the employee has been employed by the County continuously during the time in which sick leave was accrued. When terminating employment with the County, an employee may not collect money for accrued sick leave, except that any employee unable to return to work at the conclusion of 12 weeks maximum leave time shall be paid his or her remaining sick leave benefits on termination.
- F. Employees are encouraged to "build" their sick leave balances and to use it properly to reduce the chances of any break in receipt of pay should illness or injury occur.
- G. Evidence of abuse of sick and/or Family leave shall justify reasonable investigation, denial of unjustifiable claim (i.e. denial of sick and Family leave pay, denial of holiday pay) and disciplinary action. Approval of sick and/or Family leave for scheduled work days immediately preceding or following a holiday shall require a physician statement to verify illness or injury. Where there is a pattern of sick and Family leave usage abuse, the County may verify the illness by telephone calls or personal visits to the employee at his/her residence or elsewhere. If such calls or visits fail to substantiate illness or injury, the County may request verification by a physician that the reported illness or injury occurred. Additionally, each subsequent illness or injury within the following 90 day period in which this employee has requested sick and/or Family leave must be verified by a physician. Furthermore, any such employee may be directed to seek counseling through the County Employee Assistance Program. Excessive use and abuse of sick leave outside of policy guidelines may result in disciplinary action or termination.
- H. (Rev. February 10, 2005)  
(Rev. November 10, 2005)  
(Rev. October 4, 2010)

**32. ARKANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM (APERS):**

- A. Although some County officials and employees working for the county before 1978 may be covered by an earlier plan, all those employed since January, 1978, are covered by Act 793 of 1977 and any Acts amendatory thereto. Under this plan the county contributes to the Arkansas Public Employees Retirement System (APERS) an amount specified by law. The employee is required to contribute five percent (5%) of the gross annual salary. Retirement benefits do not accrue during leave of absence without pay.
- B. All full-time employees and part-time employees who work 80 or more Hours each month for 90 or more days in an APERS fiscal year (July 1 through June 30) must be enrolled as a member of APERS retroactive to the date of employment.
- C. A part-time employee hired to work less than 80 hours per month who does in fact, at some point work 80 or more hours per month, must then be enrolled in APERS. Deposits will not be retroactive to the date of hire but will continue thereafter.
- D. Specific questions should be directed to:

Arkansas Public Employees Retirement System  
One State Capitol Mall  
Little Rock, AR 72201-1015

- E. A member must terminate covered employment to be eligible for retirement. A member shall not be terminated for retirement purposes if:
  - 1. The person returns to covered employment with a different employer within 180 days of the person's effective date of retirement; or
  - 2. The person returns to covered employment for Washington County within 180 days of the person's effective date of retirement.
  - 3. Persons failing to meet retirement requirements shall forfeit their Benefits until requirements are met.

(Rev. April 13, 2000)  
(Rev. June 12, 2008)  
(Rev. June 11, 2009)  
(Rev. March 21, 2013)

### 33. HOLIDAYS:

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- A. Washington County Holidays shall be officially declared by the Washington County Judge. This declaration shall be issued annually, on or before December 10, and shall be for the forthcoming calendar year. Hours will be added to the holiday leave balance at the time the holiday occurs, if the employee is eligible.
- B. Employees working in areas that are not closed on holidays shall not receive time off for the declared holidays but shall receive special incentive pay as described in County Ordinance.
- C. A paid holiday shall consist of 8 paid hours or 1/5 of the average weekly hours, whichever is less, at the employee's normal hourly rate. Part-time employees shall receive holiday pay based on the average number of hours worked during the pay period in which it occurs unless paragraph "B" applies. Holidays not taken during the calendar year in which they are earned shall be forfeited.
- D. Employees on leave without pay are not eligible for holiday pay and leave time cannot be reserved for use during holiday pay periods only.
- E. Employees must work the scheduled workday before and the scheduled workday after a holiday in order to receive holiday pay.

Except:

- 1. Employees taking sick leave on the scheduled workday before or the scheduled workday after the holiday that provide a certificate of need from their doctor for the day in question. This certificate must be attached to the payroll authorization sheet before holiday pay will be processed.
  - 2. Employees on scheduled vacation leave before or after a holiday will be considered as working the scheduled workday before and the scheduled workday after the holiday.
- F. When a holiday falls on a Saturday, it shall be observed on the preceding Friday. When a holiday falls on Sunday, it shall be observed on the following Monday.
  - G. Holiday pay begins immediately upon employment, effective April 1, 1998.

(Rev. April 9, 1998)  
(Rev. April 13, 2000)

#### **34. MEDICAL INSURANCE:**

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- A. All full-time county employees are eligible to participate in the Washington County benefits program. Please see the Human Resources' Office for Details.

(Rev. December 10, 1998)

(Rev. June 14, 2001)

#### **35. CONTINUATION COVERAGE – COBRA:**

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- A. A federal law known as COBRA (Consolidated Omnibus Budget Reconciliation Act of 1985 as amended) requires most employers sponsoring group health plans to notify all of their employees, including newly-hired, current and previous employees (and their dependents) of their rights to "continuation" health care coverage in the event they would lose coverage due to certain events called "Qualifying Events." This notice is the employer's fulfillment of this obligation. If you, your spouse or dependent child(ren) are or become participants in Washington County's Group health plan(s), it is important to understand your ongoing rights and obligations under the continuation of coverage provisions of COBRA. This summary of rights should be reviewed by both you and your spouse (if applicable), retained with other benefits documents, and referred to in the event that any action is required on your part.
- B. If you, your spouse or dependent child(ren) should lose coverage under Washington County's group health plan(s) due to a "Qualifying Event" (listed below), you may be entitled to elect temporary continuation of health care coverage ("continuation coverage") at group rates. It is important that Washington County have your current address. Notification of a Qualifying Event, should one occur, will be sent to your last know address at the time of the event. The following summary of information concerning COBRA outlines the procedures which should be followed if or when a Qualifying Event occurs.
- C. If you are an employee of Washington County and are covered by its group health plan, you have a right to elect continuation coverage if you lose your group health coverage because of a reduction in your hours of employment or the termination of your employment (for reasons other than gross misconduct).
- D. If you are the covered spouse of the above covered employee, you have the right to elect continuation coverage for yourself if you lose group health coverage for any of the following reasons:
1. The death of your spouse;

2. The termination of your spouse's employment (for reasons other than gross misconduct) or reduction in your spouse's hours of employment;
  3. Divorce or legal separation from your spouse; or
  4. Your spouse becomes entitled to Medicare.
- E. If you are a covered dependent child of the above employee, you have the right to elect continuation coverage if you lose group health coverage for any of the following reasons:
- (1) The death of the employee;
  - (2) The termination of the employee's employment (for reasons other than gross misconduct) or a reduction in the employee's hours of employment;
  - (3) Parents' divorce or legal separation;
  - (4) Employee becomes entitled to Medicare; or
  - (5) The dependent ceases to be a "dependent child" under the terms of the plan(s).
- F. You also have a right to elect continuation coverage if you are covered under the plan as a retiree or spouse or child of a retiree, and lose coverage within one year before or after the commencement of proceedings under Title 11 (bankruptcy), United States Code.
- G. Under the law, the employee (or a covered dependent) has the responsibility to inform Washington County of a divorce, legal separation, or a child losing dependent status under the plan if any of these events would cause a loss of coverage. This notification must be made within 60 days after the date of the Qualifying Event, or the date on which coverage would end under the plan because of the event, which is later. The notice must be in writing, and should be sent to:

Washington County Human Resources  
280 North College, Suite 510  
Fayetteville, AR 72701

- H. If notice is not made timely, rights to continue coverage will terminate. In situations where a covered employee discontinues coverage of a spouse in anticipation of a divorce or legal separation, Washington County, if timely notification is received, is required to make COBRA continuation coverage available effective from the date of the divorce or legal separation (but not prior to that date). If you need help acting on behalf of an incompetent beneficiary, please contact the Human Resources' Office for assistance.
- I. When Washington County is notified that a Qualifying Event has happened, it will in turn notify you that you have the right to elect continuation coverage. Under the law, you have 60 days from the date you would lose coverage because of one of the events described above, or 60 days from the date of the employer's notice of your right to elect continuation coverage (whichever is later) to elect continuation coverage. If you make a timely election, coverage will become effective on the day after coverage would otherwise be terminated.  
Note: Some states offer financial aid to help certain individuals pay for COBRA coverage. Contact your appropriate state agency regarding availability and eligibility requirements. Additionally, under certain circumstances, COBRA coverage must be paid with pre-tax dollars from a cafeteria plan under Section 125.
- J. If you do not timely elect continuation coverage, your group health insurance coverage will terminate in accordance with the provisions outlined in Washington County's plan.
- K. If you elect continuation coverage, your coverage will be identical to the coverage provided under the plan to similarly situation employees and their family members. The law requires that you be afforded the opportunity to maintain continuation coverage for 36 months from the date of the Qualifying Event, unless coverage was lost because of a termination of employment or a reduction in hours. In that case, the required continuation coverage period is 18 months measured from the Qualifying Event date. The 18-month period may be extended to 29 months for disabled Qualified Beneficiaries under certain circumstances, as described in section Q, question (3) below.
- L. However, the law also provides that continuation coverage may end prior to the expiration of the 18-, 29-, or 36-month period described above if any one of the following occurs:

- (1) The Qualified Beneficiary fails to pay the required premium in a timely manner;
  - (2) The Qualified Beneficiary first becomes, after the date of election, entitled to Medicare;
  - (3) Washington County no longer provides group health coverage to any of its employees;
  - (4) The Qualified Beneficiary first becomes, after the date of election, covered under another group health plan (as an employee or otherwise) which does not contain any exclusion or limitation with respect to any pre-existing condition of the Qualified Beneficiary.
- M. You do not have to show that you are insurable to choose continuation coverage. However, continuation coverage under COBRA is provided subject to your eligibility for coverage under the plan. Washington County reserves the right to terminate your continuation coverage retroactively if you are determined to be ineligible.
- N. Under the law, you may have to pay all or part of the premium for your contribution coverage. Washington County may charge you up to 102% of the applicable premium for your continuation coverage. The law also says that, at the end of the 18-month or 36-month continuation coverage period, you must be allowed to enroll in an individual conversion health plan if one is provided under the terms of the employer's group health plan. In addition, under the Health Insurance Portability & Accountability Act (HIPAA, 1996) in certain circumstances, such as when you exhaust COBRA coverage, you may have the right to buy individual health coverage with no pre-existing condition exclusion without having to give evidence of good health.
- O. Once your continuation coverage terminates for any reason, it cannot be reinstated.
- P. Please notify: Washington County Human Resources'  
280 North College, Suite 510  
Fayetteville, AR 72701
- (1) If you have any questions about this material; or
  - (2) If you have a change in marital status, or you, your spouse, or eligible covered dependent has a change of address.

