

DOUGLAS COUNTY

Civil Service Commission

Personnel Policy Manual

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Douglas County Human Resources

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ARTICLE 1

STATEMENT OF POLICY

The quality of public service at all levels of government can improve by developing systems assuring the administration of human resources programs designed to benefit the public and employees through efficient and effective utilization of resources available. It is the intent of the Douglas County Civil Service Commission (CSC) to ensure a fair and equitable human resource system operating in accordance with good management principles and ensuring a work environment conducive to the health and benefit of employees and the public. In order to reach these goals, it shall be the policy of the Civil Service Commission to adhere to the following:

1. Recruit and select employees on the basis of their ability, experience, knowledge and skill.
2. Provide a workplace free from harassment and discrimination.
3. Provide equitable compensation including benefits.
4. Assure fair treatment of all applicants and employees in all aspects of human resources administration.
5. Provide training to assure quality service to the public and promote effective human resource management.
6. Provide a system to evaluate the performance of employees based on a fair, timely and equitable review of their performance.
7. Provide guidance for action in those instances where performance is less than adequate.
8.
 - a. Assure that employees are protected against coercion for partisan political purposes for participating or not participating in legal political activities outside of their normal working hours and offices or official duties.
 - b. Assure the public that employees are prohibited from using their official authority for the purpose of interfering with or affecting the result of any election or nomination for office through coercion of other employees or the general public.

ARTICLE 2
POLICY MANUAL

SECTION 1: PURPOSE

The purpose of the Civil Service manual is to provide guidance to Elected Officials/Department Heads and supervisory personnel in following accepted human resource practices and principles and to provide a source of established policy applicable to employees of Douglas County. The County Human Resource Director shall work with and provide counsel to departmental personnel.

SECTION 2: SAVINGS CLAUSE

Should any Article, Section, or portion thereof of this manual be held unlawful or unenforceable by any Court of competent jurisdiction, such decision shall apply only to the specific Article, Section or portion thereof directly specified in the decision. The same shall also apply in those instances where changes in or the enactment of laws affects language contained herein.

SECTION 3: DISCLAIMER

The Douglas County Civil Service Commission reserves the right to amend or modify this document without prior notice. The provisions of this policy manual are not intended and do not create an express or implied contract of employment between the County and its employees.

ARTICLE 3

EMPLOYEES COVERED BY CIVIL SERVICE

The term *employees* shall mean all Civil Service employees. It shall not include the following: temporary employees, employees subject to the State Personnel Office Act, court-appointed employees, employees of the county attorney's or public defender's office, or dentists, physicians, practicing attorneys, deputy sheriffs, officials appointed by the Governor, elected officers or the chief deputy of each elected office or the deputy of each elected office if there is not more than one deputy in the office.

ARTICLE 4

CIVIL SERVICE COMMISSION MEETINGS

SECTION 1: MEETINGS AND PROCEDURES

The Commission shall meet at least quarterly and, based upon the recommendations of the Human Resources Director, shall determine the frequency, day, and place of its meetings. Special meetings shall be held to hear appeals of disciplinary actions as necessary.

SECTION 2: POWERS AND DUTIES

The Civil Service Commission shall have the powers and duties assigned to it by Nebraska Revised Statutes §23-2501 et seq., and these Rules.

SECTION 3: QUORUM

Three members of the Commission shall constitute a quorum for the transaction of business.

SECTION 4: MINUTES

The Human Resources Director or his/her authorized representative shall attend all meetings of the Commission, act as its secretary, record its official actions, time and place of each meeting of the Commission, names of the Commission members present, all official acts of the Commission and the votes of each Commission member.

SECTION 5: HEARINGS

- a. Responsibility of the Civil Service Commission: When an employee files an appeal before the Commission it shall be the duty of the Commission to ascertain to the best of its ability the facts of the case and, after weighing all available evidence, to report its findings and decision to all parties affected.
- b. Date of Hearing: Hearings shall be scheduled as soon as the parties and a quorum can reasonably be convened.
- c. Notice of Hearing: The Commission shall give the appellant and the Elected Official/Department Head prompt written notice of the time and place set for the public hearing. The notice shall be sent to the parties at least five working days prior to the hearing. In the case of the appellant, the notice shall be by certified mail, addressed to the appellant's address of record, with a return receipt requested unless such notice is waived in writing. A copy of the notice shall be posted on the official bulletin board of the Human Resources Department.
- d. Access to Pertinent Data: In order to discharge its function properly in regard to review, the Commission members shall have access to any County files, correspondence, memoranda, etc., which they feel might be pertinent to the case unless cause is shown why such files should not be provided at such hearing and shall have the right to question any officers or employees of the County whom they feel may be able to shed light on the circumstances of the action in question. No officer or employee shall be subjected to retaliation as a result of testimony given.
- e. Subpoena Powers: The Commission by statute shall have the power to subpoena witnesses, administer oaths, and compel the production of documents.

CIVIL SERVICE COMMISSION MEETINGS (continued)

- f. Adjournments: Public hearings on appeals may be adjourned prior to completion of the hearing only upon good cause shown and/or by agreement of the parties. In the event that the appellant shall fail to appear in person or by counsel at the time and place set for hearing, the appellant shall be presumed to have waived his/her right to further hearing and the Commission may proceed forthwith to adjudicate the case. The Commission may reschedule the hearing upon presentation, by appellant or counsel, of written evidence of extenuating circumstances, which prevented the appearance of appellant and/or counsel for either party.
- g. Representation: Both the appellant and Elected Official/Department Head may be represented by counsel.
- h. Conduct of Hearings: Hearings before the Commission shall be open to the public. The Chairperson of the Commission shall have full authority at all times to maintain orderly procedure and to reject irrelevant matters and limit the hearings to relevant facts. Nebraska Rules of Evidence shall not formally apply but can be used as a guidepost.
- i. Findings and Order: The Commission shall have the authority to affirm, modify, or revoke the disciplinary action. The Commission's order shall be certified to the Elected Official/Department Head and shall be binding on all parties concerned.

ARTICLE 5

POSITION DESCRIPTIONS AND COMPENSATION

SECTION 1: PURPOSE

It is the intent of the Civil Service Commission to provide employees and Elected Officials/Department Heads with adequate information concerning the major duties and responsibilities of a position along with the necessary qualifications for the position. For this purpose, the Civil Service Commission has sole responsibility for the drafting and distribution of position descriptions which shall:

- a. Provide the employee with sufficient information and resources to ensure the employee can successfully fulfill their duties. The position description shall serve as a reference source by outlining the major duties and responsibilities of the position. It shall be the responsibility of the Elected Official/Department Head to ensure that all employees are aware of the contents of their current position description.
- b. Contribute to a positive work environment based on an individual's abilities and performance by establishing Bona Fide Occupational Qualifications (BFOQ's) to be used in hiring and promoting employees.
- c. Assist in the development and utilization of a comprehensive compensation system through the uniform evaluation, comparison, and classification of positions.
- d. Maintain up to date position descriptions.

SECTION 2: PROCEDURES

To facilitate this process, the Civil Service Commission shall utilize sources as necessary to develop position descriptions which fairly represent the major duties and responsibilities of the position along with the experience, education and abilities necessary to succeed in the position. Periodic reviews may also be initiated at the request of the Elected Official/Department Head. Employees who feel their position description is no longer a fair representation of their actual duties and responsibilities may request a review of the position description to their immediate supervisor or Elected Official/Department Head. The Elected Official/Department Head may request Civil Service to conduct a formal job audit.

Although every effort will be made to develop position descriptions which fairly represent the position, the position description is not intended to act as the sole source of information concerning the position, nor does it necessarily represent all the duties of the position. Various sources, such as departmental policies and procedures, regulatory guidelines, etc., may also be introduced to assist in the training and development of the employee.

SECTION 3: COMPENSATION

The salary compensation system for non-bargaining unit employees has been developed in order to provide all job classifications with a fair and accurate means of compensation. All non-bargaining unit classifications are individually analyzed by the Human Resources Department staff and then placed within the appropriate pay level upon approval of the Human Resources Director. Human Resources staff shall use appropriate methodologies to analyze and gather information on job duties for existing job titles and proposed new job titles. The Civil Service Commission may periodically make recommendations to the Douglas County Board of County Commissioners regarding compensation of Civil Service employees. Pay provisions for union covered employees are governed by their respective union contracts.

