

# Lincoln County Montana



*Personnel Policy Manual*

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This publication shall serve as the Lincoln County Employee handbook. This states the policies for Lincoln County Employees as established by the Lincoln County Commissioners. The Commissioners may change this policy from time to time as they feel necessary. This policy is not a contract of employment between the County and the employee.

**I. DEFINITIONS: Unless otherwise noted, these definitions apply for this policy manual.**

**A. ANNIVERSARY DATE:** The date from which time is computed in order to determine eligibility for non-probationary status and salary increases. This date is the date of hire as a regular employee or the date of last promotion unless otherwise stated in this policy.

**B. APPEAL:** The right of an employee to pursue redress from a higher authority as outlined in the grievance procedure.

**C. BREAK-IN-SERVICE:** An absence from County employment for more than 5 consecutive working days without approval or an absence resulting from termination or resignation.

**D. BOARD OF COUNTY COMMISSIONERS:** The Board of County Commissioners of Lincoln County, Montana.

**E. DEPARTMENT HEAD:** A County official elected or appointed by the Board of County Commissioners with the designated responsibility for the operation of a County department.

**F. DISMISSAL:** The involuntary termination of employment for reasons other than lack of funds or lack of work.

**G. COMPENSATORY TIME:** Time accrued at a rate of one and one-half hours for each hour of employment for which overtime compensation is required. Accrued time may be taken as approved paid time off at a later date or cashed out in accordance with this policy.

**H. EMPLOYEE:** A person regularly occupying an allocated position in the County service or a person who is on authorized leave of absence and whose position is being held pending his/her return. All employees shall be appointed to one of the following classifications:

1. **REGULAR FULL-TIME EMPLOYEE:** An employee who is regularly scheduled to work forty (40) hours per week on a continuous basis.

2. **REGULAR PART-TIME EMPLOYEE:** An employee who is regularly scheduled to work less than forty (40) hours per week on a continuous basis as defined in the current job description.

3. **TEMPORARY EMPLOYEE:** An employee who is appointed to a full or part-time temporary position for a period of time not to exceed ninety calendar (90) days unless the temporary employee is being used to temporarily replace an injured or sick employee.
4. **SEASONAL EMPLOYEE:** An employee assigned to a position designated as seasonal for which a regular need exists but which is interrupted by the seasonal nature of the assignment.
5. **INTERMITTENT/ON-CALL EMPLOYEE:** An employee appointed on an on-call or non-continuous intermittent basis to an approved position as workload, absences, or emergency situations may require.
- I. ENTRANCE PAY RATE:** The minimum rate in the pay grade prescribed for a position.
- J. EXEMPT EMPLOYEE:** An employee in a position classified as executive, administrative or professional, as such terms are defined by the Fair Labor and Standards Act.
- K. GRIEVANCE:** An employee complaint regarding any matter involving the interpretation of these policies and/or any matter involving an alleged violation of any provisions of these policies.
- L. HOURS OF WORK:** The hours established by the Department Head that an employee is regularly scheduled to be at work.
- M. IMMEDIATE FAMILY:** The employee's spouse, any member of the employee's household, any parent, sibling, child, grandparent, grandchild, or corresponding in-law.
- N. INSUBORDINATION:** Willful refusal by an employee to carry out a legitimate order from a supervisor or superior in the direct chain of authority.
- O. LAYOFF:** The involuntary separation of an employee due to lack of work, lack of funds, or the abolishment of a position.
- P. MAY:** The word "may" shall be interpreted as permissive.
- Q. MERIT INCREASE:** The advancement in pay of an employee to a higher rate of pay in the same grade based upon job performance.
- R. OVERTIME:** Time worked by a non-exempt employee in excess of forty (40) hours in a workweek.
- S. PAY PLAN:** The schedule of pay grades for all classes of positions covered by the Personnel Policies.
- T. PAY GRADE:** The minimum to maximum rates of pay established for each position.

- U. PAY RATE:** The specific dollar amount established for each employee.
- V. PER ANNUM:** Refers to the 12 month period of time between the employee's anniversary dates.
- W. POSITION:** An aggregate of duties and responsibilities to be performed by an employee as assigned by proper authority. A position may be filled or vacant.
- X. PROBATIONARY PERIOD:** A designated period of employment during which a newly appointed or promoted employee is required to demonstrate his/her fitness for regular employment in that position.
- Y. PROMOTION:** The assignment of an employee to a position at a higher grade in a vacant, budgeted position.
- Z. RECLASSIFICATION:** A reassignment of a position and/or employee from one class to a different class to recognize a significant change in the duties and responsibilities of a position and relevant factors applied to the position.
- AA. REEMPLOYMENT:** The action by which an employee, after separation from County service, is returned to County employment under the same conditions as a new employee.
- BB. REINSTATEMENT:** Re-appointment after a break-in-service (within 1 year) to a position in a class in which status was formerly held, under conditions comparable to those applicable to the employee prior to separation.
- CC. SENIORITY:** The status determined by the length of service within a department.
- DD. SEPARATION:** The removal of an employee from County service for either voluntary or involuntary reasons.
- EE. SERVICE PROVIDER:** The person or firm hired to perform job classifications or reclassifications.
- FF. SHALL:** The word "shall" will be interpreted as mandatory.
- GG. SUSPENSION:** The temporary separation of an employee from the County service for disciplinary reasons or pending the outcome of an investigation involving the employee, either with or without pay.
- HH. TRANSFER:** The assignment of an employee from one position to another in the same class or with the same maximum salary.
- II. VACANCY:** A duly created position that is not occupied and for which funds have been specifically and duly authorized.

**JJ. WORK WEEK:** A seven consecutive day period established for employees by the County Commissioners. The work week need not coincide with the calendar week. The work week for the County is 12:01 A.M. Saturday to 12:00 midnight Friday.

**KK. WORK DAY:** Refers to the number of hours regularly scheduled to be worked in one 24-hour period.

## **II. RECRUITMENT, SELECTION AND PROMOTION**

It is the policy of Lincoln County that recruitment and selection procedure be designed to assure that County departments hire the most qualified and suitable candidate for the position, and to comply with federal, state, and local laws, policies and procedures concerning employment and collective bargaining agreements. The recruitment and selection of employees shall meet Equal Employment Opportunity, Affirmative Action, and American Disability Act guidelines.

### **A. RECRUITMENT AND SELECTION PROCESS**

1. When a vacancy occurs or when a temporary position is created which the department head wishes to fill, the department head shall send a memorandum to the Board of County Commissioners notifying them of the vacancy. The memorandum will include a complete and accurate position description, proposed date of hire, and the proposed rate of pay.
2. A temporary employee may be hired to fill a position only when an immediate service is needed and it is not practical to secure the services of such person(s) through the normal recruitment process.
3. All job vacancies, temporary excluded, shall be advertised using the current job description and rate of pay as determined by the current classification system for the position for a minimum of one week. The department head shall notify the appropriate agencies that a job vacancy exists. These agencies shall include:
  - a) Montana Job Service; and
  - b) Other appropriate publications, placement services, newspapers or journals appropriate to notify potential applicants.
4. After the closing date for applications, the department head shall conduct pre-employment qualification investigations of all applicants. The department head may reject an applicant if:
  - a) The applicant does not possess the minimum qualifications needed to perform the job;
  - b) The applicant has given false information on the application;

- c) The applicant has established an unsatisfactory employment record that demonstrates unsuitability for the job; or the applicant is physically, mentally, or otherwise unable to perform job duties effectively, with reasonable accommodations if the applicant is disabled.
  - d) The applicant is physically, mentally, or otherwise unable to perform job duties effectively, with reasonable accommodations if the applicant is disabled.
5. Following the department head's pre-employment investigation, all eligible applicants shall be considered for the position. Evaluations of all applicants shall be based on criteria developed for the position and the current job description. Employees hired on a temporary basis to fill a vacancy until a permanent employee is hired shall not be given extra valuation for the experience gained during the temporary employment.
  6. After consideration of all eligible applicants, which may include personal or telephone interviews with the best qualified applicants, the department head shall select the best qualified applicant for the position in strict conformance with the County's Affirmative Action, Equal Employment Opportunity, and Americans with Disabilities Act policy guidelines.
  7. The department head may request a physical examination of the prospective employee, if reasonably job related, the cost of which will be paid for by the County, and/or a written examination related to the duties of the position. All examinations shall comply with the County's Affirmative Action, Equal Employment Opportunity, and Americans with Disabilities Act policy guidelines.
  8. The department head may retain a list of the job applicants who applied for the vacant position and hire for the original position from those persons without re-advertising for up to one (1) year.
  9. The Department Head shall document to the Board of Commissioners that all hiring requirements and procedures have been followed. No employee shall be allowed to begin work before such documentation has been approved by the Board of County Commissioners. This requirement is not meant to reduce the authority of the Department Head in choosing their employees, but only to monitor compliance with proper hiring practices.
  10. Before an employee is allowed to begin work, all employee information required by the payroll department shall be completed by the employee. The Department Head shall also submit a standard employee hiring sheet to the payroll department which shall identify the grade and step classification of the employee, the number of hours scheduled to work, and the starting date of employment.