- (3) Also, if your spouse or any covered child resides at a different address, please notify the Human Resources' Office in writing, so that a separate notice may be sent.

**Q. COBRA QUESTIONS AND ANSWER:**

- (1) Who is a Qualified Beneficiary?

A qualified Beneficiary is any employee, former employee, or Spouse or dependent child of an employee or former employee, who was covered under the employer's group health plan on the day before the Qualifying Event. The definition also includes a child born to or placed for adoption with a covered employee during the period of COBRA coverage.

- (2) What is a Qualifying Event?

A Qualifying Event is any of the following events which would cause an employee, former employee, covered spouse or covered dependent child to lose coverage under the employer's group health plan. These events include:

- a. with respect to a Qualified Beneficiary, an employee's termination of employment (includes voluntary resignation and involuntary termination, except when termination is due to gross misconduct), retirement, or layoff;
- b. with respect to a Qualified Beneficiary, an employee's reduction of work hours (includes work stoppage, strike, or employee begins leave of absence);
- c. with respect to a Qualified Beneficiary other than the employee death of a covered employee;
- d. with respect to a Qualified Beneficiary other than the employee, divorce or legal separation from a covered employee;
- e. with respect to a Qualified Beneficiary other than the employee, a dependent child's loss of eligibility due to the plan's eligibility definitions;
- f. with respect to a Qualified Beneficiary other than the employee, an employee becoming entitled to Medicare.
- g. with respect to a retiree or spouse or child of a retiree, loss of coverage within one year before or after the sponsoring employer's

commencement of proceedings under Title 11 (bankruptcy). United States Code.

(3) How long may coverage be continued?

If the Qualifying Event is either “(a)” or “(b)” in question “2” above, coverage may be continued for up to 18 months, \*which is measured from the date of the Qualifying Event. For Qualified Beneficiaries other than the covered employee, coverage may be continued for: (i) up to 36 months from any other Qualifying Event, which is measured from the date of the original Qualifying Event, or (ii) up to 36 months measured from the date of the covered employee’s Medicare entitlement, if the covered employee becomes entitled to Medicare and, within 18 months thereafter, has a Qualifying Event (either “(a)” or “(b)” in question “2” above). However, continuation coverage may end prior to the expiration of the 18-, 29-, or 36- month period, as described in paragraph “L”.

\*Note: A Qualified Beneficiary who is determined under Title II or XVI of the Social Security Act, to have been disabled at the time of a Qualified Event or within the first 60 days of COBRA coverage described in “(a)” or “(b)” in question “2” above may be eligible to continue coverage for an additional 11 months (29 months total). In order to obtain this extension of coverage, the Qualified Beneficiary must provide Washington County with the written determination of disability from the Social Security Administration within 60 days of the date of the determination of disability by the Social Security Administration and prior to the end of the 18-month continuation period. Washington County can charge up to 150% of the applicable premium during the 11-month disability extension. If coverage is extended to 29 months, coverage will cease upon a final determination that the Qualified Beneficiary is no longer disabled, the disabled individual must notify Washington County within 30 days of any final determination that he or she is no longer disabled.

(4) What coverage(s) may be continued?

Qualified Beneficiaries may continue only those group health coverages that were in effect on the day before the Qualifying Event.

(5) Can Qualified Beneficiaries make separate elections?

Yes. Qualified Beneficiaries may make separate elections. Each Qualified Beneficiary may choose any benefit coverage for which he or she is eligible. If Qualified Beneficiaries wish to make independent elections, they must complete separate

election forms. Parents or guardians may elect coverage on behalf of minor dependent children.

- (6) How much will it cost me to continue coverage under COBRA?

The cost to continue coverage is the applicable group premium rate for coverage elected, plus an administration fee, if applicable. Premium rates (including administration fees where applicable) should be provided to you at the time of a Qualifying Event. These rates are subject to change.

- (7) When does COBRA coverage begin?

COBRA continuation coverage begins on the day after the date that coverage would otherwise terminate under the plan, only if the election form is sent within the allotted time period and all other eligibility requirements are satisfied.

(Rev. June 14, 2001)

## **36. PERSONNEL RECORDS:**

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A. Personnel Records of all County employees shall be kept by the Human Resources' Office. Whenever there is a change in address, phone number, dependents, or beneficiaries, it is the responsibility of the employee to report such change to the Human Resources' Office. If any elected official keeps a separate personnel record within his or her office, a copy of the contents shall be promptly forwarded to the Human Resources' Office.

(Rev. June 14, 2001)

B. Time Records of all county employees shall be kept by each Elected Official, and stored in an easily accessible location. Time Records must be reviewed for accuracy, and signed by both the employee and the supervisor. They must be available for viewing by representatives of the Department of Labor, and be retained for a minimum of three years.

(Rev. June 11, 2009)

### **37. DRUG FREE WORKPLACE ACT:**

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A. Drug abuse and alcohol use at the workplace are subjects of immediate concern in our society. These problems are extremely complex and ones for which there are no easy solutions. From a safety perspective, the users of drugs and alcohol may impair the well-being of all employees, the public at large, and result in damage to county property. Therefore, it is the policy of Washington County that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance in a county agency's workplace is prohibited. Any employee violating this policy will be subject to discipline up to and including termination. The specifics of this policy are as follows:

1. County agencies will not differentiate between drug users and drug pushers or sellers. Any employee who gives or in any way transfers a controlled substance to another person or sells or manufactures a controlled substance while on the job or on agency premises will be subject to discipline up to and including termination.
2. The term "controlled substance" means any drug listed in 21 U.S.C. Section 812 and other federal regulations. Generally, these are drugs which have a high potential for abuse. Such drugs include, but are not limited to, heroin, marijuana, cocaine, PCP, and "crack". They also include "legal drugs" which are not prescribed by a licensed physician.
3. Each employee is required by law to inform the agency within five (5) days after he or she is convicted for violation of any federal or state criminal drug statute where such violation occurred on the agency's premises. A conviction means a finding of guilt (including a plea of nolo contendere) or the imposition of a sentence by a judge or jury in any federal court, state court, or other court of competent jurisdiction.
4. Washington County must notify the U.S. government agency with which it has a grant or contract within ten (10) days after receiving notice from the employee or other notice of such a conviction.
5. If an employee is convicted of violating any criminal drug statute while in the workplace, he or she will be subject to discipline up to and including termination. Alternatively, the agency may require the employee to successfully finish a drug abuse program sponsored by an approved private or governmental institution.

6. As a condition of further employment on any federal government contract, the law requires all employees to abide by this policy.

Note: At Washington County, section 3, and 4, of the Drug Free Workplace Policy will be carried out by requiring the convicted employee to inform his or her department head or elected official or other appropriate supervisor of the conviction immediately and having that appropriate supervisor report the conviction immediately to the County Judge. The County Judge so notified will convey the information on behalf of Washington County, within the required ten (10) day period, to the U.S. agency with whom the federal contract in question is held.  
(Adopted October 11, 1990)

### **38. EMPLOYEE SPEECH POLICY:**

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Note: Washington County has a policy addressing use of county owned computers, Internet use and electronic mail. If you have access to county owned computers, you will receive a copy.

A. General Statement Regarding Employee Speech Right and Obligations:

County employees have constitutional protection to engage in free speech activity, including work related criticism and complaints. This employee speech policy is designed to promote protected speech while providing guidelines to ensure that employee speech does not unnecessarily harm legitimate county interests. Employees are encouraged to express their views in a responsible and productive manner.

B. Speech unprotected as a matter of law:

Employees enjoy the same speech rights as other citizens except for restrictions imposed by law. Employees are subject to employment termination for speech constituting treason, libel, slander, perjury, incitement to riot, or false statements regarding county operations or personnel which such speech is known to be factually inaccurate or is made with a reckless disregard for its truth or falsity.

C. Protection of confidential information:

Employees shall not disclose or divulge any "confidential" information obtained by virtue of their employment to persons not specifically authorized to receive such information. "Confidential" information includes information not subject to release by the state's freedom of information laws. Uncertainty over whether particular information is "confidential" should be resolved by consultation with the County Attorney.

D. Whistle blower protection and procedures:

Employees are required to report immediately any evidence of a county official's wrongdoing to the \*appropriate elected official or the Prosecuting Attorney. Officials and employees are required to report immediately any evidence of an employee's wrongdoing to the appropriate elected official or Prosecuting Attorney. Employees are subject to employment termination for any activity that interferes with or hinders the successful prosecution or criminal misconduct.

Employees are protected from retaliatory disciplinary action for reporting under this rule.

E. Impartiality requirement:

Officials and employees shall not recommend or suggest in any manner, except in the transaction of personal business the employment or procurement of a particular product, a professional service, or a commercial service including but not limited to the services of an attorney, bondsmen, funeral director, ambulance service or towing service. Officials and employees are prohibited while on duty or in uniform from making political endorsements or expressions of favoritism toward a particular political issue or candidate. Officials and employees are prohibited from using their official capacity to influence or interfere with the results of any political election.

F. Public appearances representing the department:

Employees must receive the prior permission of the \*appropriate elected official before making any public appearance officially representing the county or a county office or one that gives the impression they are officially representing the county or a county office. Employees in county uniform, whether on or off duty, shall not make speeches or presentations to any civic club, religious gathering, private or public organization, or other organized gathering without the prior approval of the "appropriate elected official. The off-duty expression of personal views by employees in their capacity as private citizens is not covered by this rule.