ARTICLE 6

CIVIL SERVICE/HUMAN RESOURCES DEPARTMENT RECORD MAINTENANCE

SECTION 1: GENERAL POLICY

Records shall mean any document, form, examinations, test results or any information essential to the operation of the Civil Service Commission/Human Resources Department and necessary to protect the rights and interest of employees and applicants. The Human Resources Department shall protect all records as required by law.

All records made or received by the Commission/Human Resources shall be the property of the Commission and Human Resources and shall not be destroyed, removed, mutilated, or transferred, except as provided by these rules or applicable statute.

SECTION 2: LENGTH OF RECORD RETENTION

Records shall be retained for the length of time as specified by state and federal statutes/regulations. The Director of Human Resources shall establish retention schedules for Civil Service and Human Resources department records not subject to state and/or federal statutes.

SECTION 3: ACCESSIBILITY TO HUMAN RESOURCES RECORDS

- a. Members of the Human Resources staff have access to all Human Resources records during business hours. No records are to be removed from the office without the permission of the Human Resources Director or designated representative.
- b. Elected Officials/Department Heads shall have access to personnel files of their employees. The Elected Official/Department Head may authorize management staff in his/her department to review personnel files upon written request to and approval by the Human Resources Director.
- c. Upon written request current or past Civil Service employees may review their individual personnel file during business hours. They may request copies of documents from their file but pay reasonable copy fees as provided for in state statute. The Human Resources Department may require the issuance of a subpoena for third parties to obtain access to personnel files unless otherwise authorized by law.
- d. Authorized Federal, State, and local agents conducting investigations will be granted access to necessary personnel records upon presentation of proper identification and approval by the Human Resources Director or designee.
- e. Attorneys representing an employee may be granted access to that employee's personnel file upon approval of the Human Resources Director or designee and the employee in question.

SECTION 4: RELEASE OF INFORMATION

a. Employee Information

The responsibility to respond to inquiries about former or current employees from third parties such as credit and prospective employment references rests with the Human Resources Department. Responses to general requests for public information such as dates of employment, positions held, and confirmation of salary amount will be provided without prior authorization. Release of more specific information not covered by public record laws may be provided upon receipt of a written release signed by the employee or former employee, a valid subpoena, or as otherwise required by law.

Employees, supervisors, Department Heads, and Elected Officials are not authorized to release information on current and former employees to third parties. All requests of this nature should be forwarded to Human Resources for response.

b. Applicant Information

Applicant information may be released according to provisions of Nebraska Statute 84-712. Interested parties may obtain copies of applications, resume, and other documents submitted by an individual who is a finalist for a posted vacancy. Such requests shall be in writing. In all cases, the following personal information will be redacted or blackened out: social security number, home address, home telephone number, emergency contact information, and date of birth. At his or her discretion, the Human Resources Director may designate other information as personal and thus not subject to release.

No employee, department head, elected official or representative shall release any information from employment applications or resumes. All requests for information of this nature shall be forwarded to the Human Resources Department for processing.

ARTICLE 7

EMPLOYMENT PROCESS

SECTION 1: POLICY

The Douglas County Civil Service Commission/Human Resources Department is charged with the responsibility of coordinating and monitoring the employment process for county departments covered by Civil Service, Neb. Rev. Stat. 23-2501. All aspects of employment shall be conducted in compliance with applicable federal and state statutes.

The Human Resource Department may develop competitive examinations for both entry level and promotional classifications. All such testing adopted by the Commission shall meet all state and federal Equal Opportunity Bona Fide Occupational Qualifications (BFOQ) guidelines for validity, reliability, and job relatedness. Employees may be required to complete job specific testing as required by statute, regulation, or accreditation standards.

SECTION 2: APPLICATION PROCESS

Interested individuals (employees and non-employees) may apply for employment by completing and submitting a Douglas County Civil Service Commission employment application. Employees who are covered by Civil Service and have completed their initial probation period may apply for any current position vacancy.

SECTION 3: NOTIFICATION OF VACANCIES

The Elected Official/Department Head shall notify Human Resources when a vacancy exists they wish to fill. All vacancies must be posted by Human Resources. The Elected Official/Department Head may elect to have the vacancy posted as an internal position vacancy, departmental position vacancy or an open position vacancy. An Internal Position Vacancy is one that is restricted to Civil Service non-probationary employees. A Departmental Position vacancy is one that is restricted to Civil Service non-probationary employees of the department where the vacancy exists. An Open Position Vacancy is one that is open and any eligible person can apply. The Human Resources Department shall distribute a notice of vacancies to all Civil Service covered departments, post all vacancies at all of its office locations, and on the Human Resources web site.

A job change is not considered a vacancy when:

A job title changes and/or a grade change occurs as a result of a Civil Service job audit that does not result in the creation of a vacancy and the audit has determined that the job's duties have increased or changed or evolved over time.

Job(s) which are being transferred from one County department to another provided the action taken has been approved by both department heads/elected officials and by the Director of Human Resources.

SECTION 4: SELECTION CRITERIA

Upon closing of a posting, the Human Resources Department will forward a list of eligible candidates to the department for an employment interview. The eligible candidates must possess the minimum qualifications for the position and have an acceptable work record with previous employers. The Human Resources Department shall ask for input from the Elected Official/Department Head or designee in the development of the interview list. Candidates on the interview list shall be interviewed. No department or supervisor may employ a scored test for employee selection without it first being reviewed and approved by the Human Resources Department. This does not apply to panel and structured interviews.

EMPLOYMENT PROCESS (continued)

SECTION 5: ELIGIBILITY FOR PROMOTION/TRANSFER

A Civil Service covered employee must meet the following criteria to be considered for other positions:

1. The employee must have completed their initial probation or trial period on or before the application deadline. Probationary part-time employees may bid on full-time openings within their same job title.
2. Employees must meet the minimum qualifications for the vacant position.
3. The employee must have a recent performance appraisal rating of "satisfactory" or higher within 12 months prior to the job posting except in those instances in which an employee has no performance appraisal on record in their Civil Service personnel file.
4. The employee may not have been suspended within twelve months prior to the date the position closes.

SECTION 6: REHIRE PROCEDURES

Former Civil Service employees may apply for re-employment by following the same procedures for external candidates plus the Human Resources Department will review and evaluate the record of former employees and determine their eligibility for re-employment. Rehired former employees will not lose previous service time if they return within 30 calendar days of their separation of employment.

SECTION 7: REFERENCES

It shall be the responsibility of the Human Resources Department to make every reasonable attempt to verify past employment for every employee of Douglas County.

SECTION 8: BACKGROUND CHECKS AND PRE-EMPLOYMENT PROCESSES

All persons hired for positions covered by Civil Service shall successfully complete a pre-employment drug test and a local criminal records check. All newly hired employees shall comply with provisions of the Immigration Reform and Control Act of 1986 or forfeit their position.

The Human Resources Director, in consultation with the Elected Official/Department Head may require testing and other evaluation methods in order that Douglas County hires the best possible candidates, including but not limited to: physical examination, licensure, local and/or nationwide criminal records check, back assessments, and various child/adult abuse registries. Failure to complete any required test/inquiry will result in the offer of employment being withdrawn. Background checks vary by position and location. Provisions of this section are applicable to all persons, both internal and external applicants.

SECTION 9: TEMPORARY EMPLOYMENT

Employees shall not be employed beyond six consecutive months in a temporary or seasonal status unless such extension is reviewed and approved by the Elected Official/Department Head and Human Resources Director.