## **B. EMPLOYMENT OF SPOUSES AND RELATIVES**



1. Spouses and relatives of current County employees connected by consanguinity within the fourth degree or by affinity within the second degree, are not eligible for employment in job classifications in which a conflict of interest might occur.
2. Conflicts of interest include, but are not limited to the following:
  - a) An employee with supervisory authority to appoint, remove or discipline a spouse or relative;
  - b) An employee with the responsibility for auditing the work of a spouse or relative; and
  - c) An employee with influence over the promotion or transfer of a spouse or relative.

### **C. PROMOTIONS**

1. Qualified employees within a department shall be given first consideration for promotion to a vacancy within that department.
2. Promoted employees shall be required to serve a new probationary period. If the employee fails in the new position there is no obligation to return the employee to the former or an equivalent position.

### **D. EMPLOYEE ORIENTATION AND INITIAL EMPLOYMENT PERIOD**

1. The Department Head shall arrange for orientation of the new employee regarding position responsibilities, specific performance expectations of the position, County and departmental policies and procedures that affect the job, department structure, goals and objectives, safety precautions and requirements, and benefits and compensation offered by the County.
2. A County Orientation Checklist will be completed and signed by the Department Head and the employee and filed in the employee's personnel file.

### **E. NEW EMPLOYEE INITIAL EMPLOYMENT PERIOD**

1. All new employees shall serve an initial employment period of six months to determine whether an employee can effectively perform the duties of the position and shall be classified as "probationary" employees.
2. Any "probationary" employee who fails to meet the standards of performance, attitude, attendance, and/or cooperation required by the employer during the initial six month probationary period shall be subject to immediate termination. A "probationary" employee shall not have any rights to any grievance procedures allowed regular employees.

3. A minimum of one written formal performance appraisal will be conducted by the supervisor for all new employees at least 30 days prior to the end of the initial employment period and filed in the employee's personnel file.

## **F. COLLECTIVE BARGAINING**

1. All employees have the right to bargain collectively, through representatives of their choosing, on questions of wages, hours, fringe benefits, and other conditions of employment.

## **III. SALARY ADMINISTRATION**

### **A. OVERTIME**

1. No overtime work will be allowed or compensated without the specific authorization of the department head. The Board of Commissioners have authority over any department temporarily without a department head and must approve all overtime.

2. The use of overtime will be kept to an absolute minimum.

3. Employees required to work overtime, and eligible to receive overtime compensation, shall be paid at the rate of one and one-half (1 1/2) times their current hourly rate for time worked in excess of 40 hours per week.

4. Employees may be allowed to take time off within the same work week to maintain a forty (40) hour week. However, no employee shall be required to accept time off during the same work week in order to avoid paying the employee overtime. The employee must concur with management's request to take such time off.

5. All overtime hours will be reported on the employee's timecard to the payroll clerk in the pay period earned. Any adjustments or changes to the prior pay period may be submitted on the timecard for the current pay period with the approval of the Department Head.

6. Absent time in a pay status, including holidays and paid leaves, is counted as hours worked for the purpose of calculating a 40-hour work week.

7. Emergency situations, or call outs, may occur which require immediate attention by County employees. All County employees shall be compensated for each call-out at a minimum of three hours (3) pay. An employee who has worked 40 hours in the work week will receive four and one half (4 ½ ) which is 3 hours at time and one half.

## **B. COMPENSATORY TIME**

1. Employees may accrue compensatory time in lieu of payment for overtime hours at the rate of one and one half hours compensatory time for each hour worked in excess of 40 hours per week if the employee and the department head agree in writing to the accrual in accordance with 29 CFR Part 553.
2. All compensatory time accrued shall be submitted on the employee's timecard in the pay period earned. Any adjustments or changes to the prior pay period may be submitted on the timecard for the current pay period with the approval of the Department Head.
3. The use of all compensatory time shall be approved by the department head. Compensatory time earned within one payroll quarter shall be used before the end of the following payroll quarter except that accumulated compensatory time cannot be carried into a new fiscal year. It must be used or paid for before July 1 of each year. Compliance with this time frame shall be monitored by the department head.
4. Employees shall not accrue more than forty overtime hours worked (60 comp hours). Compensatory time hours shall be reviewed quarterly by the payroll department. Compensatory hours in excess of the maximum shall be paid the first pay period in the following quarter.
5. Employees unable to use their compensatory time within the allowable time or who have accrued more than the allowable hours must be paid at the overtime rate for those hours.
6. Executive, administrative, professional employees and other exempt personnel (as defined by the Fair Labor and Standards Act) will be compensated on the basis of an hour off from regularly scheduled work for every hour spent working in excess of a 40-hour work week. These personnel are identified in Addendum A.
  - a) There are no limits to the amount of compensatory time accrued for exempt employees, but they are encouraged to use it as soon as possible.
  - b) State and federal law does not require the county to make the accrual or use of compensatory time available to exempt employees.
  - c) Exempt compensatory time is not intended to provide any compensation in addition to the salaries established for these employees. There shall be no lump sum cash compensation for accrued exempt compensatory time upon transfer or termination. The County is under no obligation to extend an exempt employee's termination date to allow him/her to take off accrued exempt compensatory time upon termination.

## C. SALARY AND WAGES

1. **PROGRAM:** The program will strive to provide a reasonable wage to employees consistent with the level of job responsibilities, to be competitive within the appropriate labor market(s) to recruit and retain employees, and be responsive to budgetary restraints.
2. **ESTABLISHMENT OF PAY GRADES:** The County will classify all positions with a classification plan. Each classification in the Classification Plan shall be assigned a pay grade on the salary schedule based on the job responsibilities and requirements, internal ranking with other job classifications, and external factors.
3. **RIGHT TO CHANGE COMPENSATION:** The County reserves the right to change compensation for any reason deemed appropriate by the Board of County Commissioners. Compensation may also be adjusted based upon job performance and the availability of funds to maintain a solvent county budget and as such may be subject to increase reduction, or status quo maintenance for any time period.
4. **ORIGINAL APPOINTMENT:** All employees will be appointed at the minimum step of the grade for that position class unless the employee meets the exceptional qualification rate.
5. **COMPARABLE EXPERIENCE QUALIFICATION RATE, NEW HIRE:** Elected Officials and Department Heads may hire a person at any exceptional qualification rate if recommended by the Personnel Committee and approved by the Board of County Commissioners. The grade for the position does not change and the requested rate cannot be above Step 3 of that grade. When submitting a request to the Personnel Committee, the Elected official or Department Head will document the person's comparable experience. Two (2) years of comparable service will equal one (1) county service year with a maximum cap of three (3) years comparable experience allowed. The Comparable Experience Qualification Rate will not take effect until after the 6 month probationary period and only then if the Department Head determines that the prior experience contributes to the job position.
6. **COMPARABLE EXPERIENCE QUALIFICATION RATE, PROMOTIONS:** If a current employee is promoted to a position with a higher grade, a comparable experience qualification rate may be granted if approved by the Board of County Commissioners. Two (2) years of comparable experience will equal one (1) county service year with a maximum cap of three (3) county service years allowed. The Elected Official or Department Head must make the determination that the prior experience contributes to the new job description.

When submitting a request to the Board of County Commissioners, the Elected Official or Department Head will document the person's comparable experience.

**7. PROGRESSION WITHIN THE GRADE:** The 1993/1994 progression will allow employees to move up one step in their current grade. The progression for the 1993/1994 fiscal year will be based on longevity only using July 1st as everyone's anniversary date.

**8. SALARY GRADE ADJUSTMENT:** Salary grades are assigned to classifications based on a documented analysis of the internal ranking of other classifications in the County's Classification Plan and the results of a salary survey of similar classifications in the appropriate labor markets. Changes of salary grade are only made to reflect significant changes in internal relationships and external salary data. Adding duties to a position which are at the same or similar level of duties presently assigned to the position is not sufficient cause to increase the salary. A request to change a grade assignment will follow the procedure for reclassification of an existing position.

**9. COST OF LIVING INCREASE:** Cost of living increases will be equitably distributed to all grades when granted.

#### **IV. EMPLOYMENT CLASSIFICATION PLAN**

##### **A. EMPLOYEE CLASSIFICATION**

1. All permanent regular positions shall be categorized within a personnel classification plan. The classification plan is an inventory of the County's occupational grades, supported by written position descriptions setting forth the duties, requirements, and responsibilities of each grade, and the minimum or entry-level qualifications necessary for appointment to a position of that grade. The classification plan shall be used to:

- a) Establish qualification standards for recruiting, hiring, and testing (when appropriate) of County employees.
- b) Provide supervisors with a means of analyzing work distribution, areas of responsibilities, lines of authority, relationships between positions, and a framework for the classification of new positions.
- c) Provide a basis for developing standards of work performance and evaluating performance.
- d) Establish promotion tracks.
- e) Indicate training needs.
- f) Provide appropriate titles for grades of work.