G. On duty speech restrictions:

Employees on duty or in uniform shall restrain from using indecent or profane language. Employees shall be courteous to citizens, maintain command of their temper, and refrain from coarse, boisterous, or insolent language. Upon request, employees must provide citizens their name and any badge number. Employees shall treat superiors, Subordinates, and associates in a respectful manner. Employees should practice professional courtesy and refrain from making personal attacks that ridicule, belittle, or defame the county or county personnel. No employee shall use epithets or terms that tend to denigrate a particular race, color, religion, sex, age, national origin, political affiliation, veteran's status, or disability.

H. Public criticism:

Public criticism of county operations or personnel can undermine the public's confidence of county government. Employees are encouraged to express any work-related criticism to their immediate supervisor and the \*appropriate elected official. Constructive criticism is encouraged. Employees will not be disciplined for responsibly expressing their criticism to their immediate supervisor or the \*appropriate elected official, or, thereafter, responsibly expressing their criticism publicly.

I. Contact with the news media:

All inquiries by the public or the news media concerning information under the control of a county department (e.g. computerized information of the status of either a closed or pending investigation) Should be referred to the \*appropriate elected official in charge of that office or county government.

J. \*Appropriate elected official:

The "appropriate elected official", as used in this policy, shall mean:

1) for employees, the elected official responsible for managing the day-to-day affairs of the office of county government in which particular employee is employed and 2) for officials, the prosecuting attorney. Employees are not prohibited from any direct contact with the prosecuting attorney at any time.

(Rev. April 13, 2000)

### **39. HARASSMENT POLICY:**

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- A. Washington County is committed to providing a work environment free of unlawful harassment. The county maintains a strict policy prohibiting sexual harassment, harassment because of race, gender, religious creed, color, national origin, ancestry, handicap, medical condition, marital status, age, or any other basis protected by federal, state, or local law or ordinance or regulation. All such harassment is unlawful. Washington County's anti-harassment policy applies to all persons involved in the operations of the county and prohibits unlawful harassment by any employee of Washington County including supervisors and co-workers. Unlawful harassment in any form, including verbal, physical, and visual conduct, threats, demands, and retaliation is prohibited. Unlawful harassment because of sex, race, ancestry, handicap, medical condition, marital status, age, or any other protected basis includes, but is not limited to:
1. Verbal conduct such as epithets, derogatory comments, slurs, or unwanted sexual advances, invitations, or comments.
  2. Visual conduct such as derogatory posters, photography, cartoons, drawings, or gestures;
  3. Physical conduct such as assault, unwanted touching, blocking normal movement, or interfering with work directed at you because of your sex or race or any other protected basis;
  4. Threats and demands to submit to sexual requests in order to keep your job or avoid some other loss, and offers of job benefits in return for sexual favor; or
  5. Retaliation for having reported or threatened to report harassment.
- B. You may have a claim of harassment even if you have not lost a job or some other economic benefit. The law prohibits any form of protected-basis harassment that impairs your working ability or emotional well-being at work.
- C. You have a right to redress for unlawful harassment. In order to secure this right, provide a written complaint to your supervisor, elected official, the County Attorney, or the Human Resource Administrator as soon as possible after any incident you feel is

prohibited harassment. Your complaint should include the details of the incident or incidents, the names of the individuals involved, and the names of any witnesses. Supervisors will refer all harassment complaints to the County Attorney. The County Attorney will immediately undertake an effective, thorough, and objective investigation of the harassment allegations. This investigation will be completed and a determination regarding the harassment alleged will be made and communicated to you as soon as practical.

- D. If the County Attorney determines that unlawful harassment has occurred, Washington County will take effective remedial action commensurate with the severity of the offense. Appropriate action will also be taken to deter any future harassment. Whatever action is taken against the harasser will be made known to you, and Washington County will take appropriate action to remedy any loss to you resulting from harassment. Washington County will not retaliate against you for filing a complaint and will not knowingly permit retaliation by management employees or your co-workers.
  
- E. Washington County encourages all employees to report any incidents of harassment forbidden by this policy immediately so that complaints can be quickly and fairly resolved. You should also be aware that the United States Equal Employment Opportunity Commission (EEOC) investigates and prosecutes complaints of prohibited harassment in employment. If you think you have been harassed or that you have been retaliated against for resisting or complaining, you may file a complaint with the EEOC. The nearest area office of the EEOC is 820 Louisiana Street, Suite 200, Little Rock, AR, 72201, and may be reached at (501) 324-5060 or (501) 324-5481. Normally, you have 180 days from the latest date of the alleged harassment to file a complaint. The EEOC will investigate your complaint. If the complaint has merit, the EEOC will attempt to resolve it. If no resolution is possible, the EEOC may prosecute the case with its own attorney before an administrative tribunal which may order the harassment stopped and can require your employer to pay monetary damages and reinstate you or give other appropriate relief.

See also appendix A to the Employee Handbook and the EEOC website at [www.eeoc.com](http://www.eeoc.com).

(Rev. October 9, 2003)

#### **40. GRIEVANCE PROCEDURES:**

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- A. Complaints and grievances may spring from any human relationship, and the associations of the workplace are no exception. Problems will arise for which resolution or recompense is requested and it is important to solve these problems in a fair manner as soon as possible.
- B. It is the policy of Washington County to give prompt and impartial consideration to the complaints or grievances of its employees. Employees who submit complaints or grievances in accordance with the proper procedures may do so without penalty or fear of reprisal.\*
- C. For the purpose of this policy, the term "complaint" shall be used to indicate the initial voicing of a problem. The term "grievance" shall be used to identify a problem brought forward in a formal written manner.
- D. To come within the scope of the grievance procedure, a problem must deal with a county-related issue and it must be concerned with the employee's conditions of employment and may include the following:
  - 1. Poor working conditions, hours, and wages;
  - 2. Unfair treatment by Supervisor;
  - 3. Non-compliance with the Washington County Personnel Policies; or
  - 4. Discrimination on the basis of race, color, religion, sex, age, national origin, political affiliation, veteran's status, or disability.

(Rev. July 9, 1998)

#### **GRIEVANCE HEARING PROCEDURE**

**CAVEAT:** The purpose of this Grievance Hearing Procedure is to establish a required procedure to resolve applicant and employee grievances, and to thereby enable the county to voluntarily conform the conduct of county officials and county employees to the requirements of county policy. If the applicant or employee does not follow this affirmatively required county grievance hearing procedure, the county will raise waiver and estoppel as affirmative defenses to any claims against the county filed by the applicant via any administrative or judicial procedures otherwise available for redress of grievances.

(Adopted October 8, 1998)

#### **41. EMPLOYEES GRIEVANCE HEARING:**

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A. Availability of Property Right Hearings:

1. At-will employment may be terminated by either the County or the employee at any time without prior notice, without cause, and without any property right hearing.
2. Any claim that any employee has a constitutionally protected property right in employment, entitling the employee to continued employment until "just cause" for discipline or dismissal is proved by the County at a pre-deprivation hearing, must be timely asserted in writing by the affected employee in accordance with this Employee Grievance Hearing Procedure, or the property right claim will be waived by the employee. (See Appendix B)

B. Availability of Liberty Right Hearings:

1. Any claim of illegal county employment discrimination on the basis of race, color, religion, gender, age, national origin, or disability or because the county is acting in a manner that is arbitrary, capricious, or unreasonable in hiring, compensation, conditions of employment, discipline or dismissal must be timely made in writing by the affected applicant or employee in accordance with this grievance hearing procedure.
2. Any claim that any employee treatment, discipline, or dismissal is unconstitutional punishment due to the employee's exercise of a constitutionally protected "liberty right" or other constitutionally protected activity of the employee must be timely made in writing by the affected employee in accordance with this grievance hearing procedure.
3. Any claim that any employee treatment, discipline, or dismissal is contrary to the public policy of Arkansas must be timely made in writing by the affected employee in accordance with this grievance hearing procedure.  
(See Appendix B)

C. Availability of Name Clearing Hearings:

1. Any claim that any employee's liberty interest in future Employment has been damaged as a result of any "stigmatizing charge" publicly communicated by the County must be timely asserted by the affected employee in accordance with this Employee Grievance Hearing Procedure, or it will be waived by the employee.  
(See appendix B)

D. Availability of Hearings Generally:

1. A Grievance Hearing requested by an employee is not required to be held unless it is timely requested by the employee in the manner required by this Employee Grievance Hearing Procedure and required by the constitution or this policy.
2. Neither liberty rights nor property rights are created by this document.
3. The County may, in its discretion, hold a hearing prior to any decision or deprivation.

E. Time Requests for Formal Grievance Hearing:

1. It is the applicant's or employee's duty to request a grievance hearing.
2. The applicant or employee must timely file a written grievance hearing request after any claimed deprivation of the applicant's liberty or employee's liberty or property or any right to a hearing or to object to the deprivation shall be waived. (See Appendix B)
3. The grievance hearing request should state, in writing:
  - a. the grievance for which a hearing is requested;
  - b. the factual basis of the grievance; and
  - c. the relief sought.

4. The written grievance hearing request shall be delivered to the County Grievance Committee in care of the Human Resources Administrator no later than four-thirty (4:30) p.m. on the third full business day (weekends and holidays excluded) after any claimed deprivation for which a grievance hearing is requested.
5. Any dismissal decision shall automatically be a suspension with pay for three full business days (weekends and holidays excluded) during which time the employee subject to dismissal may request a pre-deprivation hearing, in which case the suspension with pay shall continue until the conclusion of the County Grievance Committee hearing. (In no case shall a suspension with pay status extend more than 14 days, unless the suspension with pay status is extended by decision of the County Grievance Committee). All accrued but unpaid leave time—e.g., vacation, compensatory time, etc.—will automatically run concurrent with the period of suspension with pay, unless the employee prevails in his or her grievance. Any discipline decision that will result in reduction or removal of pay or position shall automatically be deferred for three full business days (weekends and holidays excluded) during which time the employee subject to discipline may request a pre-deprivation hearing, in which case the deferral shall continue until the conclusion of the County Grievance Committee hearing.