ARTICLE 8

EMPLOYEE PROBATIONARY PERIOD

SECTION 1: NEWLY HIRED EMPLOYEES

- a. In order to provide Elected Officials/Department Heads an opportunity to evaluate a new employee's performance in the job and their ability to effectively perform the work, continued employment will be subject to a probationary period of six months from the employee's start date.
- b. Probationary employees shall not have recourse to appeal and grievance procedures in matters affecting the terms and conditions of their employment. An employee may be separated from employment at any time during the probationary period if the Elected Official/Department Head determines that the employee's performance has been unsatisfactory. A probationary employee has no right to appeal his/her separation from employment.
- c. Employees shall not be eligible for promotion/transfer while they are serving in a probationary period. The only exception shall be a part-time employee who applies for a full-time position in the same job classification and department.
- d. The employee's performance shall be rated by the employee's immediate supervisor by the conclusion of the probationary period and approved by the Elected Official/Department Head. The completed appraisal form shall be forwarded to the Human Resources Department. Upon written request of the Elected Official/Department Head and the approval of the Director of Human Resources, the initial probation may be extended for up to three months.

ARTICLE 9

PROMOTIONS, DEMOTIONS, TRANSFERS, AND DETAIL ASSIGNMENTS

SECTION 1: GENERAL POLICY

It shall be the policy of Civil Service to adopt policies and practices, which enable employees to apply for and be fairly evaluated for job vacancies. It is the responsibility of Civil Service/Human Resources to promptly process applications and forward lists of candidates to departments for interviews.

SECTION 2: DEFINITIONS

Promotion is defined as a job movement where an employee moves from one job to another where the new job has a higher pay scale/range.

Demotion is defined as a job movement where an employee moves from one job to another where the new job has a lower pay scale/range.

Job transfer is defined as a job movement within a department or between departments in which an employee moves to a job that does not meet the above criteria for either a promotion or demotion. Typically, this type of move would cover movement from one department to another, from a bargaining unit to a non-bargaining unit job and vice versa and from non-Civil Service job to a Civil Service job. This would also cover job moves where the employee moves to another job with the same grade or pay scale.

SECTION 3: TRIAL PERIOD FOR PROMOTED/TRANSFERRED/DEMOTED EMPLOYEES

The length of the trial period for promoted/transferred/demoted employees shall be 90 days, beginning with the employee's starting date in the new position. During this time, the employee's performance shall be evaluated in the manner prescribed by the Commission.

SECTION 4: RETURN TO PREVIOUS POSITION (within same department)

If the job movement is within the same department, the employee may be removed from such position by the Elected Official/Department Head when, in the judgment of the Elected Official/Department Head, he/she has not demonstrated his/her fitness for the position. If an employee fails to successfully complete the trial period, he/she shall be returned to a position comparable to that held immediately prior to the promotion, demotion, or transfer. The employee's previous salary and seniority that was held prior to the job change will be reinstated.

SECTION 5: RETURN TO PREVIOUS POSITION (outside original department)

If the job movement is between departments, the employee may return to his/her previous job position during the trial period with the approval of the Elected Official/Department Head where the employee previously worked. For job movements between departments, there shall be no automatic right for an employee to return to their previous job. The decision to allow the employee to go back to their previous job is solely at the discretion of the Elected Official/Department Head. In this instance, the employee will retain his/her previous seniority and rate of pay if the return to the previous job is done during the trial period.

PROMOTIONS, DEMOTIONS, TRANSFERS, AND DETAIL ASSIGNMENTS (continued)

SECTION 6: INTERDEPARTMENTAL JOB MOVES

In those instances where vacancies are filled by an employee accepting a position in a different department, the Elected Official/Department Head shall release the employee from their current position within a reasonable period, not to exceed 30 calendar days. An employee accepting a position in another County department shall give their current department no less than fourteen (14) calendar days notice of their intent to transfer and vacate their position.

SECTION 7: DETAIL ASSIGNMENTS

- a. In the event an employee's services are temporarily needed in a position classification different from the employee's regular position, the employee may be assigned by the Elected Official/Department Head to perform the duties of such position not to exceed six calendar months. The Human Resources Director must approve any extensions of detail assignments. Employees have the right to decline any detail assignment. However, if an insufficient number of employees agree to accept the detail assignment(s), then the Elected Official/Department Head or his/her designee shall have the right to designate the most junior qualified employee(s) for the detail assignment.
- b. An employee on detail assignment to a position of equal or higher pay level than the employee's regular position, shall be paid no less than the minimum salary of the position where detailed. Actual salary during detail assignment shall be approved by the Human Resources Director and shall in no event be less than the employee's salary immediately prior to detail assignment.
- c. An employee detailed to a position in a lower pay level than the employee's regular position, shall be paid no less than the employee's regular salary immediately prior to detail assignment.

ARTICLE 10

LAYOFF AND RECALL

SECTION 1: GENERAL POLICY

The following are procedures to be used in the event a reduction in force is necessary.

SECTION 2: DEFINITIONS

- a. **Department** is a recognizable work group within Douglas County defined either by statute or by County Board resolution.
- b. **Recognized Douglas County Departments:**

| | |
|--|----------------------------|
| Administrative Offices | Extension Services |
| Assessor | General Assistance |
| Civil Service Commission/Human Resources | Health Center |
| Clerk of the District Court | Health Department |
| Clerk/Comptroller | Juvenile Assessment Center |
| Communications (911) | Microfilm |
| Community Mental Health Center | Public Properties |
| Convention & Visitors Bureau | Purchasing/Garage |
| Corrections | Register of Deeds |
| Election Commission | Sheriff |
| Emergency Management | Treasurer |
| Engineer | Veterans Service |
| Environmental Services | Youth Center |
- c. **Supervisor** is an employee who has designated authority and is recognized by County management to direct the work activities of employees under their control.
- d. **Days** shall mean working days defined as Monday through Friday excluding recognized County holidays.
- e. **Vacant Position** is defined as a position for which a Personnel Requisition has been processed by the Department in question and received by the Civil Service Commission.
- f. **Personnel Requisition** is a form produced by the Civil Service Commission that is used by County departments to notify the Civil Service Commission of the need to fill a vacant position.
- g. **Date of Employment** is the date the employee was first employed by the County in a position covered by Civil Service. Service time in a temporary or seasonal occupation will not be counted. In the event two affected employees have the same date of employment, longer service shall be awarded to the person who first filed a Civil Service employment application. In the event an individual has multiple applications with Douglas County, the application submitted in the hiring decision shall be utilized. If the affected employees filed an application on the same date, the tie shall be broken by lot.
- h. **Bumping** is the act of a laid off employee displacing another employee from their position under provisions of this article.
- i. **Recall** is the action of notifying an employee in layoff status that their previous position is now available and they can return to their former position.
- j. **Initial Probation Period** is the time of employment beginning with the employees' first day of work in a Civil Service position as a non-temporary employee.
- k. **Classification** is a job title or position title and is distinguished by a unique occupation code or position description.
- l. **Laid Off** refers to an employee who has been displaced from his/her job pursuant to these rules.
- m. **Qualified** means that the employee meets job qualifications and can perform the duties of the job.

SECTION 3: LAYOFF STATUS DETERMINATION

In the event it becomes necessary to reduce the number of employees within a department, the Elected Official/Department Head will determine which positions are to be eliminated. Once the affected positions are identified, the following criteria will apply:

1. Employees will be laid off based upon their Date of Employment beginning with the employee with the least amount of service to the County.
2. No Civil Service employee shall be laid off while there are probationary, seasonal, or temporary employees working in their classification within their department.

SECTION 4: EMPLOYEE NOTIFICATION

The Elected Official/Department Head shall provide written notice to the employee who is subject to layoff at least twenty working days prior to the effective date of the layoff. The notice shall be hand delivered to the employee at their work site. If the employee is not at the work site, delivery shall be by certified letter to their address of record. Copies of the layoff notice shall be provided simultaneously to Human Resources. The written notice shall contain a form, which the employee will use to notify Human Resources as to whether they wish to accept the layoff or exercise any applicable bumping rights. This form must be received by Human Resources no more than five working days from the date the notice was hand delivered or mailed. Failure to provide the form to Human Resources within the time guidelines specified will result in the loss of any bumping rights and the employee will be placed on layoff status.

SECTION 5: LAYOFF/BUMPING PROCESS

Prior to the effective date of layoff, the affected employees shall be given the opportunity to displace employees within their department provided they:

1. Have completed their initial probation period prior to the effective date of the layoff, and
2. Have a performance appraisal rating satisfactory or higher provided the performance appraisal was completed within twelve months of the effective date of the layoff.