- g) Assist the County in determining budget requirements.
- h) Provide standards for equal employment opportunity and affirmative action programs.

**B. MAINTENANCE OF THE CLASSIFICATION PLAN**

1. Each position in the classified service shall have a position description that describes the position responsibilities, skills, knowledge, abilities and minimum requirements for the position. Position descriptions are used as a basis for determining the classification plan, by management as a device to recruit and select employees to fill positions, to orient an employee to the position and to assist in the evaluation process. Position descriptions will be reviewed annually by the Department Head or Elected Official for accuracy.

2. All positions in the classified service shall be assigned to a specific grade. The assignment will be based on a review of the position description and the grade descriptions to determine the appropriate assignment.

3. Each position in the classified service will be assigned a grade position number that denotes the grade code.

4. A Personnel Classification Committee may be established to periodically review the entire classification plan or any part thereof at the Board of Commissioners' request.

- a) The purpose of the review shall be to ascertain whether or not the plan is working effectively and efficiently.

**C. DEFINITION OF A GRADE OF WORK**

1. A grade is comprised of one or more positions that are so similar in the character of their duties and responsibilities that the same title and qualification requirements can be applied for personnel management purposes. The same qualification requirements shall be applied to all positions in a grade regardless of the department in which the position is located.

**D. TITLE OF A GRADE OF WORK**

1. The title of a grade shall be the official title of every position allocated to that grade for personnel purposes.

**E. GRADE SPECIFICATIONS**

1. The grade specification, as set forth in the position description, shall state the characteristic duties and qualifications which distinguishes a given grade or position from other grades and positions.

2. The specifications shall be descriptive, but not restrictive; they describe typical types of work which may be allocated to a given grade, but shall not be construed to restrict the assignment of other duties related to the grade.

## **F. POSITIONS ALLOCATED TO GRADES - RULES AND PROCEDURES**

1. Every position will be allocated to a grade within the classification plan, based solely on the position.

2. New positions may be proposed by Department Heads based on the department's goals, objectives, and work programs. They must be approved by the Board of Commissioners as set forth in this manual.

3. When a new position is created, the department head will be responsible for the preparation of a position description which details the requirements, duties and responsibilities of the position in a format approved by the County Commission. The department head will forward the position description draft to the County Commission for review and determination pursuant to this policy manual. The Commission shall forward the job description to the service provider to be evaluated as to the proper classification.

4. If there is no existing grade to which a new position can properly be assigned, the County Commission may create such a grade.

5. When it is determined that the work assignment of an employee has changed increasing the position to full-time or decreasing it to part-time, the department head will be responsible for the preparation of a new position description.

6. The County Commission shall make or assign periodic reviews of the classification plan, and shall prepare, or have prepared, specifications of existing grades, changes in grade titles, and recommendations for abolishing grades.

## **G. RECLASSIFICATION OF AN EXISTING POSITION**

1. A position may be reclassified to a higher or lower classification. The position may be vacant or occupied at the time of the request.

2. An employee or supervisor/department head desiring a reclassification of an existing position shall comply with the following procedure:

- a. The employee or supervisor/department head shall request a Reclassification Packet from the Reclassification Clerk. The packet shall be completed by the employee or supervisor/department head and returned to the Reclassification Clerk.
- b. Once the request has been received by the Reclassification Clerk the Clerk shall send a copy of the request to the employee's supervisor/department head if the reclassification has been requested by the employee. The supervisor/department head shall have ten (10) working days in which to respond to the request if desired.
- c. The Clerk shall submit a copy of the supervisor/department head's response, if any, to the employee. The employee shall have five (5) working days to respond if desired. If the employee does respond, a copy shall be supplied to the supervisor/department head.
- d. A copy of the entire packet shall be submitted to the County Commissioners for approval of the submittal to the service provider. The Commissioners shall have ten (10) working days, depending upon availability, to approve the packet. Once the submittal has been approved by the Commissioners, the packet shall be submitted to the service provider.
- e. The service provider shall have 30 calendar days to review the material and submit a recommendation to the Reclassification Clerk. The Reclassification Clerk shall have three (3) working days to supply copies of the recommendation to the employee, supervisor/department head, and Commissioners.
- f. The Commissioners shall have at least ten (10) working days, but no more than twenty (20) working days to make a final decision of the request. The employee and supervisor/department head shall be notified of this decision within three (3) working days by the Reclassification Clerk.
- g. All time periods will be strictly enforced.
- h. The Board of Commissioners' action will be final.

## **H. DETERMINING THE CLASSIFICATION OF A NEW POSITION**

1. All Department Heads and Elected Officials shall notify the Board of Commissioners in writing of their request to create a new position. The request and documentation shall be submitted no later than June 1 each year for inclusion in the following year's budget. Exceptions to the submittal date will only be made when a new program is added to services other than at the beginning of the budget period and with adequate documentation provided. The documentation



shall include a rationalization for the position, a position description, a fiscal impact statement and any other information requested by the service provider.

2. Upon review of the request, the Board of Commissioners will submit the request to the service provider. The service provider will review the documentation and audit the position with the Department Head. The service provider may recommend to allocate the new position to an existing classification or to a new classification. The service provider will present its findings to the Department Head or Elected Official for review and comments. The Department Head or Elected Official may request the opportunity to present additional facts in writing or through an interview with the service provider for its consideration.

3. No person shall be hired to fill the position until the service provider makes a recommendation to the Board of Commissioners and the Board of Commissioners renders a decision. The decision of the Board shall be final.

4. If the supervisor disagrees with a classification decision, he/she may submit a written memorandum to the County Commission requesting a review of the classification decision.

a) The department head and the County Commission shall review the information submitted, audit the position and determine what action, if any, is required. The decision made by the Commission shall be final.

## **I. PERFORMANCE APPRAISAL**

1. The objective of the performance appraisal program is to establish a working environment which supports quality work performance, encourages personal and job-related development, and improves communication between supervisors and employees.

2. Performance appraisals for all regular non-probationary employees shall be performed on an annual basis and completed by January 31<sup>st</sup>. The Acknowledgement of Completion of Annual Performance Appraisal will be submitted to the County Commissioners by February 15<sup>th</sup>.

3. Supervisors shall inform employees of expected performance standards.

4. The employee's immediate supervisor shall conduct the performance appraisal and rate the employee's performance of job duties. The performance appraisal of non-elected department heads shall be done by the County Commission or their designee.

5. Supervisors will review the performance appraisal with the employee, pointing out strengths of the employee's performance, and areas that need improvement.

6. The written performance appraisal and employee comments concerning any aspect of the appraisal shall be placed in the employee's department's personnel file and a copy provided to the employee.

## **V. DISCIPLINARY ACTION AND GRIEVANCE PROCEDURE**

### **A. DISCIPLINARY ACTION**

1. If an employee violates the provisions of paragraph 4 below, the department head or the supervisor, as may be appropriate, shall notify the employee, describe the deficiencies, and provide corrective guidance, following these procedures:

a) **First Warning:** A reprimand will be given by the supervisor or department head that outlines the specific characteristics of the unsatisfactory job performance, or violation of county policy and the corrective actions that need to be taken. If an oral reprimand is given, the supervisor shall document the date, time, and nature of the reprimand and the proposed corrective action. Documentation of the reprimand shall be placed in the employee's personnel file.

b) **Second Warning:** A written reprimand will be given by the employee's department head or supervisor which states the specific unsatisfactory job performance or violation of county policy and the corrective actions that need to be taken. The department head shall document the date, time, and the specific nature of the reprimand and the proposed corrective action. Copies of the written reprimand shall be given to the employee and shall be placed in the employee's department personnel file.

c) **Suspension:** After the employee has received first and second warning, the department head may suspend the employee for up to thirty (30) days without pay for continued unsatisfactory job performance or violation of county policy. The department head shall document in a letter the date, time and nature of the suspension, the reasons for the suspension and the corrective actions that need to be taken. Copies of the documentation shall be given to the employee and shall be placed in the employee's department personnel file.

d) Discharge: If, following the suspension, the employee's job performance has not been corrected or the employee continues to violate county policies, the department head may discharge the employee. A written explanation of the reason for discharge shall be given the employee and shall be placed in the employee's department personnel file.

2. Lincoln County reserves the right to impose the appropriate penalty on an employee for a first offense, depending on the severity of the act. An employee may be discharged or suspended without being given a first warning or a second warning if the offense is sufficiently flagrant or if the offense is one that is enumerated in paragraph 5 below.

a) If disciplinary action is imposed pursuant to this paragraph (paragraph 2), the department head may begin the disciplinary process at any of the 4 levels specified in paragraph 1 above.

3. Upon the effective date of any termination, the employee shall return any County property or repay any monies owed the County before the release of the employee's final paycheck. Any employee fired for cause is entitled to his final paycheck at the time of termination.