F. Hearing Procedures:

1. **NOTICE:** After an employee requests a grievance hearing, the employee shall be notified of the date, time, and place of the hearing.
2. **SUSPENSION WITH PAY:** The grieving employee may be requested to perform duties for the benefit of the County with pay pending the outcome of the hearing.  
(Revised June 11<sup>th</sup>, 2009)
3. **HEARING RECORD:** The hearing shall be reported by a court reporter (not merely a tape recorder) for transcription upon request by either party at the expense of the requesting party.

4. PROCEDURAL RULES: At the hearing, on the records, the parties shall suggest any desired hearing procedures and state any complaints regarding: a) the notice; b) the date, time, or place of the hearing; c) the opportunity to refute fairly any charges; and d) the impartiality of the decision maker(s).
  
5. RULES OF PROCEDURE AND EVIDENCE: Informal rules of procedure and evidence (Ark. Code Ann. § 25-15-208) shall be followed:
  - a. witnesses shall testify under oath;
  - b. parties shall be allowed, at their own expense, to obtain and use legal counsel for representation;
  - c. parties shall be allowed to obtain and use the presence of witnesses for examination, cross-examination, and rebuttal; and
  - d. parties should be granted a reasonable continuance, if requested prior to the hearing in writing, and if reasonably necessary for stated reasons to prepare adequately for the hearing.
  - e. Any written evidence or other written material must be received by the Human Resource Director no later than one (1) week prior to the hearing; failure to comply with this may result in the Committee's refusal to consider such.
    1. Any written evidence or other written material must be submitted to the office of the Human Resources Director early enough for said office to reproduce such and make it available to the Grievance Committee no later than one (1) week prior to the hearing.
    2. Any request for information in the possession of any County office or department must be made in such time as will enable the office of the Human Resources Director to gather, reproduce, and have such available for the Grievance Committee no later than one (1) week prior to the hearings.

3. If a request or submission appears to be irrelevant or unduly burdensome, the Chairman of the Grievance Committee shall be immediately notified, who shall be vested with the discretion to determine if the submission or request should be granted.

(Adopted Aug. 7, 2003)

(Rev. Nov. 6, 2006)

## PROCEDURE; EVIDENCE:

Rules of procedure and evidence pertaining to trials and hearings, as set out below, may act as guidelines but need not be strictly adhered to.

- A. Each hearing should begin with a short summary of the proceeding by the chairman of the grievance committee.
- B. Each side shall be called upon to discuss any preliminary matters or questions, such as:
  - 1. Notice;
  - 2. The date, time and place of hearing;
  - 3. The opportunity to refute fairly any charges; and
  - 4. The impartiality of the decision makers.
- C. When it appears all parties are ready to proceed, all witnesses will be sworn and the hearing will begin.
- D. Unless waived, an opening statement shall be made first by the grievant, followed by an opening statement of the elected official.
- E. The grievant will proceed with his or her case by testifying and calling witnesses, all of whom shall be subject to cross examination by the elected official and the committee.
- F. At the rest of the grievant's case, the elected official will then present his or her case in the same manner.
- G. Closing statements will be allowed by both parties.
- H. Parties shall be allowed, at their own expense, to obtain and use legal counsel for representations.
- I. Any decision made by the committee shall be a recommendation for the elected official to give due consideration as it is recognized that each elected official has the power to hire, fire, and discipline his or her employees so long as in a manner consistent with the law.

(Adopted October 10, 2002)

6. PUBLICATION: The County Grievance Committee shall hear the evidence offered by the parties, hear any argument desired by the parties, and vote without public discussion or deliberation. Only the decision, and not the factual or legal reasons therefore, shall be announced publicly. The hearing shall be held in public if so required by the F.O.I.A.; however, the employee may, at any time, decline the hearing and accept the intended discipline or dismissal.
7. CONFIRM IN WRITING: After the hearing, the grieving applicant or employee shall be sent a letter stating the factual and legal basis found by the County Grievance Committee for any refusal or removal of pay or position.  
(Rev. June 14, 2001)

G.

1. The Human Resource Office shall set a date for the hearing and contact the Chairperson of the Quorum Court Personnel Committee and other members of the Committee. The Chairperson who shall preside over the hearing may designate another member of the committee or the Quorum Court to preside. In the event any member of the committee is unable to serve or cannot be contacted then the Human Resources Office shall contact other members of the Quorum Court to serve on the committee. If a committee cannot be empaneled then a new date shall be set for the hearing using the same procedure. The hearing may be continued by the Chairperson at the request of the grieving applicant or other interested party for good cause as determined by the chairperson or his designee.  
(Revised June 11<sup>th</sup>, 2009)
2. If the grievance is not yet resolved by the grievance committee, the issue may be settled through the judicial system. In case of alleged discrimination, the complainant may take his or her case to the U.S. Department of Labor's Equal Employment Opportunity Commission. The employee is reminded however, that in order to maintain the right to sue under Title VII of the 1964 Civil Rights Act, the employee must carefully comply with the charge-filing requirements of the Act even while the county's grievance hearing process continues.

- H. "Nothing herein shall be construed to change the fact that employees are "at-will" employees and serve at the pleasure of the elected official as stated under Subparagraph B, Termination Section 210, page 5."

- I. \* Section 704(a) of the Civil Rights Act of 1964, as amended, and Section 4(d) of the Age Discrimination in Employment Act of 1967, as amended, state:
  - 1. It shall be unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice, made an unlawful employment practice by this title, or because he has made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this title.
  
- J. The Equal Pay Act of 1963 contains similar provisions. Persons filing charges of discrimination are advised of this Non-Retaliation Requirements and are instructed to notify EEOC if any attempt at retaliation is made.
  
- K. County Grievance Committee:
  - 1. The grievance committee shall be composed of the Quorum Court Personnel Committee or other members of the Quorum Court if any Personnel Committee person is unable to serve.
  
- L. Release of Employee Grievance Records:
  - 1. Public access to employee grievance records is authorized only if approved by the effected employee or authorized by the Arkansas Freedom of Information Act.  
(Rev. October 8, 1998)  
(Rev. October 10, 2002)  
(Rev. Nov. 6, 2006)



#### **43. SOUND-OFF-SYSTEM (S-O-S):**

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- A. Many of the policies contained in the Washington County Employee Handbook were written in response to a need recognized by an employee when confronted with a situation or problem not addressed in the handbook. Sometimes the request for written guidelines was presented by the elected official or department head on behalf of the employee. Other times, employees, reluctant to approach their supervisors, found various other ways to present the question or concern.
  
- B. The Sound-Off-System is presented not as a way to circumvent communications between the employee and his or her supervisor, but as an available confidential alternative when, for whatever reason, is essential that the employees have an effective way to voice work-related questions and problems, without fear of reprisal, so that action can be taken to alleviate the problem before it becomes a major issue.
  - 1. The S-O-S forms are available from the Human Resources' Office or may be reproduced from the sample in the Washington County Employee Handbook.
  - 2. Employees who wish to receive a personal answer must sign their name and department.
  - 3. Completed forms should be sent to the Human Resources' Director for consideration by the Subcommittee on Personnel Policy Review.

(Adopted April 14, 1988)

44.

**SOUND-OFF-SYSTEM FORM**

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DATE: \_\_\_\_\_

**QUESTION OR PROBLEM:**

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**IF ADDITIONAL SPACE IS NEEDED, PLEASE CONTINUE ON BACK.**

**SUGGESTED SOLUTION:**

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**HAVE YOU DISCUSSED THIS WITH YOUR SUPERVISOR?**

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**PLEASE SIGN BELOW IF YOU WISH TO RECEIVE A PERSONAL REPLY.**  
(Adopted April 14, 1988)

#### 44. WORKERS' COMPENSATION:

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##### A. Reporting of Workers' Compensation Injuries:

1. A.C.A. 11-9-701(a) states in part: "Unless an injury either renders the employee physically or mentally unable to do so, or is made known to the employer immediately after it occurs, the employee shall report the injury to the employer on a form prescribed or approved by the Commission and to a person or at a place specified by the employer, and the employer shall not be responsible for disability, medical or other benefits prior to the receipt of the employee's report of injury.
2. In order to avoid the possible loss of benefits under the Worker's Compensation Act, the following procedure for reporting work-related injuries must be followed:
  - a. All work-related injuries, no matter how minor, should be reported to the employee's supervisor immediately, and an injury report must be completed. For the purpose of this policy, an injury shall not be considered reported unless the supervisor has been notified and an injury report has been completed immediately after the accident. If this procedure is followed, the employee will not be required to fill out an Employee's Notice of Injury (Form A-32).
  - b. If a work-related injury is not reported immediately, or if an injury report was not completed, the employee must fill out an Employee's Notice of Injury (Form A-32) (available from the supervisors or the Human Resources' Office) and submit it to the Human Resources' Office before seeking treatment.
  - c. In addition to the provisions recently added pursuant to Ordinance No. 2006-36 the following provision is hereby added:

All appointments with the physician of choice as designated by the County Judge shall be made through the Office of Human Resources. However, upon agreement by the employee and his or her supervisor, the employee may first be seen by one of the registered nurses

employed by the County at the Sheriff's Office. In the event a registered nurse is seen, then the Office of Human Resources shall be notified.

The only exception to this rule shall be for emergency treatment required after regular business hours; however, in this case, the employee shall report the injury to the Human Resources' Office on Form A-32 (Employee's Notice of Injury) on the next business day following the treatment. Failure to give notice to the employer shall also be excused if the employee is either physically or mentally unable to do so.