The Elected Official/Department Head in consultation with the Human Resources Department shall determine which position, if any, is available to each affected employee for which he/she qualifies. Said employee shall have the opportunity to accept or reject any positions offered. Rejection of an offered position shall constitute acceptance of layoff.

Employees may exercise their bumping rights within their department as follows:

Prior to the effective date of layoff, the affected employees shall be given the opportunity to displace employees within their department under the provisions as follows:

1. Employees must first accept a vacant position within their current pay grade provided they are qualified for the position.
2. Employees may displace employees with lesser length of overall county service (Date of Employment) in the same or lower pay level in a position they have previously held (exclusive of detail assignments) provided they are qualified for the position. Employees must first accept a vacant position if available before being able to bump another employee under this section.

SECTION 5: LAYOFF/BUMPING PROCESS (continued)

3. Employees may displace employees with lesser length of overall county service (Date of Employment) in positions they have supervised at least a year provided they are qualified for the position. Employees must first accept a vacant position if available before being able to bump another employee.
4. Employees may apply for vacant positions in other departments covered by Civil Service. If qualified for the position, they will be interviewed prior to other County employees and outside applicants. This provision applies to positions posted open, not closed promotional positions.
5. Bumping between positions covered by a collective bargaining agreement and non-union positions is prohibited.
6. Employees shall serve a 90-day trial period in the new position.

SECTION 6: PAY FOR BUMPING EMPLOYEES

- a. Employees bumping employees covered by the Douglas County Step Pay Plan shall move to the equivalent (step number) pay step of the position they are bumping into.
- b. Employees bumping employees covered by the Douglas County Range Pay Plan shall receive no less than the minimum pay for that pay level. The Elected Official/Department Head has full discretion to determine the pay of the bumping employee, provided the pay does not exceed the salary of the employee being displaced.
- c. Employees bumping to vacant positions shall be paid in accordance with the provisions of the Douglas County Pay Plan.

SECTION 7: CALL BACK PROCEDURE

- a. Employees laid off shall be recalled to vacant positions within their department beginning with the longest service employee first, provided the employee meets the minimum employment qualifications for the position.
- b. During the recall process, employees still on the active payroll but displaced from their original position (prior to layoff) shall be given an opportunity to return to their original position based on the length of service provided the job is vacant.
- c. Employees given such opportunity to return to their original position, or return to the active payroll if on layoff, may decline such opportunity, but refusal will negate all future recall rights.
- d. Employees will retain recall rights for one calendar year beginning with the effective date of layoff.
- e. Employees recalled from layoff will be notified in writing by certified letter to their address of record at the time of layoff. The employee must notify the County of their intent to return to work within ten working days from date the notice was mailed. Failure to respond to a recall notice shall result in the loss of recall rights. Recalled employees must return to work within ten working days from the date the recall notice was received by the employee. The return date may be extended by agreement of both the Elected Official/Department Head and the Human Resources Director. It is the responsibility of the employee to notify Human Resources in writing of any change of address while on layoff status. Failure to accept and/or pick up the certified letter from the post office and respond in the prescribed time will negate all recall rights.

SECTION 8: JOB APPLICATION RIGHTS

Employees who are on layoff status may apply for positions posted with Douglas County in the same manner as if they were still employed. The employee must meet all other employment/application criteria required for each position. These rights expire one year after the effective date of their respective layoff.

**Douglas County Civil Service Commission
Layoff Exercise of Options Form**

I, _____, _____, _____
Last Name First Name Middle Initial

_____, desire to:

Current Position

1. _____ accept layoff
2. _____ exercise my layoff ("bumping") rights (if applicable)

In exercising my "bumping rights", I desire employment at:

1. _____ full time only
2. _____ part time only
3. _____ full or part time

Date

Employee Signature

THIS FORM MUST BE RETURNED TO THE DOUGLAS COUNTY CIVIL SERVICE OFFICE NO LATER THAN THE CLOSE OF BUSINESS ON _____ TO PROTECT YOUR LAYOFF RIGHTS. FAILURE TO RETURN THE FORM PRIOR TO THE DEADLINE SHALL CONSTITUTE ACCEPTANCE OF LAYOFF.

FOR CIVIL SERVICE COMMISSION USE ONLY

DATE RECEIVED: _____ RECEIVED BY: _____

**Douglas County Civil Service Commission
Request To Fill Vacant Position**

I, _____,
Last Name First Name Middle Initial

desire to interview for the position(s) I have listed below. I understand that this applies only to positions currently posted and that I must meet all job related qualifications.

Positions requested:

In addition, I must complete an employment application for each position.

Signature of Employee: _____

Date: _____

ARTICLE 11

PERFORMANCE APPRAISAL

SECTION 1: PURPOSE

The purpose of the formal performance appraisal for all Civil Service employees shall be:

- a. To assist in the training and development of the employee in the competent performance of the duties and responsibilities of the position held.
- b. To prepare the employee for additional duties and thereby aid in his/her advancement.
- c. To allow for a formal record of performance to serve as a basis of personnel decisions.

SECTION 2: SCHEDULE OF PERFORMANCE APPRAISALS

- a. Probationary Employees (newly hired employees):
All probationary employees shall be appraised within the initial probationary period. Thereafter, the appraisal shall be done on an annual basis (as long as the employee remains in the same classification as hired) on or about the anniversary date of employment (classification date).
- b. Non Probationary Employees:
 1. No Civil Service covered employee shall go beyond 12 calendar months without having their performance evaluated under the formal performance appraisal system.
 2. No method, form, or rating standard may be used except that which has been approved by Human Resources.
 3. Employees may be evaluated more frequently than annually if required by accreditation standards.
- c. Employees moving to a new position shall be appraised within the trial period. Thereafter, the appraisal shall be done on an annual basis.
- d. Elected Officials/Department Heads may determine fair and equitable standards of performance for their respective departments to be adapted to the formal system; however, the standards developed must be approved by the Human Resources Director prior to their use.

SECTION 3: PERFORMANCE APPRAISAL FORMS AND MANUALS

The Civil Service Commission shall establish, maintain, and distribute performance appraisal forms and manuals. The purpose is to provide a method to measure employee performance as fairly as possible and to serve as a tool in the discussion with the employee about the level of performance.

SECTION 4: DISTRIBUTION OF PERFORMANCE APPRAISAL REPORTS AND FORMS

Each Elected Official/Department Head will receive appraisal report forms on a monthly basis for employees in their department who are scheduled for an appraisal. The rater shall present to the employee being rated a copy of their current position description. The "Verification of Review of Position Description" form will be signed by both the rater and the employee. The appraisal form is to be signed by the employee and a department representative during the employee conference after the employee has read and understands their position description. The appraisal report is to be:

- a. Prepared by the employee's immediate supervisor.
- b. Reviewed and approved by the Elected Official/Department Head, or designee.
- c. Reviewed with the employee.
- d. Signed by the employee, the rater (immediate supervisor), and the Elected Official/Department Head.
- e. Forwarded to the Human Resources Director for review, approval and processing. The employee may note disagreement with the appraisal or make other comments in the space provided or on a separate sheet of paper. The employee may also refuse to sign the appraisal without suffering any penalty whatsoever.
- f. After approval by the Human Resources Director or designee, the employee and the Elected Official/Department Head will receive copies of the performance appraisal for their records.
- g. Performance appraisals are not subject to the grievance procedure.

ARTICLE 12

LENGTH OF SERVICE

SECTION 1: DETERMINING LENGTH OF SERVICE

Length of service is defined as the period of time during which a person is employed by Douglas County in a Civil Service covered position commencing from date of employment to date of resignation, retirement, or termination without a break in continuous service.