4. The following causes are sufficient for dismissal after warning, but are not the only causes for dismissal:

a) Incompetence or carelessness in the performance of the job;

b) Use of offensive conduct and language towards the public, County officials, or other employees;

c) Indifference and negligence in the handling and control of County property;

d) Drinking of alcoholic beverages or using any drug(s) to the extent of consistently affecting job performance.

e) Failure to obey any lawful direction made and given by a supervisor when such failure amounts to an act of insubordination, or results or might result in loss or injury to the County or public;

f) Violation of any of the terms of this policy.

5. The following causes are sufficient for **immediate** dismissal without warning but are not the only causes for immediate dismissal:

a) Conviction of a felony criminal offense;

- b) Persuading or attempting to persuade any County employee to commit an unlawful act or to act in violation of any official regulation or order;
- c) Consumption or the use of alcoholic beverages or illegal drugs while at work;
- d) An employee using his/her position for personal gain;
- e) An employee using County information of a confidential nature to profit financially or giving such information to individuals who could profit from such information; and
- f) Unauthorized disclosure of information that is statutorily classified as confidential.
- g) Dishonesty while on the job.

6. An employee given a first or second warning and who disagrees with the warning shall follow the full grievance procedure. An employee suspended without pay or discharged and who contests the discharge or suspension shall follow steps (c) through (g) of the grievance procedure.

a) Remedies available to the employee who prevails in the grievance proceeding are:

(1) First or second warnings: removal of warning from the employee's personnel file;

(2) Suspension/discharge: reinstatement with back pay and benefits, as may be applicable. The disciplinary materials may or may not remain in the employee's department personnel file depending on the remedy granted by the grievance procedure.

7. An employee is not entitled to any hearing prior to discharge or suspension. The employee's hearing rights are only those specified in the grievance procedures, as applicable to the offense and the discipline imposed.

8. Upon receipt of an allegation that could result in discharge or suspension without pay of an employee, the department head shall investigate the allegations. The department head shall provide the employee an opportunity to explain or deny the allegations. The department head shall then decide the appropriate discipline, if any. The department head shall summarize in writing the results of the investigation and place the summary in the employee's file. The summary need not be completed prior to the decision of the department head.

## **B. GRIEVANCE PROCEDURE**

1. A grievance exists when an employee feels dissatisfied with an aspect of his/her employment and desires remedial action. Most grievances can be settled by presenting the problem informally to the immediate supervisor. All regular employees shall be free to present grievances to their supervisors and shall be assured freedom from discrimination, coercion, restraint, or reprisal as a result. If the grievance can not be settled informally then the following uniform procedure for the adjudication of employee grievances shall be followed:

a) The employee explains the grievance to the department head and requests a specific remedy. The department head investigates the alleged grievance and responds to the employee within five (5) working days. Every reasonable effort should be made to settle all grievances at this stage. All settlements shall be supported by written documentation and signed by both the employee and the department head.

b) If the grievance is not settled at the first step, the employee may, within five working days after receiving the department head's response, submit a written grievance to the Department Head, with a copy also submitted to the Board of County Commissioners. The grievance must contain a complete statement of the action or situation being grieved and the remedy being sought. The department head shall make a written reply to the employee's grievance claim within ten (10) working days.

c) If the grievance is not settled at the second step, the employee may, within five (5) working days after receiving the department head's written reply, submit a written appeal to the Board of County Commissioners. The Board shall then initiate arrangements for a hearing with a hearing committee. The hearing committee shall be formed within seven (7) working days of receiving the written appeal from the employee.

d) The hearing committee shall be composed of three (3) members. One member shall be designated by the employee, one member by management, and a third member agreeable to the members appointed by the employee and management, to chair the committee. The Chairman of the Board of County Commissioners shall certify the appointments.

e) The hearing committee shall schedule a meeting to consider the grievance within five (5) days after its formation. The hearing committee shall gather all information concerning the grievance including the securing of documents and the holding of individual interviews or group meetings. Both the employee and management shall have the right to obtain the assistance of outside counsel for the hearing at their own cost. All materials reviewed by the hearing committee shall be deemed confidential. Copies made for the committee shall be made only by the chair of the committee. After termination of the committee, all materials will be returned to the Board of County Commissioners.

f) Within ten (10) working days after the adjournment of the actual hearing, the hearing committee shall submit its recommendation to the County Attorney for review. When approved by the County Attorney, the hearing committee shall submit its recommendations to the Board of County Commissioners.

g) After receiving the hearing committee's recommendation, the Board of Commissioners shall have ten (10) working days to render a decision and reasons for the decision in writing to all parties involved. The decision of the Board of Commissioners shall be the final decision in all grievances.

### **C. DISCRIMINATION CLAIMS**

1. A discrimination claim is defined as any claim by an employee, job applicant, or any other person who believes they have been unjustly treated on the basis of race, color, sex, religion, national origin, age, marital status, ancestry, political beliefs, or physical or mental handicaps.

2. To investigate claims of discrimination, a Personnel Review Committee (PRC) shall be formed. The PRC shall be appointed by the Commission and consist of one employee, one department head and one County Commission member. The following procedures will be used to process discrimination claims:

a) The discrimination claim identifying relevant facts, persons and circumstances shall be presented in writing to the PRC. The PRC shall, within ten (10) working days of hearing the discrimination claim, notify the claimant in writing of its decision and remedy.

b) If the discrimination claim is not settled at this level the aggrieved party may, within ten (10) days, submit a written claim to the County Commission. This written claim must contain a complete statement of the action or situation in question. The Commission shall confer with all persons who they feel can aid in making an equitable decision, and shall make a decision within thirty calendar days after receiving the written claim. The affected party shall be notified, via certified mail, of the Commission's decision and remedy. The Commission's decision shall be final.

### **D. SEXUAL HARASSMENT**

1. One form of discrimination that is clearly forbidden by all county and state employees is a form of misconduct identified as sexual harassment.

2. Sexual harassment is generally defined as unwelcome sexual advances, requests for favors and other verbal, physical and/or visual contact of a sexual nature when:
  - a. Submission is made either explicitly or implicitly a term or condition of an individual's employment;
  - b. Submission or rejection by an employee is used as a basis for employment decisions affecting the employee;
  - c. Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creates an intimidating, hostile or otherwise offensive work environment.

3. All forms of harassment should be reported as soon as possible after the incident or action occurs. Early reporting is encouraged, because management's ability to investigate and act on reports diminishes with time. If you feel you are being discriminated against in the exercise of your civil or political rights on account of marital status, race, color, sex, culture, social origin or condition, or political or religious ideas, or sexually harassed, do not keep it to yourself, take the following steps:

- a. Inform the individual that his/her behavior is unwelcome, offensive or inappropriate and you want the conduct immediately stopped. Do not assume or hope that the problem will go away.
- b. If you are unable to confront the individual or the harassment continues, promptly notify your immediate supervisor or the County Commissioners.
- c. Keep notes. Keep a record of the dates, times, places, witnesses and detailed description of each incident. Save all notes, correspondence or related records in a safe place.

## **VI. EMPLOYEE SEPARATION**

### **A. RESIGNATION**

1. Any employee wishing to leave County employment in good standing must file with his/her supervisor a written resignation, stating the effective date. The resignation must be received fourteen (14) calendar days prior to the effective date. Department head resignations must be received thirty (30) days prior to its effective date.
2. Upon the effective date of the resignation, the employee shall return any County property or monies due the County before the release of the employee's final paycheck.

### **B. LAYOFFS**

1. Lincoln County has the authority to dismiss employees for lack of funds, termination of position, or curtailment of work. The following guidelines shall apply to layoffs:

- a) No regular full-time employee may be laid off when there are temporary, part-time, or probationary employees in the same classification of work affected by the reduction in work force.
- b) In making layoffs, the department head will consider the employee's length of service within the department and the job performance of those employees in the same classification being reduced.
- c) Employees shall be given thirty (30) days notice of impending layoffs.
- d) Laid-off employees shall receive preference in their department if and/or when the department rehires.

### **C. WORKER'S COMPENSATION LAY-OFF**

1. Any employee who suffers a worker's compensation injury that results in the employee being unable to work for a period of time shall be returned to the same job with no loss of benefits if the employee returns to work within one (1) year of leaving work.

a) Any employee who cannot return to work within one (1) year will be given first preference for available jobs for which the employee is qualified. The employee will not be guaranteed reemployment.

b) The County will pay the health insurance premiums for injured employees for one (1) year. The employee may maintain health insurance benefits after one (1) year if the employee pays the applicable premiums and if the provider of the benefits agrees.

2. Any employee hired to replace an injured worker must be hired by regular county procedures. The replacement worker may be discharged if the injured employee returns to work within one (1) year.

## **VII. EMPLOYEE CONDUCT**

### **A. PERSONAL CONDUCT**

1. Employees are expected to maintain high standards of honesty, integrity and impartiality in the conduct of County business.