3. A lost time work related illness or injury can also be a Family and Medical Leave absence.
  - a. The first 7 days missed after an incident (excluding the day of injury) is not compensated by the Washington County carrier until the 15<sup>th</sup> day is missed as a result of the injury. The employee shall be paid in full regardless of the number of hours worked on the day of the injury. The 8<sup>th</sup> through the 15<sup>th</sup> day missed after an incident is compensable by the carrier at two-thirds of employee salary or maximum amount allowed under the regulations whichever is less; said sum being non-taxable and equivalent to employee's net pay.
  - b. No sick, vacation, or compensatory time may be taken while an employee is off work and receiving compensation as stated in 3.a. above; however, the first 40 hours shall be paid as "Pre-Determination" Workers Compensation Benefits from the County.
  - c. However, if the carrier has failed to either honor or controvert the claim by the 8<sup>th</sup> day, then the employee may continue "Pre-Determination" Workers' Compensation Benefits from the County until the carrier notifies the employee of the status of the claim.

(Revised March 11<sup>th</sup>, 2010)

**46. SMOKING POLICY:**

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A. Washington County government is dedicated to providing a healthful, comfortable and protective environment for its employees and for citizens that visit county premises.

1. Smoking in county buildings and facilities is prohibited. Smoking will only be permitted outside and in open air buildings. Smoking will not be permitted where it poses a fire hazard.
2. Smoking will not be permitted in County owned vehicles.  
(Rev. April 13, 2000)

#### **47. GENERAL SAFETY RULES:**

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- A. Safety rules are primarily for employee protection. Injuries impose severe burdens on employees and their families. They often result in loss of pay and can lead to permanent disability or disfigurement.
- B. These safety rules must be observed at all times and should impose no hardship on anyone. It will make Washington County a better and safer place in which to work and with whom to do business.
  - 1. Possession or use of alcoholic beverages, narcotics or dangerous drugs on County property and reporting or returning to work under the influence of same is prohibited.
  - 2. Use of prescription drugs on the advice of your physician must be reported to your supervisor if there is any possibility of the drug causing a safety hazard.
  - 3. Disorderly conduct, running, or horseplay on County premises is prohibited.
  - 4. Fighting or being involved in a fight will not be tolerated on County property.
  - 5. All injuries and accidents (including but not limited to those involving County vehicles) regardless of their severity, must be reported immediately to the employee's supervisor.
  - 6. Employees must familiarize themselves with all fire fighting and evacuation procedures. Employees should further familiarize themselves with all exits proximate to their work area. Aisles, hallways, and fire exits must always remain open and access to fire fighting equipment must be kept clear.
  - 7. The use of all fire extinguishers, regardless of type, must be reported to the employee's supervisor and exchanged for a full extinguisher.
  - 8. Employees shall not operate any machinery or equipment unless properly trained. Where an employee requires training to complete a job within the employee's job responsibilities, the employee shall coordinate such training with the employee's supervisor.

9. Lift properly; use legs, not back. For heavier loads, ask for assistance. Observe and practice the safety procedures established for the job.
10. Protective equipment and clothing, including but not limited to safety shoes, safety glasses, goggles, and hearing protection must be worn when required.
11. Employees are prohibited from wearing clothing or clothing accessories which interfere with their work responsibilities or could potentially get caught in machinery or other equipment. Employees may be prohibited from wearing items such as rings, bracelets, and necklaces that could catch or create electrical contact points in areas where such could occur. Headphones and "Walkman" style radios are prohibited for use by employees during working hours or in County vehicles.
12. Tools, personal safety, and other equipment shall be maintained in good serviceable condition. Tools must be used in a safe manner, and should not be used where they are mushroomed, broken, or badly worn. All electrical tools must be grounded, unless they are double insulated. Broken or badly worn tools should be given to the employee's supervisor for repair or replacement.
13. Machines appearing to be electronically or mechanically unsafe must not be operated. Under such circumstances, such equipment must be locked or tagged out and the employee must notify their supervisor immediately. Employees who observe an unsafe condition are required to report it to their respective supervisor immediately.
14. Upon repairing or adjusting equipment, employees must follow safe operating procedures such as the proper use of lockouts and safe buttons. Further, the power source to such equipment must be locked or tagged out.
15. All safety procedures must be followed. All guards must be in place when machines are in operation. When starting, stopping, or changing the speed of machinery, operators must ensure proper clearance of other individuals, debris, and materials. Safety equipment shall not be rendered ineffective.

16. Waste and trash containers must be used to keep work areas clean and orderly. All gasoline and/or oil soaked rags and papers must be disposed of in approved safety containers. Where no such containers are available, employees should contact their respective supervisors.
17. All water, oil, chemicals, or grease on the floor must be removed immediately. All gasoline and other flammable liquids must be stored in approved and properly labeled safety containers at all times.
18. All stored materials must be stacked properly on a firm and even foundation. Stacks must not be allowed to reach a hazardous height, and where possible, stacks must be cross-tied or braced for mutual support. Extension or drop cords shall not be placed in areas where they will create tripping or other hazards.
19. Access to electrical breaker panels must be kept open at all times. Temporary or permanent storage or materials should be avoided within three feet of any electrical panel. Panel doors should be closed when not in use.

**48. GENERAL WORK RULES:**

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- A. Purpose: Rules and standards are necessary to protect the health and safety of all employees, to maintain uninterrupted service, and to protect the County's goodwill and property.
  
- B. Policy: Employees who violate any County rule or regulation will be disciplined fairly, consistently, and in proportion to the seriousness of the circumstances. This may include disciplinary action up to and including discharge from employment for the first offense. The following list includes but does not limit the major items which are deemed sufficient cause for disciplinary action:
  - 1. Arrest and conviction on criminal charges.
  - 2. Unauthorized possession of firearms or weapons of any kind on County Property.
  - 3. Intoxication during working hours, including intoxicating beverages, marijuana, or other hallucinogenic drugs on County property, the consuming of the same on County property, or any other violation of the County's Drug Free Workplace Policy.
  - 4. Unauthorized possession of County property, or of the property of a fellow employee.
  - 5. Willful destruction of County property or the property of a fellow employee.
  - 6. Deliberate misuse of, or unauthorized use of County supplies, materials, or machines.
  - 7. Altering one's paycheck in any manner.
  - 8. Fighting with, or threatening or attempting bodily injury to another on County premises.
  - 9. Falsifying County records or reports including one's time card or the time card of another.
  - 10. Visiting, loitering, loafing, lounging, or sleeping during scheduled working hours, or leaving the work area without permission of one's supervisor.

11. Receiving or making excessive personal telephone calls on County telephones or personal cell phones.
12. Allowing an unauthorized person on County premises.
13. Disobedience or insubordination.
14. The use of abuse, threatening, or obscene language.
15. Exceeding the authorized number or length of break periods.
16. Absenteeism or tardiness.
17. Working unauthorized overtime.
18. Failing to properly complete required reporting.
19. Failing to meet County work standards in terms of quantity and quality.
20. Interfering with another's employee's efforts to meet County work standards.
21. Violation of sanitary or safety rules.
22. Tampering with or mishandling any mechanical equipment.
23. Unauthorized disclosure of confidential information.  
(Rev. June 14, 2001)

#### **49. PUBLIC SAFETY EMPLOYEE DRUG AND ALCOHOL TESTING**

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- A. Public safety employees are subject to testing by the county to detect the presence of controlled substances and alcohol in their body; including:
1. Pre-employment Testing (controlled substances only)
  2. Reasonable Suspicion Testing
  3. Random Testing
  4. Post –accident Testing
  5. Return-to-duty and Follow-up Testing
- B. Public safety employees subject to testing shall include only employees whose duties require them to:
1. Maintain a commercial driver's license.
  2. Carry a firearm, or otherwise perform law enforcement functions, including with or supervision of juveniles, or
  3. Routinely operate an emergency vehicle (one equipped with siren and red or blue lights) in order to lawfully carry out their duties.
  4. Routinely perform repair and maintenance on heavy road equipment or vehicles.  
(Rev. June 8, 2006)
- C. The Drug and Alcohol Testing Procedures required by the U.S. Department of Transportation (the Rules) shall be the procedures followed by the County, which procedures shall not be contrary to procedures promulgated by the Association of Arkansas Counties.

- D. Upon the county's adoption of this policy, or at the point of hiring, each county employee shall certify in writing that:
1. The employee has been informed of and understands his or her obligations under the County's drug and alcohol testing policy and the drug and alcohol regulation of the U.S. Department of Transportation;
  2. The employee understands that the use or possession of alcohol in any form is prohibited in the workplace, and that there are restrictions on alcohol use for a period prior to reporting for work and after an accident;
  3. The employee understands that the possession or use of unauthorized or illegal drugs is prohibited at any time whether in the workplace or not; and
  4. The employee understands that, as a condition of employment, the employee must submit to a collection of breath, urine, blood, and/or saliva samples when requested by the county employer or contractor acting for the county employer and, also, that the employee may be subject to drug and alcohol testing in other circumstances including, but not limited to post-accident and when the employer has reasonable suspicion to believe the driver has engaged in prohibited actions concerning controlled substances or alcohol.
- E. Drug and alcohol testing will be administered to the employees in the circumstances and in the manner mandated by the Rules.
- F. Reasonable suspicion means suspicion based upon the actions or appearance or conduct of the employee which are indicative of the use of alcohol or a controlled substance. (Section 391.85 – Federal Motor Carriers Safety Regulations).  
(Rev. April 14, 2005)
- G. The following shall result in immediate discharge;
1. Refusal to take a mandated test for drugs or alcohol;

2. A positive drug test result, once the time limit for requesting a second test of a split sample has expired, or upon receipt of a positive drug test result from the second test; or

3. A positive alcohol test result in violation of the rules and standards of the U.S. Department of Transportation.

(Rev. August 30, 2005)

H. Employees whose initial drug test results are positive and who request a test of the second portion of the split sample will be suspended without pay until such time as the County's "Designated Representative" receives the results of the second (split sample) test. Such second test will be paid by the employer to be reimbursed to the County by the employee. The County shall withhold from the employee's paycheck the cost of the second (split sample) test to reimburse the County. A negative result from the second (split sample) drug test will render the first test invalid and the employee will be reinstated with back pay and reimbursement for the costs of the second test.