SECTION 2: BREAK IN SERVICE

An employee's length of service is broken and all rights and benefits forfeited in the following circumstances:

- a. Resignation (except as indicated in Section 3 below), retirement or termination.
- b. Failure to return from layoff as provided in the Layoff and Recall Procedures.
- c. Remaining in a layoff status for a continuous period of one year.
- d. Failure to return from a leave of absence

SECTION 3: RETURN FOLLOWING RESIGNATION

An employee's length of service is not broken and all rights and benefits are retained if the employee returns to regular employment with any Civil Service covered Department of Douglas County within 30 calendar days. Return to employment within the same Department may occur only by mutual agreement of the Elected Official/Department Head concerned, the employee and the Human Resources Director.

ARTICLE 13

OVERTIME AND COMPENSATORY TIME

SECTION 1: LENGTH OF WORK WEEK

Each Elected Official/Department Head shall have the responsibility to set their department hours of work, including shift starting and ending times, and meal and rest breaks. The work week shall begin on Sunday at 12:00 a.m. and conclude on Saturday at 11:59 p.m.

SECTION 2: OVERTIME COMPENSATION

Hours of work, as used in this Article, shall be defined as actual hours worked. Paid meal breaks, vacation leave, sick leave, holiday leave, funeral leave, and other paid leaves are **excluded** from computation for purposes of determining overtime.

The Human Resources department shall designate, for the purpose of eligibility for overtime payments, all County positions as either "exempt" or "nonexempt" under the guidelines promulgated by the United States Department of Labor and the provisions of the Fair Labor Standards Act (FLSA). All Elected Officials and County Department Heads shall be informed of these classifications and will be instructed to pay overtime accordingly.

It is the responsibility of Elected Officials and Department Heads or their designees to maintain accurate payroll time records.

Nonexempt classified employees shall accurately report all hours worked to their immediate supervisor and shall not work overtime hours without prior written approval by their Elected Official, Department Head, or their designee.

A. Nonexempt Employees

1. Computation of hours worked for purposes of determining overtime hours will include only hours worked.
2. Employees classified as nonexempt, who actually work beyond the standard 40 hours work week, must be compensated at the rate of 1½ times their regular hourly rate of pay for all overtime hours worked; or
3. Compensatory time-off may be granted in lieu of overtime payments at the written approval of the Elected Official/Department Head.
4. Such compensatory time shall be granted at the rate of 1½ hours off for each hour worked beyond 40 hours, in a given workweek.
5. A Elected Official/Department Head may permit employees to accrue up to a maximum of 240 hours of compensatory time. Any hours worked above 40 hours in a week by an employee having a comp time balance above 240 hours must be paid to the employee at time and one-half unless time off has been requested by the employee which would bring the comp time balance to or below 240.
6. Accrued overtime and/or compensatory time must be paid to an employee upon their termination from employment.

OVERTIME AND COMPENSATORY TIME (continued)

B. Exempt Employees

Employees classified as exempt, due to the nature of the work they perform, are not eligible for overtime or compensatory time under the Fair Labor Standards Act.

1. Their normal (or basic) full-time work schedule consists of 5, eight-hour days and 40 hours each work week. Departments may allow alternate or flexible work schedules that support operational needs.
2. Work performed in addition to the regular work hours is customary with professional and administrative responsibilities.
3. Exempt staff may also be required to be available at specific times and to change their schedules to accommodate variations in work demands.
4. Staff who are not eligible for overtime under the Fair Labor Standards Act do not receive pay or additional time off for working beyond the regular workday or 40-hour workweek.

SECTION 3: MINIMUM TIME PAY ALLOWANCES

When a full time non-exempt employee reports for scheduled work and there is no work available, the employee shall be compensated for two hours of work or the actual number of hours worked, whichever is greater.

ARTICLE 14

HOLIDAYS

SECTION 1

The following days shall be recognized as paid holidays and observed on the dates established by the County.

| | |
|--|--------------------------------------|
| New Year's Day | January 1 ^s |
| Martin Luther King Day | 3 rd Monday in January |
| Presidents Day | 3 rd Monday in February |
| Memorial Day | Last Monday in May |
| Independence Day | July 4 |
| Labor Day | 1 st Monday in September |
| Columbus Day | 2 nd Monday in October |
| Veterans Day | November 11 |
| Thanksgiving Day | 4 th Thursday in November |
| Day after Thanksgiving | Friday after Thanksgiving |
| Christmas Day | December 25 |
| Floating Holiday - At the request of the employee and the approval of the Elected Official/Department Head | |

Holidays falling on Saturday shall be celebrated on Friday; those falling on Sunday shall be celebrated on Monday unless departmental schedules require other arrangements. Part-time employees must work on a set schedule in order to receive the floating holiday.

SECTION 2

Full-time employees shall be eligible for holiday pay if they are on the active payroll (not on unpaid leave) on the date of the holiday and if they work or are on an approved paid leave their last scheduled workday before and first scheduled workday after the holiday.

SECTION 3

Eligible full-time employees shall receive as holiday pay their normal daily rate of pay at straight time not to exceed their regularly scheduled number of hours.

Eligible part-time employees shall receive as holiday pay an amount equal to the number of hours for which they were scheduled on the holiday, not to exceed a total of eight (8) hours.

SECTION 4

When a holiday falls on a full-time employee's day off, and no other day is celebrated, the employee shall receive an amount of pay equal to his/her normal daily rate of pay.

SECTION 5

If an observed holiday falls during a full-time employee's vacation period, such observed holiday shall not be charged against the employee's vacation leave.

SECTION 6

Holidays shall not be considered as time worked for the purposes of computing overtime pay.

SECTION 7

Full-time employees required to work on the day which any holiday listed in Section 1 is observed, shall in addition to holiday pay provided in Section 3 hereof, receive compensation at the rate of one and one half (1 ½) times the actual number of hours worked.

HOLIDAYS (continued)

SECTION 8

The floating holiday can only be used by employees who have completed their probationary period. The Floating Holiday must be taken during the calendar year. There shall be no carryover from one calendar year to the next. Employees who leave Douglas County employment shall not be paid for the Floating Holiday if it is not taken prior to their termination.

SECTION 9

Where an employee, due to departmental scheduling needs, is required to work on both an official Observed Holiday and a Celebrated Holiday, Holiday Pay will apply for only the Celebrated Holiday.

In those instances where Elected Officials/Department Heads designate a substitute day for the official holiday, work performed on such designated day shall be paid as if they worked the holiday or the employee shall be granted additional time off during the same pay period. The Elected Official/Department Head may not designate a Saturday or Sunday as the substitute holiday unless the employee's regular work schedule includes Saturdays and/or Sundays.

ARTICLE 15

VACATION LEAVE

SECTION 1: ELIGIBILITY

Vacation leave shall be earned each payroll period where the employee has worked or been on paid leave at a rate equivalent to the schedule shown below. The employee shall work or be on paid leave 50% or more of the regularly scheduled hours of such period before the employee is entitled to earn vacation leave. Permanent part-time employees shall earn vacation leave on a pro rata basis in the same proportion that his/her regularly scheduled hours in a payroll period bear to the regularly scheduled hours of full-time employees.

Probationary employees shall earn vacation leave from their starting date, but cannot take vacation leave until completion of their probationary period unless approved by the Elected Official/Department Head. Vacation leave must be approved by a supervisor prior to time off. Supervisors (Elected Officials/Department Heads) shall attempt to schedule work production to allow employees to take vacation at the time requested. The needs of the office shall assume precedence in scheduling of vacations. Vacation scheduling shall be based upon efficient operation of particular work production and upon length of service.

SECTION 2: VACATION ACCRUED

Vacation shall be accrued on the following basis:

| <u>Years of Service</u> | <u>Annual Vacation Accrued</u> |
|-------------------------|---|
| Start through 4 years | (96 hours annually/3.692 hours per pay period) |
| 5 through 9 years | (120 hours annually/4.615 hours per pay period) |
| 10 through 14 years | (160 hours annually/6.153 hours per pay period) |
| 15 or more years | (200 hours/7.692 hours per pay period) |

Employees shall begin accruing the 2nd, 3rd, and 4th accrual rates after completion of their fourth, ninth, and fourteenth year of continuous service respectively.

SECTION 3: CARRY OVER OF VACATION

No more than 240 hours of vacation leave may be carried over from one year to the next. Department Heads and Elected Officials may schedule an employee's time off on a case by case basis in order to keep the year end balance from exceeding 240 hours.