2. Official positions and confidential information shall never be used to personal advantage or gain.



3. Employees shall not personally profit directly or indirectly from any contract, purchase, sale or service between the County and any person or company.
4. An employee shall not accept or solicit anything of pecuniary value which may appear to influence his/her official conduct.
5. Employees shall be courteous, considerate and prompt in dealing with and serving the public.
6. Employees shall conduct themselves in a manner that will reflect credit upon the department of which they are a part. Department heads may set forth specific rules and regulations governing employees' conduct on the job.
7. The mode of dress at work is expected to be in good taste and appropriate to the nature of the duties performed. Department heads may set forth a specific dress code for their office.
8. An employee may receive personal visitors or phone calls by department policy.
9. There shall be no baby-sitting of children or pets allowed in the various County offices by employees. This is also construed to mean that school children will not be allowed to wait in the County offices for their parents. This may be waived by the department head in extreme cases.
10. Toll calls of a personal nature charged to a personal credit card may be made on the County telephone system with the approval of the Department Head.
11. Employees shall keep confidential all information as determined by State law, County and department policy. Employees shall also respect the confidentiality of people served in the course of the employee's duties.
12. Employees shall carefully distinguish between public statements made as an individual and those made as a representative of the County government.

## **B. POLITICAL ACTIVITY**

1. Employees of a County department which is financed in whole or in part by federal funds are subject to the provisions of the Hatch Act (Title 5 USC 1501).

## **C. USE OF COUNTY EQUIPMENT**

1. An employee shall not, directly or indirectly, use or allow the use of County property, supplies or equipment for purposes other than permitted by the policy of the employee's Department.

2. Any employee of the County who misuses, abuses equipment or uses them for any reason other than approved County purposes shall be subject to appropriate disciplinary action by the immediate supervisor, including dismissal if deemed appropriate.

#### **D. WORK RULES**

1. The normal working hours are 8:00 a.m. - 5:00 p.m., Monday through Friday. However, hours and days of work will vary according to the needs of the department.

2. Department heads are responsible for the maintenance of daily records of employee attendance and hours of work. A standard time card for each employee except elected officials and exempt employees shall be submitted to the payroll department by 12:00 p.m. on the Friday of the end of the pay period. Employees whose time card is received after that time cannot be assured payment until the next pay period. Payday shall be the Wednesday following the end of the pay period unless extraordinary circumstances develop requiring additional time.

3. Punctual arrival at the work place at the designated time is required of all employees. If an employee is unable to be present at that time, the employee must contact his or her immediate supervisor before the work day begins. Failure to contact the immediate supervisor is considered unauthorized absence and may result in disciplinary action.

4. Employees are allowed one fifteen (15) minute break per 4 hour shift or 5 hour shift if the employee is working a 10 hour workday. Break times shall be arranged between the department head and employees to maintain adequate staffing to meet the needs of the department. Scheduled break times shall coincide with the midpoint of each half-shift to the maximum extent possible. Break times missed during a workday are not compensable nor can they be accumulated.

### **VIII. EMPLOYEE BENEFITS**

#### **A. BENEFIT ELIGIBILITY:**

1. A full-time employee is accorded or offered all employee benefits.

2. A regular part-time employee who is scheduled to work less than 20 hours per week shall not be entitled to employee benefits other than those required by State law. Employees regularly scheduled to work 20 hours per week, but less than 40 hours per week, shall be entitled to applicable employee benefits on a pro-rated basis.

3. Temporary employees shall not be entitled to County fringe benefits, except as may be specifically provided by this policy. A temporary employee may be separated at any time at the discretion of the Department Head.
4. Seasonal employees are allowed the same benefits as defined under regular full-time or regular part-time employees, as their scheduled work week entitles them. If Seasonal employees withdraw their accumulated sick leave or their P.E.R.S. accumulations, a break-in-service occurs. Seasonal employees who have a break-in-service lose all steps accumulated pursuant to the County Position Classification and Compensation Plan and must serve all probationary periods for benefits again.
5. Intermittent/on-call employees shall not be entitled to employee benefits except as specifically provided in this policy. Intermittent/on-call employees may be separated at any time at the discretion of the Department Head.

## **B. HEALTH INSURANCE**

1. All regular full-time and regular part-time employees who are hired to work an average of twenty hours or more per week shall be eligible for participation in the County sponsored insurance program. Six (6) months of continuous employment, averaging at least 20 hours per week, is required before an employee becomes eligible for participation in the County sponsored insurance programs. Unless there is a break-in-service, an employee is only required to serve the qualifying period once. After a break-in-service an employee must again serve a qualifying period to be eligible for health insurance benefits. Insurance benefits will become effective pursuant to insurance policy guidelines. Benefit coverage may not become effective at the end of the six month period.
2. Eligibility for participation in the insurance program shall be reviewed at the end of each quarter. Any employee covered by the insurance program who works an average of less than twenty hours per week during the previous quarter shall be dropped from the coverage. The employee may maintain insurance coverage by paying the appropriate insurance premium. Any employee who is not eligible for insurance and who works an average of twenty hours or more the previous quarter shall become eligible for insurance benefits.
  - a) A department head may exempt a part-time employee from the provisions of this policy by designating the total number of hours the part-time employee shall work per fiscal year, provided that the number of hours designated to be worked is less than an average of twenty hours per fiscal year and that the employee does not actually work an average of twenty hours or more per week in that fiscal year.

b) Insurance contributions by the County for regular part-time employees scheduled to work 20 hours or more but less than 40 hours per week shall be pro-rated according to their regular work schedule. The employee must pay the balance of the insurance premium if they desire to have this coverage.

### **C. RETIREMENT**

1. Membership in the Public Employees' Retirement System (PERS) is mandatory for all County employees. Information on exceptions to this requirement is available at the Clerk and Recorder's office.

a) Withdrawal of PERS benefits by any employee constitutes a break-in-service.

2. Contributions to the PERS are made by both the County and the employee. Rates of contribution are established by the system. Current rates are available from the Clerk and Recorder's office.

### **D. WORKERS' COMPENSATION**

1. All employees shall be covered by Workers' Compensation insurance for injuries incurred in performing their duties. The amount of compensation and eligibility for receiving benefits is determined by the regulations of the plan. All premiums are paid by the County.

### **E. UNEMPLOYMENT INSURANCE**

1. Employees are covered by unemployment insurance and therefore eligible for compensation under this program in the event of discharge from County service. Full premiums are paid by the County.

### **F. SOCIAL SECURITY**

1. All employees are covered by Social Security. The County and employee contribute an amount determined by federal law to the employee's social security account.

### **G. VACATION LEAVE**

1. All employees serving in positions which are permanent or seasonal are eligible to earn vacation leave credits.

2. Temporary employees do not earn vacation leave credits, except that a temporary employee who is subsequently hired into a permanent position without a break-in-service and temporary employees who are employed continuously longer than 6 months shall receive retroactive vacation leave credits for the preceding continuous period of temporary employment.

3. An employee must be continuously employed for a qualifying period of 6 calendar months to be eligible to use vacation leave. Unless there is a break-in-service, an employee is only required to serve the qualifying period once. After a break-in-service an employee must again serve a qualifying period to be eligible to use vacation leave.
4. Leave credits may not be advanced nor may leave be taken retroactively.
5. An employee may not accrue vacation leave credits in a leave without pay status.
6. Vacation leave credits are earned at the end of each bi-weekly pay period. These vacation leave credits may not be used until the start of the next bi-weekly pay period.
  - a) A person simultaneously employed in two positions shall accrue in each position. Leave shall be used only from the position in which it was earned.
7. A seasonal employee's accrued vacation leave credits may be carried over to the next season if management has a continuing need for the employee, or paid out as a lump-sum payment to the employee when the season ends. A seasonal employee may not use vacation leave credits during the time he/she is laid off for the season.
8. Hours in a pay status paid at the regular rate will be used to calculate leave accrual. Vacation leave credits will not accrue for those hours exceeding 40 hours in a work week that are paid as overtime hours or recorded as compensatory time hours.
9. Workers' compensation wage loss benefits shall not be supplemented with vacation leave credits.
10. Where an employee has been laid off and has been allowed by the agency to maintain annual leave credits, the employee shall not use any accrued annual leave credits during the laid off period. Seasonal employees are allowed to withdraw unused vacation leave credits if a written request is received within one week of termination for the season.
11. Unused vacation leave credits may not be used when absence from employment is due to illness, unless the employee approves.
12. When an employee terminates employment with the County, the employee is entitled to cash compensation for unused vacation leave upon the date of termination providing the reason for termination does not reflect discredit on the employee and providing the employee has worked the qualifying period. The computation value of unused vacation leave is based on the employee's salary rate at the time of termination.

13. An employee may carry over into the next calendar year twice the annual vacation leave credits the employee could earn in 1 year according to the rate earned schedule. Any additional accumulated credits are excess vacation leave credits and must be used in the first 90 days of the next calendar year or forfeited. The calculation of excess vacation leave credits will be made as of the end of the first pay period of that calendar year.