I. An employee suspected of unlawful use of drugs or abuse of alcohol while on duty, as established by the Rules, or who is involved in an accident as defined in 49 CFR 390.4 (and receives a citation for a moving traffic violation in this section) by the Rules, shall be suspended immediately with pay until the results of the drug or alcohol test are received by the County's "Designated Representative."

(Adopted October 8, 1998)

(Rev. August 8, 2002)

## **50. OTHER EMPLOYEES DRUG AND ALCOHOL TESTING**

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A. All other County employees shall be subject to Reasonable Suspicion drug and alcohol testing.

(Rev. Dec. 8, 2005)

## 51. BACKGROUND CHECKS

- A. All offers of employment at Washington County are contingent upon clear results of a thorough background check. Background checks will be conducted on **all** newly hired staff members and on all employees who are promoted, as deemed necessary.

Background checks may include:

1. **Social Security** validates the applicant's social security number, date of birth and former addresses.
2. **Prior Employment Verification** confirms applicant's employment with the provided companies, including dates of employment, position held and additional information available pertaining to salary/wages, performance rating, reason for departure and eligibility for rehire. This will be verified for any employers within the last 10 years.
3. **\*\*Multi-State Criminal** will be run on states that applicants have listed on the release form. This will include states of past residence for a period of up to five years.
4. **\*\*Federal Criminal History** checks district courts for any crimes committed in violation of federal law in district of current residence.
5. **Personal and Professional References:** Calls will be placed to individuals listed as references by an applicant.
6. **Educational Verification** confirms the applicant's claimed educational institution, including the years attended and the degree/diploma received.

The following additional searches will be required if applicable to the position:

1. **Motor Vehicle** provides a report on an individual's driving history in the state requested. This search will be run when driving is an essential requirement of the position.
2. **Credit History** confirms candidate's credit history. This search will be run for positions that involve management of [Company Name] funds and/or handling of cash.

### B. Procedure

After a verbal employment or promotion offer is made, the chosen candidate must complete the Pre-Employment Certification/Release form and return it to the Human Resources Department. Human Resources will notify the hiring manager upon receipt of the signed release. The chosen candidate is not to begin work prior to the hiring manager receiving approval from Human Resources.

Human Resources will order the background check upon receipt of the signed release form, and an employment screening service will conduct the check. A designated Human Resources representative will review all results.

The Human Resources representative will notify the hiring manager regarding the results of the check. In instances where negative or incomplete information is obtained, the appropriate management and the Director of Human Resources will assess the potential risks and liabilities related to the job's requirements and determine whether the individual should be hired. If a decision not to hire or promote a candidate is made based on the results of a background check, there may be certain additional Fair Credit Reporting Act (FCRA) requirements. The Human Resources representative will be responsible for handling such FCRA requirements as necessary. Washington County will follow all applicable FCRA requirements throughout the background check process. Any questions regarding FCRA must be directed to the Director of Human Resources. Background check information will be maintained in a file separate from employees' personnel files.

(Approved Aug. 10<sup>th</sup>, 2012)

**52. APPENDIX A:**

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- 1. NOTICE TO EMPLOYER AND EMPLOYEE**
- 2. FEDERAL MINIMUM WAGE**
- 3. FAMILY AND MEDICAL LEAVE ACT**
- 4. NOTICE**
- 5. EQUAL EMPLOYMENT OPPORTUNITY**
- 6. WORKERS' COMPENSATION NOTICE**
- 7. YOUR RIGHTS UNDER USERRA**

ARKANSAS DEPARTMENT OF LABOR

# NOTICE

## to employer & employee

### MINIMUM WAGE

All employees covered by Arkansas Code 11-4-202 to 11-4-219 must be paid a minimum wage of at least:

\$5.15 an hour effective October 1, 1997 with an allowance for gratuities not to exceed 50% of the minimum wage.

\$6.25 an hour effective October 1, 2006 with an allowance for gratuities not to exceed \$3.62 per hour.

### COVERAGE

The Arkansas Minimum Wage applies to an employer of four (4) or more persons. All employees of the above employers are covered except:

- \*Executive, administrative or professional employees.
- \*Outside commission-paid salesmen.
- \*Students whose work is a part of a bona fide vocational training program.
- \*Students who work in the schools they are attending.
- \*Some farm laborers.
- \*Independent contractors.
- \*Employees of the United States.

### STUDENT RATE

Any full-time student attending any accredited institution of education within the State of Arkansas, and who is employed to work an amount not to exceed twenty (20) hours during weeks that school is in session or forty (40) hours during weeks when school is not in session, such rate of wage shall be equal to not less than eighty-five (85%) of the applicable minimum wage provided a Student Certificate of Eligibility is obtained from the Arkansas Department of Labor. Student workers subject to the 85% provision of the applicable minimum wage rate and a gratuity allowance shall not be paid less than the base wage guaranteed any other employee subject to a gratuity allowance.

### HANDICAPPED WORKERS

The Director has established procedures for employment of these workers. For further information contact the Department of Labor.

### STUDENT-LEARNERS

A "Student-Learner" is a person who is receiving regular instructions in an accredited school and who is employed on a part-time basis in a bona fide training program. For further information contact the Department of Labor.

### OVERTIME PAY

Overtime compensation must be paid at the rate of one and one-half times the regular hourly rate of pay for hours worked in excess of 40 hours in a workweek. This overtime provision shall not be applicable with respect to employers with less than 4 employees, or agricultural employees.

### WORKWEEK

A workweek is a regularly recurring period of 168 hours in the form of seven consecutive 24-hour periods.

### ENFORCEMENT

Powers of the Director of Labor:  
The Director or his representatives have the authority to:

- enter and inspect any place of employment in the State to examine books, payrolls, and records having to do with wages and hours. He may copy these records if necessary and may question any employees to find out if the law is being obeyed.
- require written or sworn statements from an employer about his employees' earnings and hours of work.
- enforce all regulations issued thereunder.

### DEDUCTIONS FROM THE MINIMUM WAGE

No deduction from the applicable minimum wage may be made except those authorized or required by law or by regulations of the Director of Labor, however,

deductions which are not otherwise prohibited and which are for the employee's benefit may be made if authorized in writing by the employee.

### KEEPING OF RECORDS

All employers subject to the Minimum Wage Law must keep accurate records for a period of three (3) years. These records must include the name, address, occupation, rate of pay, hours worked and the amount paid each pay period for all employees covered by the law. In addition, every employer who claims an allowance for tips, board, lodging, apparel or other items or services as part of the applicable minimum wage rate, must maintain daily records showing for each employee the amounts claimed as allowances and must maintain records which will substantiate the amount of tips actually received by the employee or the employer's reasonable cost in supplying items or services to the employee.

### EQUAL PAY ACT

No employer in the State of Arkansas shall discriminate in the payment of wages as between the sexes or shall pay any female in his employ, salary or wage rate less than the rates paid to male employees for comparable work. Provided, however, that nothing in this Act shall prohibit a variation in rates of pay based upon a difference in seniority, experience, training, skill, ability, or difference in duties and services performed, or difference in the shift or time of the day worked, or any other reasonable differentiation except difference in sex. Every employer shall keep and maintain records of the salaries and wage rates, job classifications and other terms and conditions of employment of the persons employed by him and such records shall be preserved for a period of three (3) years.

### PENALTIES

Any employer who willfully hinders or delays the Director or his authorized representative in the performance of his duties in the enforcement of these statutes or otherwise willfully violates any provision of these statutes or of any regulation issued under it shall be deemed in violation of the Minimum Wage Law and shall be subject to a civil penalty of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000.00) for each violation. For the purpose of this subsection, each such violation shall constitute a separate offense. Any employer who willfully discharges or in any other manner willfully discriminates against any employee because such employee has made any complaint to his employer, to the Director of Labor, or his authorized representative that he has not been paid minimum wages in accordance with the provisions of these statutes, or because such employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to these statutes, or because such employee has testified or is about to testify in any such proceeding shall be deemed in violation of the Minimum Wage Law and shall be subject to a civil penalty of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000.00) for each violation. For the purpose of this section, each day the violation continues shall constitute a separate offense. In addition to the civil penalty, the Director of Labor is authorized to petition any court of competent jurisdiction to enjoin or restrain any person, firm, corporation, partnership, or association who violates the provision of these statutes or any regulation.

### EMPLOYEES REMEDIES

The Director of Labor may enforce Arkansas minimum wage law by instituting legal action to recover any wages due. An employee may bring an action for equitable and monetary relief against an employer, including the State of Arkansas or a political subdivision of the state, if the employer pays the employee less than the minimum wages, including overtime wages, to which the employee is entitled. The employee shall not be required to exhaust administrative remedies before bringing an action. An employee may recover the full amount of wages due plus costs and a reasonable attorney's fee. The employee may also be awarded an additional amount

up to but not greater than the amount of wages found to be due, to be paid as liquidated damages.

### CHILD LABOR

State law regulates the employment of minors under the age of 18 and, generally, requires children under the age of 16 to have employment certificates. Employment certificates for children ages 14 and 15 are not required for seasonal agricultural laborers, newspaper carriers, or batboys of professional baseball clubs, or sports referees.

Special provisions govern the employment of children in the entertainment industry, otherwise, children who are 14 and 15 years of age may not work:

- \*More than 8 hours a day.
- \*More than 6 days a week.
- \*More than 48 hours a week.
- \*Before 6:00 a.m. nor after 7:00 p.m. except on nights preceding non-school days, such children may work until 9:00 p.m.

Children under 14 may not be employed except in the entertainment industry, as newspaper carriers, bat boys or bat girls of professional baseball clubs, sports referees, to hand harvest short season crops, or by their parents or guardians during school vacation.

Children who are 16 and 17 years of age may not work:

- \*More than 10 consecutive hours in any one day; no more than ten 10 hours in a twenty-four hour period.

\*More than 6 days a week.

\*Before 6:00 a.m. nor after 11:00 p.m.

Act 647 of 1987 allows for the employment of children in the entertainment industry provided the child is issued an Entertainment Work Permit by the Director of Labor. Child labor violations result in a civil money penalty of not less than \$50.00 and not more than \$1,000.00 for each violation.