SECTION 4: ILLNESS OR INJURY DURING VACATION

Upon receipt of medical certification from a physician, sick leave will be allowed for the period of illness or injury which takes place during vacation leave.

SECTION 5: VACATION SCHEDULE

Commencing on or about February 1 for a period of 30 days, the Elected Official/Department Head shall provide a form where employees may designate their preferences for scheduled vacation leave for the following calendar year. The form provided by the employer shall indicate those dates when vacation may not be taken by employees. Where by virtue of the employer's scheduling of vacation leave, a conflict exists among the designated preferences of employees in the same work unit, length of service with the County shall control. In the event an employee desires to take vacation at more than one time during the year, length of service shall control only on the employee's first vacation choice. The employer shall post scheduled vacations in individual departments 30 days after the completion of the posting period as described in this Section.

VACATION LEAVE (continued)

SECTION 6: MODIFICATION/ADJUSTMENT OF VACATION SCHEDULES

An Elected Official/Department Head has the right to cancel/adjust vacation schedules due to unforeseen circumstances and the needs of the department. An Elected Official/Department Head will make every effort to reschedule the affected employee's vacation in concert with the employee.

ARTICLE 16

LEAVES OF ABSENCE

SECTION 1: GENERAL POLICY

Leaves of absence may be granted to employees. Both paid and unpaid leaves are granted if procedures are followed and meet the needs of individual departments and offices. For absences covered by **the Family and Medical Leave Act see Article 17.**

SECTION 2: PAID LEAVE

a. Sick Leave:

The purpose of paid sick leave is to reimburse employees for those occasional instances when absence is required due to illness or injury of the employee and to provide some measure of income protection for extended illness. Employees shall not receive payment for unused sick leave upon termination of employment. Unused sick leave is credited toward length of service when calculating pension benefits pursuant to provisions of the Douglas County Retirement Plan. Sick leave with pay will be granted only as defined in this Article. Employees are prohibited from working in any other employment while utilizing sick leave with pay. Violation of these provisions may result in disciplinary action.

Definition of Sick Leave:

A leave of absence granted for any one of the following reasons shall be sick leave:

1. Absence due to legitimate illness or injury, other than illness or injury arising out of and in the course of County employment except as provided in paragraph 6.
2. Absence due to medical or dental appointments.
3. Absence due to quarantine established and declared by the Health Department or other competent authority, but only for the period of quarantine.
4. Absence due to exposure to a contagious disease, which may endanger the health of co-workers and/or the public by the employees' attendance at their work site.
5. An employee may utilize up to 80 hours of accrued sick leave per calendar year for FMLA qualifying absences necessitated by the illness of a parent, spouse, or child. Employees shall be entitled to use up to forty (40) hours of their earned sick leave per year to care for an immediate family member (parent, spouse, or children) for non-FMLA qualifying events. This allotment will be considered as part of the eighty (80) hours per year mentioned in this section. Paid leave used under this provision, which meets FMLA requirements, will be counted against the employee's FMLA balance.
6. Employees may utilize sick leave benefits in combination with Worker's Compensation to receive a full paycheck for hours not worked due to an on the job injury. Such paid sick leave shall be the amount which when added to the amount payable under the Worker's Compensation Law will equal the salary, excluding shift premium and/or overtime, paid the employee in their County position at the time of their injury. If partial sick leave is paid to supplement the Worker's Compensation payments, the employee's earned and unused sick leave balance shall be adjusted accordingly.

LEAVES OF ABSENCE (continued)

7. Employees who become injured because of engaging in secondary employment outside of the County service shall not be entitled to sick leave with pay for such injury.

Periods of Sick Leave: Employees who have been employed in a Civil Service position continuously for at least 90 calendar days and who are absent because of illness or injury as defined above and have sufficient leave time accrued, shall be entitled to sick leave with full pay. Employees with less than 90 days service may utilize accrued sick leave for emergency medical use with the approval of the Elected Official/Department Head.

Calculation of Sick Leave: Sick leave shall be earned by full-time employees at the rate of 112 hours per year pro rated over twenty-six (26) pay periods at 4.308 hours per pay period. A part-time employee shall earn sick leave on a pro rata basis in the same proportion that his/her regularly scheduled hours in a payroll period. Full time employees shall work or be on paid leave 50% or more of the regularly scheduled hours of such period before the employee is entitled to earn sick leave.

Accumulation of Sick Leave: Sick leave with pay when not used shall be cumulative, but the accumulated unused period of sick leave shall not exceed 1,440 hours. Accrued sick leave in excess of 1,440 hours shall be added along with accrued sick leave to length of service for retirement purposes pursuant to provisions of the Douglas County Retirement Plan.

Application for Sick Leave:

Requests for sick leave shall be submitted to the employee's supervisor or Elected Official/Department Head. For sick leave of five (5) or more consecutive days, the employee must provide a physician's certificate stating the nature of the illness or injury and the expected return to work date. An Elected Official/Department Head may request an employee to provide a physician's certificate at any time when he/she believes the employee is abusing or excessively using sick leave.

b. Military Leave:

Employees who are members of the National Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Public Health Service commissioned corps, Air Force Reserve or Coast Guard Reserve shall be granted leave with full pay not to exceed fifteen (15) work days per calendar year for active service ordered or authorized by competent authority.

An employee who is a member of any of the reserve forces mentioned above who is ordered to active service of the State/Country when a state of emergency is declared by the Governor/President shall be granted an additional leave of absence until released from active service by competent authority. Such leave shall be compensated for by the employee receiving full military pay plus the difference (if full military pay is less than County pay) between military pay and County pay for the period which is in excess of fifteen (15) work days mentioned in (1) above. In order to collect the pay differential, the employee must submit to the payroll office on a quarterly basis pay stubs and other documentation as requested by the payroll office.

LEAVES OF ABSENCE (continued)

Upon return from military leave, the employee shall have the right to be reinstated in accordance with the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA) or such other legislation governing reinstatement rights as may be applicable. Such employee, upon being honorably discharged from military service and being otherwise eligible under said Act to be reinstated, shall have such length of service and salary level as would have accumulated had the employee continued in the employ of the County during the period of service with the military. The employee must contact his/her Elected Official/Department Head and submit a request for reemployment and provide copies of appropriate discharge documents within the periods required under USERRA.

c. Jury Duty, Election Official Duty, and Court Leave:

1. A Civil Service employee who is required to report for jury duty, election official duty or as a witness in court or before an administrative tribunal in connection with the employee's officially assigned duties on a regularly scheduled work day shall be paid their normal rate of pay. They shall surrender any witness fees to the payroll department unless the employee chooses to use a vacation day. Employees are required to report immediately to work if not selected for a jury.
2. Employees subpoenaed as witnesses by the Civil Service Commission shall be granted time off with pay for the time spent at the proceeding plus up to a maximum of one (1) hour round trip travel time if necessary from their work site to the hearing location. The Elected Official/Department Head may allow less time dependent upon the distance to be traveled.
3. Employees who have not been subpoenaed or whose attendance is not part of their duties must use vacation leave or leave without pay to attend Civil Service hearings, or to conduct legal business, which is personal in nature.

d. Funeral Leave:

Any funeral leave must be approved by the employee's supervisor prior to it being taken. There are times when it is not possible for the employee to obtain prior approval. In those instances, the employee shall notify his/her supervisor of the need to take funeral leave, and the number of days the employee needs to be absent from work. The funeral leave must contain the day of the funeral or memorial service that is held for the deceased.

Funeral leave shall be granted to employees in the following manner:

1. Where there is a death of the employee's spouse or employee's children, mother, father, step children, or a minor for whom the employee has assumed legal parental rights, the employee may utilize funeral leave not to exceed five (5) working days.
2. Where there is a death of an employee's stepmother, stepfather, any grandparent, grandchild, brother, sister, stepbrother, stepsister, half brother, half sister, current mother-in-law, current father-in-law, current daughter-in-law, current son-in-law, an employee may utilize funeral leave not to exceed three (3) working days.
3. Where there is a death of a current brother-in-law, current sister-in-law, aunt, uncle, or any person related by blood, or marriage and who is not more distant than a 2nd cousin, great aunt or great uncle, or any person who at the time of death was a resident in the household of the employee, the employee may utilize up to one (1) working day of funeral leave.