14. Vacation leave credits are earned at a yearly rate calculated according to the following schedule:

YEARS OF EMPLOYMENT	WORKING DAYS CREDIT PER YEAR
a) 1 day - 10 years	15
b) 10 years - 15 years	18
c) 15 years - 20 years	21
d) 20 years on	24

15. Section 2-18-612, M.C.A., shall be used to determine years of employment under this section.

16. Part-time employees are entitled to prorated annual vacation benefits.

17. The dates when an employee's annual vacation leave can be determined by agreement between each employee and the department head according to the best interests of the County and the employee. In case of conflicts in scheduling vacation leave, preference may be by seniority in each department.

18. Requests for leave shall be granted according to the following guidelines:

- a) Department heads may specify by at least a 30 day notice particular time periods during which no vacation leave will be granted. The designated time periods will be reasonably related to the requirements of the job, e.g. no leave during election week for employees of the Clerk and Recorder.
- b) Any employee requests for time off made more than 5 work days prior to the requested time off shall be granted the time off unless the department head has a valid job-related reason to deny the leave.
- c) All employee requests for time off made 5 or fewer days before the requested days of time off shall be granted solely at the discretion of the department head. The department head may deny the request for no reason.
- d) All grants of leave may be terminated for unforeseen job related emergencies within the employee's department.

19. If an employee transfers between agencies or departments of the same jurisdiction, there shall be no cash compensation paid for unused vacation leave. In such a transfer the receiving agency or department assumes the liability for the accrued vacation credits transferred with the employee.

## **H. SICK LEAVE POLICY**

1. All employees serving in positions that are permanent or seasonal are eligible to earn sick leave credits.
2. Sick leave credits accrue from the first day of employment.
3. An employee must be continuously employed for a qualifying period of 90 calendar days to use sick leave.
4. Unless there is a break-in-service, an employee only serves the qualifying period once. After a break-in-service, an employee must again complete the qualifying period to use sick leave.
5. Sick leave may not be advanced nor may sick leave be taken retroactively.
6. A seasonal employee's accrued sick leave credits may be carried over to the next season or paid out as a lump-sum payment as defined by part 15 of this section. If a lump-sum payment is taken by the employee, a break-in-service shall occur.
7. Hours in a pay status paid at the regular rate will be used to calculate sick leave accrual. Sick leave credits will not accrue for those hours exceeding 40 hours in a work week that are paid as overtime hours or recorded as compensatory time hours.
8. An employee may not accrue sick leave credits while in a leave without pay status.
9. Where an employee has been laid off and has been allowed by the County to maintain sick leave credits, the employee shall not take any accrued sick leave credits during the laid off period.
10. Sick leave credits are earned at the rate of 12 working days of each year of service for full-time employees and are prorated for part-time employees.
11. Sick leave credits are earned at the end of each bi-weekly pay period. These sick leave credits may not be used until the start of the next bi-weekly pay period.
12. An employee may use sick leave credits for:
  - a) illness;

- b) injury;
- c) medical disability;
- d) maternity-related disability, including prenatal care, birth, miscarriage, or other medical care for either employee or child;
- e) quarantine resulting from exposure to contagious disease;
- f) medical, dental or eye examination or treatment;
- g) necessary care of or attendance to an immediate family member for the above reasons; and
- h) death or funeral attendance for an immediate family member or, at the department head's discretion, for another person.

13. At the department head's discretion, an employee who experiences an appropriate use of sick leave as defined in this policy while taking approved annual vacation leave may be allowed to substitute accrued sick leave credits for annual leave credits.

14. Workers' compensation wage loss benefits may not be supplemented with sick leave credits.

15. When an employee terminates employment with the County, the employee is entitled to cash compensation for unused sick leave credits equal to one-fourth (1/4) of the compensation the employee would have received if the employee had used the credits, provided the employee has worked the qualifying period.

16. Sick leave is a valuable privilege intended to prevent loss of income. If abuse of sick leave is suspected, the supervisor may request a valid doctor's verification of illness or injury.

17. Chronic, persistent, or patterned use of sick leave may be subject to disciplinary action. Misrepresentation of the actual reason for charging an absence to sick leave is cause for dismissal and forfeiture of the lump-sum payment.

18. An employee who has been unable to work due to illness or injury may be required, before being permitted to return to work, to provide medical evidence that he/she is again able to perform all significant duties of the position in a competent manner, without hazard to himself/herself or others.

19. When an employee transfers between agencies or departments within the same jurisdiction, he/she is not entitled to a lump-sum payment of sick leave credits. The receiving agency shall assume the liability for the accrued sick leave credits.

## **I. DIRECT GRANT OF SICK LEAVE**



1. An employee may make a direct grant of up to 40 hours of his/her personal sick leave to another employee under the following guidelines:
  - a) The employee granting the sick leave shall have completed the 90 day qualifying period as required by the Sick Leave Policy.
  - b) The employee granting the sick leave shall have a minimum balance of 40 hours of accrued sick leave remaining in the employee's account after the grant of sick leave is taken out. The minimum balance for a part-time employee shall be prorated.
  - c) An employee may directly grant a maximum of 40 hours of accrued personal sick leave in any continuous 12 month period to another employee or employees. The 12 month period is calculated from the first day an employee makes a direct grant.
  - d) An employee may make a direct grant of sick leave to an employee of any county department.
2. An employee is eligible to receive a direct grant of sick leave from another employee or employees under the following guidelines:
  - a) The employee shall have met the 90 day qualifying period as required by the Sick Leave Policy.
  - b) An employee may receive no more than a maximum of 160 hours of sick leave in any continuous 12 month period in direct grants. Leave granted to a part-time employee shall be prorated. The 12 month period is calculated from the first day the employee takes sick leave which is a direct grant.
  - c) The employee must have suffered an extensive illness or accident which results in absence from work of no less than 10 consecutive working days or 5 working days in any 30 day period.
  - d) The employee must exhaust all personally accrued sick leave, annual leave, and all other accrued paid leave and compensatory time.
  - e) A physician's certification of extensive illness or accident must be provided to the department head before the employee receives a direct grant of sick leave.
  - f) The employee must complete and sign the standardized form required to accept the sick leave.

## **J. HOLIDAYS**

1. An eligible employee shall receive holiday benefits for all legal county holidays. This benefit is paid time off.

2. An employee must be in a pay status either the last regularly scheduled working day before or the first regularly scheduled working day after a holiday is observed to be eligible to receive holiday benefits.
3. A full-time employee whose regular schedule calls for the employee to work on the day a holiday is observed shall receive 8 hours of holiday benefits regardless of the number of hours scheduled to work.
4. A full-time employee whose schedule calls for a day off on the day a holiday is observed is entitled to receive a day off with pay on the day preceding the holiday or on another day following the holiday in the same pay period or as requested by the employee and approved by the supervisor.
5. Part-time employees shall receive holiday benefits on a prorated basis. Holiday benefits shall be an average of the employee's hours regularly scheduled to work in a pay period. To find the average, the number of hours regularly scheduled to work in a pay period in which the holiday falls shall be divided by 10 (the number of working days in a pay period).
6. An employee who is required to work or who receives approval to work on the day a holiday is observed shall be paid for all hours actually worked. In addition to the regular holiday benefit the employee shall receive either (a) or (b) below, at management's discretion:
  - a) If the holiday benefit is a paid day off to be taken at a later date, the employee shall receive pay at the regular rate for every hour worked on the holiday.
  - b) If the holiday benefit is to be pay, but no day off, the employee shall receive 1 1/2 times the normal rate of pay for the hours worked on the holiday in addition to the regular holiday benefit.
7. If any holiday falls upon a Sunday, the Monday following is a holiday. When a holiday falls on a Saturday, the holiday shall be observed on the preceding Friday.
8. If one or more regular holidays fall in the period of an employee's annual vacation leave, the holiday will not be charged against the vacation record.
9. The following are legal county holidays:
  - a) New Year's Day, January 1;
  - b) Martin Luther King Jr. Day, the third Monday in January;
  - c) Lincoln's and Washington's Birthdays, the third Monday in February;
  - d) Memorial Day, the last Monday in May;
  - e) Independence Day, July 4;
  - f) Labor Day, the first Monday in September;

- g) Columbus Day, the second Monday in October;
- h) Veterans' Day, November 11;
- i) Thanksgiving Day, the fourth Thursday in November;
- j) Christmas Day, December 25,
- k) State general election day.