- (a) such boy or girl is a graduate of any high school, vocational school or technical school;
- (b) such boy or girl is married or is a parent.

Act 647 of 1987 allows for the employment of children in the entertainment industry provided the child is issued an Entertainment Work Permit by the Director of Labor. Child labor violations result in a civil money penalty of not less than \$50.00 and not more than \$1,000.00 for each violation.

### IF YOU HAVE QUESTIONS CONCERNING THE ARKANSAS MINIMUM WAGE LAW, TELEPHONE 682-4505.

### WAGE COLLECTION ACT

The Wage Collection Act provides assistance to any employee in the collection of wages due him or her for work performed. Work performed shall include all or any work or service performed by any person employed for any period of time where the wages or salary or remunerations for such work or services are to be paid at stated intervals or at the termination of such employment, or for physical work actually performed by an independent contractor, provided that the amount in controversy does not exceed the sum of two thousand dollars (\$2,000.00). Employees who need help in collecting wages due them should contact the Arkansas Labor Department. Telephone 682-4510.

### THIS POSTER CONTAINS ONLY A SUMMARY

Copies of the complete laws and regulations are available from the Department of Labor.

ARKANSAS DEPARTMENT OF LABOR  
10421 WEST MARKHAM STREET  
LITTLE ROCK, ARKANSAS 72205  
PHONE (501) 682-4500  
FAX (501) 682-4506  
TDD (800) 285-1131

# EMPLOYEE RIGHTS

## UNDER THE FAIR LABOR STANDARDS ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

### FEDERAL MINIMUM WAGE

# \$7.25 PER HOUR

BEGINNING JULY 24, 2009

- OVERTIME PAY** At least 1½ times your regular rate of pay for all hours worked over 40 in a workweek.
- CHILD LABOR** An employee must be at least 16 years old to work in most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor.
- Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs under the following conditions:
- No more than*
- 3 hours on a school day or 18 hours in a school week;
  - 8 hours on a non-school day or 40 hours in a non-school week.
- Also, work may not begin before 7 a.m. or end after 7 p.m., except from June 1 through Labor Day, when evening hours are extended to 9 p.m. Different rules apply in agricultural employment.
- TIP CREDIT** Employers of "tipped employees" must pay a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee's tips combined with the employer's cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference. Certain other conditions must also be met.
- ENFORCEMENT** The Department of Labor may recover back wages either administratively or through court action, for the employees that have been underpaid in violation of the law. Violations may result in civil or criminal action.
- Employers may be assessed civil money penalties of up to \$1,100 for each willful or repeated violation of the minimum wage or overtime pay provisions of the law and up to \$11,000 for each employee who is the subject of a violation of the Act's child labor provisions. In addition, a civil money penalty of up to \$50,000 may be assessed for each child labor violation that causes the death or serious injury of any minor employee, and such assessments may be doubled, up to \$100,000, when the violations are determined to be willful or repeated. The law also prohibits discriminating against or discharging workers who file a complaint or participate in any proceeding under the Act.
- ADDITIONAL INFORMATION**
- Certain occupations and establishments are exempt from the minimum wage and/or overtime pay provisions.
  - Special provisions apply to workers in American Samoa and the Commonwealth of the Northern Mariana Islands.
  - Some state laws provide greater employee protections; employers must comply with both.
  - The law requires employers to display this poster where employees can readily see it.
  - Employees under 20 years of age may be paid \$4.25 per hour during their first 90 consecutive calendar days of employment with an employer.
  - Certain full-time students, student learners, apprentices, and workers with disabilities may be paid less than the minimum wage under special certificates issued by the Department of Labor.



For additional information:

# 1-866-4-USWAGE

(1-866-487-9243) TTY: 1-877-889-5627



# WWW.WAGEHOUR.DOL.GOV

# Equal Employment Opportunity is **THE LAW**

**Private Employers, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations**

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under Federal law from discrimination on the following bases:

## **RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**

Title VII of the Civil Rights Act of 1964, as amended, protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

## **DISABILITY**

Title I and Title V of the Americans with Disabilities Act of 1990, as amended, protect qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

## **AGE**

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination based on age in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment.

## **SEX (WAGES)**

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in the payment of wages to women and men performing substantially equal work, in jobs that require equal skill, effort, and responsibility, under similar working conditions, in the same establishment.

## **GENETICS**

Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

## **RETALIATION**

All of these Federal laws prohibit covered entities from retaliating against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes an unlawful employment practice.

## **WHAT TO DO IF YOU BELIEVE DISCRIMINATION HAS OCCURRED**

There are strict time limits for filing charges of employment discrimination. To preserve the ability of EEOC to act on your behalf and to protect your right to file a private lawsuit, should you ultimately need to, you should contact EEOC promptly when discrimination is suspected:

The U.S. Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (toll-free) or 1-800-669-6820 (toll-free TTY number for individuals with hearing impairments). EEOC field office information is available at [www.eeoc.gov](http://www.eeoc.gov) or in most telephone directories in the U.S. Government or Federal Government section. Additional information about EEOC, including information about charge filing, is available at [www.eeoc.gov](http://www.eeoc.gov).

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## Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under Federal law from discrimination on the following bases:

### **RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**

Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

### **INDIVIDUALS WITH DISABILITIES**

Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

### **DISABLED, RECENTLY SEPARATED, OTHER PROTECTED, AND ARMED FORCES SERVICE MEDAL VETERANS**

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits job discrimination and requires affirmative action to employ and advance in employment disabled veterans, recently separated veterans (within

three years of discharge or release from active duty), other protected veterans (veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized), and Armed Forces service medal veterans (veterans who, while on active duty, participated in a U.S. military operation for which an Armed Forces service medal was awarded).

### **RETALIATION**

Retaliation is prohibited against a person who files a complaint of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination under these Federal laws.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 1-800-397-6251 (toll-free) or (202) 693-1337 (TTY). OFCCP may also be contacted by e-mail at [OFCCP-Public@dol.gov](mailto:OFCCP-Public@dol.gov), or by calling an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.

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## Programs or Activities Receiving Federal Financial Assistance

### **RACE, COLOR, NATIONAL ORIGIN, SEX**

In addition to the protections of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal financial assistance.

### **INDIVIDUALS WITH DISABILITIES**

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodation, can perform the essential functions of the job.

If you believe you have been discriminated against in a program of any institution which receives Federal financial assistance, you should immediately contact the Federal agency providing such assistance.

# EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

## Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

## Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current 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 the temporary disability retired list, for a serious injury or illness\*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.\*

**\*The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

## Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

## Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months\*, and if at least 50 employees are employed by the employer within 75 miles.

**\*Special hours of service eligibility requirements apply to airline flight crew employees.**

## Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and

a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

## Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

## Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

## Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

## Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

## Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

## Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.**



**For additional information:**  
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627  
[WWW.WAGEHOUR.DOL.GOV](http://WWW.WAGEHOUR.DOL.GOV)

U.S. Department of Labor | Wage and Hour Division



WHD Publication 1420 · Revised February 2013

# NOTICE

## Military Family Leave

*On January 28, President Bush signed into law the National Defense Authorization Act for FY 2008 (NDAA), Public Law 110-181. Section 585(a) of the NDAA amended the FMLA to provide eligible employees working for covered employers two important new leave rights related to military service:*

- (1) New Qualifying Reason for Leave.** Eligible employees are entitled to up to 12 weeks of leave because of “any qualifying exigency” arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. By the terms of the statute, this provision requires the Secretary of Labor to issue regulations defining “any qualifying exigency.” In the interim, employers are encouraged to provide this type of leave to qualifying employees.
  
- (2) New Leave Entitlement.** An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the servicemember. This provision became effective immediately upon enactment. This military caregiver leave is available during “a single 12-month period” during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

Additional information on the amendments and a version of Title I of the FMLA with the new statutory language incorporated is available on the FMLA amendments Web site at [http://www.dol.gov/esa/whd/fmla/NDAA\\_fmla.htm](http://www.dol.gov/esa/whd/fmla/NDAA_fmla.htm).





# YOUR RIGHTS UNDER USERRA THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.

## REEMPLOYMENT RIGHTS

You have the right to be reemployed in your civilian job if you leave that job to perform service in the uniformed service and:

- ☆ you ensure that your employer receives advance written or verbal notice of your service;
- ☆ you have five years or less of cumulative service in the uniformed services while with that particular employer;
- ☆ you return to work or apply for reemployment in a timely manner after conclusion of service; and
- ☆ you have not been separated from service with a disqualifying discharge or under other than honorable conditions.

If you are eligible to be reemployed, you must be restored to the job and benefits you would have attained if you had not been absent due to military service or, in some cases, a comparable job.

## RIGHT TO BE FREE FROM DISCRIMINATION AND RETALIATION

If you:

- ☆ are a past or present member of the uniformed service;
- ☆ have applied for membership in the uniformed service; or
- ☆ are obligated to serve in the uniformed service;

then an employer may not deny you:

- ☆ initial employment;
- ☆ reemployment;
- ☆ retention in employment;
- ☆ promotion; or
- ☆ any benefit of employment

because of this status.

In addition, an employer may not retaliate against anyone assisting in the enforcement of USERRA rights, including testifying or making a statement in connection with a proceeding under USERRA, even if that person has no service connection.

## HEALTH INSURANCE PROTECTION

- ☆ If you leave your job to perform military service, you have the right to elect to continue your existing employer-based health plan coverage for you and your dependents for up to 24 months while in the military.
- ☆ Even if you don't elect to continue coverage during your military service, you have the right to be reinstated in your employer's health plan when you are reemployed, generally without any waiting periods or exclusions (e.g., pre-existing condition exclusions) except for service-connected illnesses or injuries.

## ENFORCEMENT

- ☆ The U.S. Department of Labor, Veterans Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations.
- ☆ For assistance in filing a complaint, or for any other information on USERRA, contact VETS at **1-866-4-USA-DOL** or visit its **website at <http://www.dol.gov/vets>**. An interactive online USERRA Advisor can be viewed at <http://www.dol.gov/elaws/userra.htm>.
- ☆ If you file a complaint with VETS and VETS is unable to resolve it, you may request that your case be referred to the Department of Justice or the Office of Special Counsel, as applicable, for representation.
- ☆ You may also bypass the VETS process and bring a civil action against an employer for violations of USERRA.