LEAVES OF ABSENCE (continued)

4. Vacation leave may be utilized by employees for funeral attendance and handling arrangements for non-blood relatives.

SECTION 3: UNPAID LEAVE OF ABSENCE

- a. Unpaid Leave (Non-Medical): An Elected Official/Department Head may grant unpaid leave for non-medical reasons under the following conditions:
 1. All applicable paid leaves (vacation, floating holiday, compensatory time) have been exhausted.
 2. The employee shall submit in advance a written request to the Elected Official/Department Head stating the reason for the requested leave.
 3. Unpaid leave will not be granted to allow an employee to take a position with another employer (excluding inter-governmental personnel exchange programs) or to venture into business for himself/herself.
 4. The Human Resources Director must approve any unpaid leave that is in excess of 30 consecutive calendar days. The Elected Official/Department Head shall submit the request to the Human Resources Director along with a recommendation for approval. The Human Resources Director shall approve or deny the request as soon as possible and issue a notification in writing to the employee and Elected Official/Department Head.
 5. An employee may be terminated from employment for failing to return to work after an approved unpaid leave of absence has expired.
 6. Employees taking an approved unpaid leave of absence shall be entitled to return to the employ of the County at the job they held at the commencement of the leave if their previous job is vacant and available. There is no guarantee that an employee will return to the job held immediately prior to the commencement of the leave.
 7. During the period of unpaid leave, an employee and dependents will be retained on the County's health, dental and life insurance plans provided the employee continues to pay the employee share of the premiums to the County Benefits Office. These benefits are subject to changes that occur within the group plan while the individual is on leave.
 8. Employees shall not accrue sick, vacation, or other benefits while on an unpaid leave of absence.
- b. Unpaid Medical Leave (Non-FMLA): An Elected Official/Department Head may grant unpaid leave for medical reasons to employees who do not qualify for FMLA under the following conditions:
 1. All paid leaves (sick, vacation, floating holiday and compensatory time) have been exhausted.
 2. The employee shall submit in advance a written request to the Elected Official/Department Head stating the reason for the requested leave. This request must also contain a certificate from a physician stating the medical reason for the requested leave and the expected date the employee will be returning to work.

LEAVES OF ABSENCE (continued)

3. The Human Resources Director must approve any unpaid leave that is in excess of 30 or more consecutive calendar days. The Elected Official/Department Head shall submit the request to the Human Resources Director along with a recommendation for approval. The Human Resources Director shall approve or deny the request as soon as possible and issue a notification in writing to the employee and Elected Official/Department Head.
4. An employee may be terminated from employment for failing to return to work after an approved unpaid leave of absence has expired.
5. Employees taking an approved unpaid leave of absence shall be entitled to return to the employ of the County at the job they held at the commencement of the leave if their previous job is vacant and available. There is no guarantee that an employee will return to the job held immediately prior to the commencement of the leave.
6. During the period of unpaid leave, an employee and their dependents will be retained on the County's health, dental and life insurance plans provided the employee continues to pay the employee share of the premiums to the County Benefits Office. These benefits are subject to changes that occur within the group plan while the individual is on leave.
7. Employees shall not accrue sick, vacation, or other benefits while on an unpaid medical leave of absence.

ARTICLE 17

FAMILY AND MEDICAL LEAVE

The purpose of this policy is to define Douglas County's procedure with regard to family and medical leave in accordance with the Family and Medical Leave Act (FMLA) of 1993, as amended, and the regulations pertaining thereto, 29 CFR Part 825.

The FMLA provides eligible employees up to 12 workweeks of leave during any 12-month period for any one or more of the following:

1. The employee's own serious health condition.
2. To care for the employee's son or daughter following birth, adoption, or foster care placement.
3. To care for the employee's spouse, son, daughter or parent who has a serious health condition.
4. To care for the employee's spouse, son, daughter, parent or person to whom the employee is the next of kin, who is injured while serving active military duty. For such purposes, the eligible employee may take up to 26 workweeks during a 12-month period.
5. Because of any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation.

FMLA is not intended to cover short-term illnesses where treatment and recovery are brief and that do not meet the definition of a serious health condition.

SECTION 1: DEFINITIONS

Eligible Employee

An eligible employee is an employee of a covered employer who: (1) has been employed by the employer for at least 12 months, and (2) has been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave. The 12 months an employee must have been employed by the employer need not be consecutive months. [29 C.F.R. §825.110]

Son or Daughter

For purposes of FMLA leave taken for birth or adoption, or to care for a family member with a serious health condition, son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of selfcare because of a mental or physical disability" at the time that FMLA leave is to commence. [29 C.F.R. §825.122 (c)]

Son or daughter on active duty or call to active duty status.

"Son or daughter on active duty or call to active duty status" means the employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis, who is on active duty or call to active duty status, and who is of any age. [29 C.F.R. §825.122 (g)]

FAMILY AND MEDICAL LEAVE (continued)

Son or daughter of a covered servicemember

“Son or daughter of a covered servicemember” means the servicemember’s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the servicemember stood in loco parentis, and who is of any age. [29 C.F.R. §825.122 (h)]

Spouse

A husband or wife as defined or recognized under Nebraska law for purposes of marriage. [29 C.F.R. §825.122(a)]

Parent

“Parent” means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter. This term does not include parents “in law.” [29 C.F.R. §825.122(b)]

Parent of a covered servicemember

“Parent of a covered servicemember” means a covered servicemember’s biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered servicemember. This term does not include parents “in law.” 29 C.F.R. §825.122 (i)]

Next of Kin of a covered service member

“Next of kin of a covered servicemember” means the nearest blood relative other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. [29 C.F.R. §825.122 (d)]

Covered Service Member

A “covered military member” means the employee’s spouse, son, daughter, or parent on active duty or call to active duty status. . [29 C.F.R. §825.126 (b)]

Active Duty

“Active duty or call to active duty status” means duty under a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation pursuant to Section 688 of Title 10 of the United States Code. [29 C.F.R. §825.126]

Contingency Operation

“Contingency operation” means a military operation that:

1. Is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or
2. Results in the call or order to, or retention on, active duty of members of the uniformed Services. [C.F.R. 29 825.800]

Serious Injury or Illness of Service Member

An injury or illness incurred by the service member in the line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating. [C.F.R. §825.127 a (1)]

FAMILY AND MEDICAL LEAVE (continued)

Serious Health Condition

- A. A serious health condition means an illness, injury, impairment, or physical or mental condition that involves either:
1. Inpatient care (i.e. an overnight stay) in a hospital, hospice, or residential medical-care facility, or any period of incapacity or subsequent treatment in connection with such inpatient care; or
 2. Continuing treatment by a health care provider which includes any one or more of the following:
 - a. A period of incapacity (i.e. inability to work, attend school or perform other regular daily activities) of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - (1) Treatment two or more times within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider; or
 - (2) Treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider.
- For purposes of Section A, the requirements for treatment by a health care provider means an in-person visit to a health care provider. The first (or only) in-person treatment visit must take place within seven days of the first day of incapacity.
- B. Pregnancy or prenatal care. Any period of incapacity due to pregnancy or for prenatal care. The mother is entitled to leave for incapacity due to pregnancy even though she does not receive treatment from a health care provider during the absence. For example, a pregnant employee may be unable to report to work because of severe morning sickness.
- C. Chronic conditions. Any period of incapacity or treatment for such incapacity due a condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes).
- D. Permanent or long-term conditions. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required rather than active treatment.
- E. Conditions requiring multiple treatments. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider for:
1. Restorative surgery after an accident or other injury; or a condition which would likely result in a period of incapacity of more than three consecutive, full calendar days, if not treated (e.g., chemotherapy or radiation treatments for cancer). [29 C.F.R.825.113, and 825.115]

FAMILY AND MEDICAL LEAVE (continued)

2. The term “treatment” includes (but is not limited to) examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g., oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave. [C.F.R. 29 §825.113 (c)]
3. Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not “serious health conditions” unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, *etc.*, are examples of conditions that do not meet the definition of a serious health condition and do not qualify for FMLA leave. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness or allergies may be serious health conditions, but only if all the conditions of this section are met. [29 C.F.R. §825.113]

Intermittent leave or reduced leave schedule.