## **K. FAMILY LEAVE**

1. Lincoln County shall abide by the Family and Medical Leave Act of 1993, Public Law 103-3, of February 5, 1993.
2. This is a summary of employees' rights under the Federal Family and Medical Leave Provisions. This summary does not create any rights. In case of conflict between the text of the law and this summary, the text of the law applies.
3. Eligible employees are entitled to benefits. An eligible employee is one who:
  - a) Has worked at least 12 months; and
  - b) Worked at least 1250 hours for the previous 12 month period.
4. Salaried eligible employees who earn in the top 10% of the employees of the County may be exempt from the provisions of the law under certain circumstances.
5. Scope of Coverage: Eligible employees are entitled, as a matter of legal right, to up to a combined total of 12 WEEKS of unpaid leave per year for the following four leave situations:
  - a) The birth and first-year care of a child;
  - b) The adoption or foster placement of a child;
  - c) The "serious health conditions" (defined in Sec. 1001(11)) of an employee's spouse, parent, or child, and
  - d) The employee's own "serious health condition".
6. Existing Leave:
  - a) Relationship of Federal Leave to Existing Leave Policies: Since the employer, Lincoln County, already provides for paid or unpaid leave in any of these categories, the new law extends that leave period to 12 weeks (with the period added by the federal law being unpaid). The Federal provisions do not add any more leave for that category. The employee may elect or the employer may require the employee, to substitute paid leave (e.g., vacation, sick leave) for leave required under the Act.

## 7. Other Benefits:

a) Application of federal Law to Other Benefits: In addition to actual leave, employees are entitled to the continuation of "employment benefits" (defined as all benefits including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions) during the period of leave. Benefits accrued before leave is taken cannot be altered, and upon return, the employee is entitled to restoration to an equivalent position with equivalent pay, benefits, and conditions of employment. Employees are not entitled to accrue seniority or employment benefits during the time they are on leave. The employer will also continue coverage for the employee under any group health plan offered by the employer.

b) Intermittent and Reduced Leave: An employee cannot take leave on an intermittent or reduced leave schedule, in absence of agreement by the employer, except where medically necessary. Employees, in connection with medically certified leave, are free to take intermittent and reduced hour leave (although employers may offer equivalent alternative jobs for intermittent leave).

## 8. Obligations of Employees:

a) Foreseeable Leave: When unpaid leave is foreseeable, the employee must provide at least 30 days notice of the date when leave is to begin - unless circumstances dictate otherwise. In addition, with respect to family or employee medical treatments which are foreseeable, the employee shall make a reasonable effort to schedule treatment (including intermittent and reduced hour leave) so as not to disrupt unduly the operations of the employer - subject to approval of the employee's or family member's health care provider.

b) Certifications Regarding Leave: The employer may require the employee to provide timely certification from his/her health care provider as to: (1) the date that the condition commenced, (2) the duration, (3) the necessity for the employee's inability to perform his/her job functions. Where doubt exists, as to the certification, the employer, at its own expense, may designate a second opinion - with the opinion of a third health care provider, if necessary, to be binding.

c) Certification to Continue Leave: The employer may require certification from the health care provider that a serious medical condition of the employee or family member continues to prevent the employee from returning to work.

d) Certification to Return from Leave: Upon return to work, the employer may have a "uniformly applied practice or policy" that requires the employee to provide certification by his/her health care provider that the employee is able to resume work.

e) Failure to Return from Leave: Recovery of Health Premiums: If an employee fails to return to work after the leave period has expired (other than family or personal illness or other circumstance beyond their control) the employer may recover the premium expenditures extended during the leave period.

## L. TRAVEL

1. County officers, employees, and others representing Lincoln County on official business shall receive reimbursement of necessary and reasonable travel expenses under the following guidelines:

a) Lodging: Actual cost by official receipt. Employees are encouraged to obtain State rates for all lodging when available.

b) Meals:

(1) Breakfast	-	\$ 4.00
(2) Lunch	-	\$ 5.00
(3) Dinner	-	\$ 9.00

These rates are subject to change at the discretion of the Board of Commissioners.

c) Mileage: A rate equal to that allowed by the I.R.S. for the preceding year for the first 1,000 miles and \$0.03 per mile less for all miles thereafter within a given calendar month.

d) Air Travel: All commercial air travel shall be by the least expensive class service available. Travel by private plane shall be reimbursed at the same rate as vehicle road mileage from city of departure to city of destination.

e) Miscellaneous: Incidental expenses that are necessarily incurred will be reimbursed at 100% of actual and reasonable, i.e. car rental, taxi, luggage handling, etc. Receipts shall be required for these reimbursements.

f) Actual registration fees for approved conferences, workshops and meetings may be either paid in advance or reimbursed to the person incurring them, provided a claim for reimbursement is supported by a receipt showing payment of the registration fee.

2. All travel expenses shall be approved by the department head. Expense advances may be approved by the department head to offset any undue financial hardships on employees traveling on behalf of the County.

3. The willful misrepresentation or altering of claims is unlawful and grounds for dismissal, and may result in the filing of criminal charges.
4. All employees traveling on County business at times other than during the employee's scheduled work period shall be compensated for such travel time at the rate governing overtime/compensatory time applicable to that employee.

#### **M. JURY DUTY**

1. Any employee on authorized jury duty or witness leave shall receive his/her normal gross salary or wage if he/she forwards all fees collected for his/her service to the payroll clerk within 3 days of receiving them. Any expense or mileage allowance paid by the court shall be retained by the employee if the employee is using his/her personal vehicle.
2. Employees who choose to charge their juror or witness time off against their annual leave or compensatory time may keep all juror or witness fees paid by the court.
3. Part-time employees will receive pro-rated compensation for those hours they are usually scheduled to work.

#### **N. LEAVES OF ABSENCE**

1. All requests for unpaid leaves of absence shall be in writing with a full explanation of the reason for the request and shall state the beginning and ending day of the request.
2. Leaves of absence will be granted only under extreme and unusual circumstances.
3. All requests for leaves of absence 10 working days or less may be approved by the department head. Leaves of absence in excess of 10 working days must be approved by the Board of Commissioners.
4. Employees granted a leave of absence in excess of 45 working days may not be guaranteed employment upon their return.
5. In granting leaves of absence, the department head or the Board of Commissioners shall consider the length of service, the reasons for the leave, work performance, and work load allocation.
6. An employee shall use all appropriate accrued leave or compensatory time before approving a leave of absence. An employee granted a leave of absence is not eligible to receive any holiday pay or leave.
7. An employee is responsible for payment of health insurance premiums during his/her leave of absence.

8. Any employee failing to report for work on the first day following the expiration of such leave shall be considered absent without leave, and is subject to disciplinary action including termination.

## **O. MILITARY LEAVE**

1. All full-time employees who are members of the Montana National Guard or who are members of the organized or unorganized reserve corps or military forces of the United States, and who have been employed by the County for at least 6 months, shall be given leave with pay for a period not to exceed 15 working days in a calendar year for attending regular encampments, training cruises, and training programs. Such leave shall not be charged against vacation or sick leave.

## **IX. MISCELLANEOUS COUNTY POLICIES**

### **A. DRUG-FREE WORKPLACE**

1. Drug abuse in the workplace results in inefficiency, apathy, and possibly dangerous situations. Lincoln County does not condone such use and wishes to insure a drug-free workplace.

2. The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in all Lincoln County operations for all Lincoln County employees. Violation of such prohibition will result in termination of employment.

3. Lincoln County requires, in writing, notification of any employee's conviction for a violation of a criminal drug statute no later than five calendar days after such conviction.

### **B. ROLE OF COUNTY ATTORNEY**

1. The County Attorney is the chief legal officer of the County. The County Attorney represents the County and provides legal advice to County officials. The County Attorney does not have supervisory control or power over any department or elected official.

2. Employees shall not make requests to the County Attorney for legal opinions of a personal nature. Employees shall not request the County Attorney to give advice on disputes between the employee's supervisor and the employee.

3. Employees shall not give legal advice or render legal opinions. Employees shall not refer legal questions from members of the public to the County Attorney for resolution.

4. The County Attorney will provide upon request to County officials opinions relating to County business.

### **C. SMOKING POLICY**

1. The Lincoln County Courthouse Smoking Policy excepting the Sheriff's office shall be as follows:

- a) There shall be no smoking in any of the offices on the main or second floor.
- b) A non-smoking breakroom will be provided to accommodate employees wishing a smoke-free break area by the year 2000.
- c) Smoking shall be prohibited in the building restrooms, with the exception of the top floor.
- d) All hallways of the Courthouse building will be designated non-smoking areas and signs will be posted. It is the intention of the Commissioners that the public will not be allowed to smoke in the Lincoln County Courthouse. However, the public will be allowed smoking privileges in a designated second floor area while serving as jurors.
- e) Violations of the smoking policy should be brought to the attention of the department head. It will be the responsibility of each department head to enforce this policy. If a situation cannot be resolved in this manner, the Commissioners will assume responsibility.
- f) Refusal on the part of any employee to follow the smoking policy will be grounds for disciplinary action.

2. The Lincoln County Courthouse Smoking Policy for the Sheriff's office shall be as follows:

- a) There will be no smoking in the public areas of the Sheriff's Department.
- b) The smoking policy for the dispatch area shall be:
  - (1) When a day shift dispatcher (Monday through Friday) desires to smoke, the dispatcher shall make arrangements with other employees who are trained dispatchers to relieve them. All smoking shall take place in the department smoking room with the ventilator turned on and door closed.
  - (2) The swing shift dispatcher (Monday through Friday) is not allowed to smoke until after 1700 hours or all regular employees have departed the department offices.