The rights listed here may vary depending on the circumstances. The text of this notice was prepared by VETS, and may be viewed on the internet at this address: <http://www.dol.gov/vets/programs/userra/poster.htm>. Federal law requires employers to notify employees of their rights under USERRA, and employers may meet this requirement by displaying the text of this notice where they customarily place notices for employees.



**U.S. Department of Labor**  
**1-866-487-2365**



**U.S. Department of Justice**



**Office of Special Counsel**



**1-800-336-4590**

Publication Date—October 2008

**NOTICE TO EMPLOYEES  
HOW TO CLAIM UNEMPLOYMENT  
INSURANCE**

## Washington County

Employees of \_\_\_\_\_  
are covered by the Department of Workforce Services Law.

The Law provides Unemployment Insurance Benefits for unemployed workers and under certain conditions, for those working only part time.

As a covered employee, your employer has contributed to or will reimburse the Arkansas Unemployment Trust Fund from which benefits are paid. **NO DEDUCTIONS CAN BE MADE FROM YOUR WAGES FOR THIS PURPOSE.** Be sure your employer has your correct Social Security Account Number.

- A. If and when you know you are going to be out of work for a calendar week or more, **YOU SHOULD PROMPTLY:**

File a claim for benefits through the Department of Workforce Services office nearest you.

We will try to help locate work for you both before benefit payments start and while they are being paid.

- B. If you are attached to a regular employer, working less than full time due entirely to lack of work, you may be eligible for partial Unemployment Insurance Benefits.

In that case, claim partial benefits—**promptly**—by reporting the facts (dates, wages, employer) to your Local Office. **Do not delay doing this.**

Our Local Office will answer questions and supply further information.

Full time Local Offices are situated in the following cities to provide services to Unemployment Insurance Claimants:

Arkadelphia	Helena	Newport
Batesville	Hope	Paragould
Benton	Hot Springs	Pine Bluff
Blytheville	Jacksonville	Rogers
Camden	Jonesboro	Russellville
Conway	Little Rock Midtown	Searcy
El Dorado	Magnolia	Texarkana
Fayetteville	Malvern	Walnut Ridge
Forrest City	Mena	West Memphis
Fort Smith	Monticello	
Harrison	Mountain Home	

**CAUTION:** False statements to obtain benefits, concealment of material facts, or failure to report earnings for the purpose of obtaining or increasing Unemployment Insurance Payments, are violations of criminal laws and lead to prosecution.

U.S. DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

Wage and Hour Division  
Washington, D.C. 20210



# NOTICE

## EMPLOYEE POLYGRAPH PROTECTION ACT

The Employee Polygraph Protection Act prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment.

### PROHIBITIONS

Employers are generally prohibited from requiring or requesting any employee or job applicant to take a lie detector test, and from discharging, disciplining, or discriminating against an employee or prospective employee for refusing to take a test or for exercising other rights under the Act.

### EXEMPTIONS\*

Federal, State and local governments are not affected by the law. Also, the law does not apply to tests given by the Federal Government to certain private individuals engaged in national security-related activities.

The Act permits *polygraph* (a kind of lie detector) tests to be administered in the private sector, subject to restrictions, to certain prospective employees of security service firms (armored car, alarm, and guard), and of pharmaceutical manufacturers, distributors and dispensers.

The Act also permits polygraph testing, subject to restrictions, of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in economic loss to the employer.

### EXAMINEE RIGHTS

Where polygraph tests are permitted, they are subject to numerous strict standards concerning the conduct and length of the test. Examinees have a number of specific rights, including the right to a written notice before testing, the right to refuse or discontinue a test, and the right not to have test results disclosed to unauthorized persons.

### ENFORCEMENT

The Secretary of Labor may bring court actions to restrain violations and assess civil penalties up to \$10,000 against violators. Employees or job applicants may also bring their own court actions.

### ADDITIONAL INFORMATION

Additional information may be obtained, and complaints of violations may be filed, at local offices of the Wage and Hour Division. To locate your nearest Wage-Hour office, telephone our toll-free information and help line at 1 - 866 - 4USWAGE (1 - 866 - 487 - 9243). A customer service representative is available to assist you with referral information from 8am to 5 pm in your time zone; or if you have access to the internet, you may log onto our Home page at [www.wagehour.dol.gov](http://www.wagehour.dol.gov).

**THE LAW REQUIRES EMPLOYERS TO DISPLAY THIS POSTER WHERE EMPLOYEES AND JOB APPLICANTS CAN READILY SEE IT.**

*\*The law does not preempt any provision of any State or local law or any collective bargaining agreement which is more restrictive with respect to lie detector tests.*

U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
Wage and Hour Division  
Washington, D.C. 20210

WH Publication 1462  
June 2003

## APPENDIX B:

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### A. AT-WILL EMPLOYEE HEARING RIGHTS:

- i. RULE OF LAW: An at-will County employee should be *offered*: 1) a “property right” hearing if he *contends* he has a property right in employment; 2) a “liberty right” hearing if he *contends* his employment was terminated for a “bad” reason; and 3) a “name-clearing hearing” if he *contends* he has been subjected to a stigmatizing charge publicly communicated during the course of an employment termination decision.

### B. Hearing Issues and Burdens of Proof:

#### 1. Property Interest Hearings

- a. Since this county employment policy affirmatively creates at-will employment, the employee has the burden of proving by a preponderance of the evidence that he or she has a property interest in his or her employment.
- b. Where the employee meets his or her burden of proof, the supervisory official has the burden of proving “just cause” for the supervisory official’s intended discipline or dismissal of the employee.

#### 2. Liberty Interest Hearings

##### a. Claim of Arbitrary Discrimination (Unequal Treatment)

- 1) The grieving employee has the burden of proving by a preponderance of the evidence that he or she is being treated differently than another person otherwise similarly situated with the employee.
- 2) Where the employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the reason for the difference in treatment is rationally related to the effectuation of a legitimate county objective.

##### b. Claim of Unconstitutional Punishment

- 1) The employee has the burden of proving by a preponderance of the evidence that he or she has engaged in constitutionally protected conduct that was a substantial or motivating factor in any adverse employment decision, discipline, or dismissal.
  - 2) Where the employee meets his or her burden of proof, the supervisory official has the burden of proving that the adverse employment decision, discipline, or dismissal would have occurred even in the absence of the constitutionally protected conduct.
- c. Claim of discrimination due to race, color, religion, gender, sex, age, or national origin.
- 1) The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she is being treated or effected differently than another person who, other than for race, color, religion, gender, sex, age, or national origin, is similarly situated with the applicant or the employee.
  - 2) Where the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the proven inequality of treatment or effect is necessary to effectuate a compelling county objective.
- d. Claim of Discrimination Due to a Disability
- 1) The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she is a qualified individual with a disability who, because of the disability, is being treated or effected differently than another person in regard to job application, procedures, advancement, dismissal, compensation, training, or other terms, conditions, or privileges of employment.
  - 2) Where the applicant or employee meets his or her burden of proof, the supervisory official has the burden of

proving by a preponderance of the evidence that the proven difference in treatment or effect is job related and necessary to effectuate a legitimate county objective, that performance of the job cannot be accomplished by reasonable accommodation, or that the needed accommodation would result in undue hardship on the county.

3) Definitions: The following definitions apply to claims of discrimination due to a disability.

a) "Disabled" or "disability": A physical or mental impairment that substantially limits one or more of the major life activities of an individual; having a record of such an impairment; or being regarded as having such an impairment.

b) "Regarded as having such an impairment": includes those with conditions such as obesity or cosmetic disfigurement, and individuals perceived to be at high risk of incurring a work-related injury.

c) "Discrimination" includes:

(1) Limiting, segregating, or classifying a job applicant or employee in a manner that adversely affects his or her opportunities or status;

(2) Participating in contractual or other arrangements that have the effect of subjecting individuals with disabilities to discrimination;

(3) Using standards, criteria, or methods of administration in such a manner that results in or perpetuates discrimination;

(4) Imposing or applying tests and other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, unless the test or

selection criteria are job-related and consistent with county necessity;

(5) Failing to make reasonable accommodations to the known limitations of a qualified individual with a disability unless the covered entity can demonstrate that an accommodation would impose an undue hardship on the operation of the county; or

(6) Denying employment opportunities because a qualified individual with a disability needs reasonable accommodations.

d) "Reasonable accommodation" examples include:

(1) Making existing facilities used by employees readily accessible to the disabled;

(2) Job structuring;

(3) Flexible or modified work schedules;

(4) Reassignments to other positions;  
and

(5) The acquisition or modifications of equipment or devices.

e) "Undue hardship": an action requiring "significant difficulty or expense," considering:

(1) The overall size of the county with respect to the number of employees, number and type of facilities, and size of the budget;

(2) The type of operation maintained by the county including the composition and

structure of the work force of that entity;  
and

(3) The nature and cost of the  
accommodation needed.

f) "Qualified individual with a disability": an individual with a disability who, with or without reasonable accommodation, can perform the "essential functions" of the employment position held or desired.

g) "Essential functions": job tasks that are fundamental but not marginal (not every job task is to be included in determining the essential functions).

e. Claim of a Completely Arbitrary Decision.

1) The grieving employee has the burden of proving by a preponderance of the evidence that the action taken against him or her is not rationally related to the effectuation of any conceivable legitimate governmental objective of the County.

2) Where the employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the action taken against the grieving employee is rationally related to the effectuation of a conceivable legitimate governmental objective of the County.

3. Name Clearing Hearings

a. The grieving applicant or employee has the burden of alleging that a "stigmatizing charge" has been publicly communicated by the county or a county official or county employee and requesting an opportunity to publicly clear his or her name.

b. Where the applicant, employee meets his or her burden of proof, the county shall provide the applicant or employee a public hearing opportunity to clear his or her name.