(3) The dispatchers working on weekends, holidays, swing, and graveyard shifts are the **only employees that are authorized** to smoke in the dispatchers' office.

(4) When the dispatchers smoke, the "smoke eater" shall be turned on at all times.

(5) No other employees or persons are authorized to smoke in the dispatchers' office (no exceptions). **IF** an employee violates this rule, he/she shall be reprimanded, and the authorization of dispatchers smoking as designated **shall be terminated immediately with no further recourse.**

(6) It is expected that the dispatchers authorized to smoke will have the concern and courtesy to refrain from smoking while non-smoking employees report to the department to perform official business, and their place of duty requires them to enter the dispatchers' office.

c) All other Sheriff's Department employees desiring to smoke shall smoke in the designated smoke room with the ventilator turned on and door closed.

d) Smoking will be allowed in the private one(1) person offices which have direct access to outside ventilation.

(1) When there is smoking in the private offices, the door must be closed and the outside ventilation will be opened.

e) The jail is not included in this smoking policy, and will be at the discretion of the Sheriff.

3. The Lincoln County Annex Smoking Policy shall be as follows:

a) The Annex shall be designated a non-smoking building except in properly ventilated areas. These areas are:

(1) Employee's main floor breakroom. Adequate mechanical ventilation and doors shall be provided for the room and must be properly used at all times to prevent smoke migration from the room.

(2) Justice of the Peace private office. Adequate mechanical ventilation and doors shall be provided for the room and must be properly used at all times to prevent smoke migration from the room.

- b) A non-smoking breakroom will be provided to accommodate employees wishing a smoke-free break area.
- c) The public will only be allowed smoking privileges in the main floor breakroom while serving as jurors.
- d) Violations of the smoking policy should be brought to the attention of the department head. It will be the responsibility of each department head to enforce this policy. If a situation cannot be resolved in this manner, the Commissioners will assume responsibility.
- e) Refusal on the part of any employee to follow the smoking policy will be grounds for disciplinary action.

#### **D. DISASTER AND EMERGENCY LEAVE**

1. When the Board of County Commissioners declares a disaster or emergency and orders a work site closed, any employee already at the work site who is sent home shall be compensated for regularly scheduled work hours for that day only. Any employee not reporting for work is eligible to apply to take annual vacation leave, accrued compensation time or leave of absence without pay.
2. At the option of the Board of County Commissioners, employees may be assigned to alternate work sites that are not affected by the disaster or emergency.
3. An employee who reports to work and performs regular duties and responsibilities during a declared disaster or emergency shall be paid the normal salary only.

### **X. EMPLOYEE AND WORKPLACE SAFETY PRACTICES/ACCIDENT REPORTING**

#### **A. EMPLOYEE SAFETY TRAINING**

1. Material Safety Data Sheets (MSDS) for all hazardous rated materials used on the job will be available to, and reviewed by employees. The MSDS review and discussion will be conducted by the department head or supervisor, and shall include all employees that will be using the hazardous material.
2. Specific safety precautions for all jobs, tasks, equipment, or locations will be reviewed by department heads or supervisors with all employees involved in the specific job or task.
3. Department heads and/or supervisors will be responsible for enforcement of all safety practices and rules in their departments. Violations or problems should be discussed with the County Safety Director.

#### **B. DRIVING REQUIREMENTS**

1. All employees operating County vehicles shall possess a valid driver's license.
  - a) All new employees whose job description includes operation of a County vehicle must have a complete motor vehicle report (driving record) on file in their personnel folder in the Payroll Department.
  - b) Department heads or supervisors shall be sure that necessary driver's license upgrades, or driving record changes, are kept current for all county vehicle drivers in their department.
  
2. Employees driving County vehicles are required to have such driver's licenses for the vehicles being driven as is required by Montana State Law, irrespective of whether the employee drives the vehicle on regular, occasional or other basis and whether or not this requirement is included or omitted in the job description.
  
3. Violation citations, fines or other actions taken by any law enforcement jurisdiction against any employee shall be the responsibility of the employee and may be cause for disciplinary action.
  
4. All employees shall follow the safety regulations. Employees shall complete an accident report form provided by the county immediately after an accident and turn it in to the appropriate supervisor who shall forward it to the head of the department. The department head will review the report and submit it to the Board of County Commissioners. All accidents, personal or vehicular, regardless of their magnitude, shall be reported. Failure to report will result in disciplinary action.
  
5. County Vehicle Safety Inspections
  - a) All county vehicles (on-road and off-road use) will have a vehicle safety inspection at least monthly. The department head, supervisor, or designated employee shall assure that inspections are performed as required.
  - b) Inspection forms will be provided by the Safety Director, and shall be kept on file by each department.
  - c) Vehicles having major safety problems, as indicated on the inspection form, shall not be operated until necessary corrections have been made.

### **C. WORKPLACE SAFETY INSPECTIONS**

1. Department heads, supervisors, or designated employees shall conduct quarterly facility safety inspections for their workplace(s).

- a) Forms will be provided for each workplace by the County Safety Director.
  - b) Inspection forms will be kept on file by the department head.
2. Safety problems noted during inspections will be reported to the County Safety Director for scheduling of corrective measures.

#### **D. WORKER'S COMPENSATION - INDUSTRIAL ACCIDENT**

##### 1. Personal Injury

- a) **ALL** incidents involving worker injury must be reported by the employee to his supervisor as soon as possible. If the incident involves only minor injury, an incident report form shall be filled out by the employee and supervisor. The supervisor will follow up a few days later (no more than 5) and ask the employee about the injury. If the employee says that everything is okay, the supervisor needs to note that fact on the incident report form. The completed form should be turned into the Payroll Department, with a copy retained by the department head or supervisor.
- b) After a few days (no more than 5), if the employee's injury condition has not improved or has gotten worse, **or if the employee has seen a doctor**, the supervisor must complete the employer's first report for Worker's Compensation and submit it to the Payroll Department for filing with the insurance carrier.

(1) Workers' Compensation claims must be reported to the employer by the employee within 30 days of the accident. Failure to do so could cause the claim to be denied by the insurer.

(2) The Statute of Limitations on submitting a claim in writing to the employer or the insurer is within 12 months from the date of the accident.

(3) If the supervisor feels an employee is filing a claim that would be questionable in nature, the supervisor should indicate so on the claim form.

(4) If the validity of a claim becomes questionable after the claim has been submitted, the supervisor should notify the claims adjuster as soon as possible by phone or in writing.

(5) The Employer's First Report of Notice form must be completed by the supervisor or department head, **NOT BY THE EMPLOYEE.**

#### **E. WORKERS' COMPENSATION REVIEW COMMITTEE**

1. A committee shall be appointed by the County Commissioners to assist injured workers in returning to work as soon as possible. The committee shall check (at least weekly) on the worker's injury recovery progress. Efforts will be made to provide reasonable accommodations for the employee's return to work. These efforts shall include:

- a) light or reduced work duties;
- b) work place accommodation; or
- c) change of job.

2. All applicable employment laws and practices, including Americans with Disabilities Act, will be considered in the committee's efforts to encourage the employee's progress.

#### **3. VEHICLE ACCIDENTS - PROPERTY DAMAGE**

4. **ALL** incidents involving damage to county vehicles or property, and/or private vehicles or property, in which a county employee is involved while on county business, shall be reported to immediate supervisors as soon as possible by the employee involved.

5. A vehicular accident report form will be filled out by the supervisor and the employee, as soon as possible, to record accurate information about the incident. The form, provided by the County Safety Director, shall be retained by the department head and available to law enforcement, insurance, or safety personnel as required.
6. Department heads or supervisors shall assure that appropriate law enforcement personnel have been notified to conduct necessary investigations.
7. Department heads or supervisors shall assure that the appropriate county insurance carrier has been notified of vehicle or property damage incidents.
8. Employees convicted of willful or wanton disregard for the safe operation of a county vehicle, which results in personal or property damage may be terminated from Lincoln County employment.

## **XI. APPLICABILITY OF POLICY**

**A.** This policy supercedes all prior county policy and the policy of any department that conflicts with this policy. A department may adopt policies pertinent to its needs to the extent the department policy does not conflict with this policy. In the event a department policy conflicts with this policy, this policy controls.

## **ADDENDUM "A"**

### **POSITIONS EXEMPT FROM FAIR LABOR STANDARDS ACT**

1. DEPUTY COUNTY ATTORNEY
2. PUBLIC DEFENDER
3. CHIEF JUVENILE PROBATION OFFICER
4. COUNTY SANITARIAN
5. ASSISTANT COUNTY SANITARIAN(S)
6. COUNTY PLANNER
7. COUNTY LIBRARIAN
8. COUNTY HEALTH NURSE
9. UNDERSHERIFF
10. ELECTED OFFICIALS
11. DIRECTOR OF THE LINCOLN COUNTY LIBRARIES