- A. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee’s usual number of working hours per workweek, or work hours per day. A reduced leave schedule is a change in the employee’s schedule for a period of time, normally from full-time to part-time. [29 C.F.R. §825.202 (a)]
- B. Examples of intermittent leave may include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy. A pregnant employee may take leave intermittently for prenatal examinations or for her own condition, such as for periods of severe morning sickness. An example of an employee taking leave on a reduced leave schedule is an employee who is recovering from a serious health condition and is not strong enough to work a full-time schedule. [29 C.F.R. §825.202 (b) (1)]

Health Care Provider

Health care provider means

- A. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or
- B. Any other person determined by the Secretary to be capable of providing health care services. (b) Others “capable of providing health care services” include only: (1) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the State and performing within the scope of their practice as defined under State law; (2) Nurse practitioners, nurse-midwives, clinical social workers and physician assistants who are authorized to practice under State law and who are performing within the scope of their practice as defined under State law;

FAMILY AND MEDICAL LEAVE (continued)

- C. Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. Where an employee or family member is receiving treatment from a Christian Science practitioner, an employee may not object to any requirement from an employer that the employee or family member submit to examination (though not treatment) to obtain a second or third certification from a health care provider other than a Christian Science practitioner except as otherwise provided under applicable State or local law or collective bargaining agreement;
- D. Any health care provider from whom an employer or the employer's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and
- E. A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law. (c) The phrase "authorized to practice in the State" as used in this section means that the provider must be authorized to diagnose and treat physical or mental health conditions. [29 C.F.R. §825.125]

Need to care for a family or covered service member

- A. The medical certification provision that an employee is "needed to care for" a family member or covered servicemember encompasses both physical and psychological care. It includes situations where, for example, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor. The term also includes providing psychological comfort and reassurance which would be beneficial to a child, spouse or parent with a serious health condition who is receiving inpatient or home care. [29 C.F.R. §825.124(a)]
- B. The term also includes situations where the employee may be needed to substitute for others who normally care for the family member or covered servicemember, or to make arrangements for changes in care, such as transfer to a nursing home. The employee need not be the only individual or family member available to care for the family member or covered servicemember. [29 C.F.R. §825.124 (b)]
- C. An employee's intermittent leave or a reduced leave schedule necessary to care for a family member or covered servicemember includes not only a situation where the condition of the family member or covered servicemember itself is intermittent, but also where the employee is only needed intermittently—such as where other care is normally available, or care responsibilities are shared with another member of the family or a third party. [29 C.F.R. §825.124 (c)]

Equivalent position

An equivalent position is one that is virtually identical to the employee's former position in terms of pay, benefits and working conditions, including privileges, perquisites and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority. [29 C.F.R §825.215(a)]

FAMILY AND MEDICAL LEAVE (continued)

Qualifying Exigency

Eligible employees may take FMLA leave while the employee's spouse, son, daughter, or parent (the "covered military member") is on active duty or call to active duty status as defined in § 825.126(b) (2) for one or more of the following qualifying exigencies:

1. Short-notice deployment
2. Military events and related activities
3. Childcare and school activities
4. Financial and legal arrangements
5. Counseling
6. Rest and recuperation
7. Post-deployment activities
8. Additional activities

SECTION 2: ELIGIBILITY REQUIREMENTS

- A. Persons employed by the County for at least 12 months and who have been physically at work for at least 1,250 hours during the preceding 12 month period prior to the start of the leave.
- B. In those cases in which a husband and wife are both employed by the County and both are eligible for FMLA leave, they are limited to a combined total of 12 work weeks of leave during any 12-month period if the leave is taken: (1) for the birth of the employee's child or to care for the child after birth; (2) for placement of a son or daughter with the employees for adoption or foster care, or to care for the child after placement; or (3) to care for a parent with a serious health condition. If one spouse is ineligible for FMLA leave, the other spouse would be entitled to a full 12 weeks of FMLA leave. If the husband and wife both use a portion of the total 12-week FMLA leave entitlement for one of the purposes enumerated above, the husband and wife would each be entitled to the difference between the amounts he or she has taken individually and 12 weeks of FMLA leave for a purpose other than those enumerated above. For example, if each spouse took 6 weeks of leave for the birth of a child, each could later use an additional 6 weeks due to a personal illness, to care for a sick child or to care for the other spouse. [29 C.F.R. §825.120 (a) (3)]
- C. In addition to the limitation provided in paragraph B, a husband and wife who are both employed by the County are limited to a combined total of 26 workweeks when the leave is taken to care for an injured or ill service member. [29 C.F.R. §825.127 (d)]
- D. The 12-month period for taking leave shall be measured forward, from the first date FMLA is taken. The next 12-month period will begin the first time FMLA leave is taken after the completion of any previous 12 month period. [29 C.F.R. §825.200(b) (3)]
- E. Eligible part-time employees are eligible for up to 12 workweeks of FMLA. The amount per week is prorated based upon the employee's full time equivalency. For example, an employee whose normal schedule is to work a total of 30 hours a week is entitled to 12 weeks of FMLA at the rate of 30 hours per week. [29 CFR §825.205(b)]

FAMILY AND MEDICAL LEAVE (continued)

SECTION 3: RELATIONSHIP TO PAID OR UNPAID LEAVE POLICIES

FMLA leave shall be counted concurrently with other paid leaves (sick leave, comp time, vacation leave, floating holiday, and workers' compensation leave) as outlined below:

- A. When leave is taken for an employee's own serious health condition, the absence shall be charged to the employee's sick leave. When sick leave is exhausted, the employee may request vacation leave, comp time, floating holiday or may take the leave without pay. Workers' compensation leave will be counted concurrently with the 12 week leave entitlement.
- B. When leave is taken for the serious health condition of the employee's spouse, son, daughter, or parent, the absence shall be charged to sick leave, as provided in the Civil Service Rules (up to 80 hours per calendar year) or applicable union contract. When the allotted amount of sick leave under the Rules or applicable union contract is exhausted, the employee may request vacation leave, comp time, floating holiday or may take the leave without pay.
- C. When leave is taken for the birth of a son or daughter, the birth mother must charge her absence to accrued sick leave. When accrued sick leave is exhausted, the employee may request vacation leave, comp time, floating holiday or may take the leave without pay. The father shall charge his absence to his sick leave, as provided in the Civil Service Rules (up to 80 hours), or the applicable union contract. When the allotted amount of sick leave under the Rules or applicable union contract is exhausted, the father may elect to charge the leave to accrued vacation leave, comp time, floating holiday or may take the leave without pay. If both parents are employed by Douglas County, their aggregate leave for birth and care of a child is limited to 12 weeks, unless the child also suffers from a serious health condition as defined in this policy.
- D. When leave is taken for placement of a child with the employee for adoption or foster care, the employee shall charge his/her absence to his/her sick leave, as provided in the Civil Service Rules (up to 80 hours per calendar year), or the applicable union contract. When the allotted amount of sick leave under the Rules or applicable union contract is exhausted, the employee may elect to charge the leave to accrued vacation leave, comp time, floating holiday or may take the leave without pay. If both parents are employed by Douglas County, their aggregate leave for placement of a child with the employee for adoption or foster care is limited to 12 weeks, unless the child also suffers from a serious health condition as defined in this policy.
- E. When leave is taken to care for an injured service member, the employee shall charge his/her absence to his/her sick leave, as provided in the Civil Service Rules (up to 80 hours per calendar year), or the applicable union contract. When the allotted amount of sick leave under the Rules or applicable union contract is exhausted, the employee may elect to charge the leave to accrued vacation leave, comp time, floating holiday or may take the leave without pay.
- F. When leave is taken because of a spouse, son, daughter, or parent being called to active duty, the employee may elect to charge the leave to accrued vacation leave, comp time, floating holiday or may take the leave without pay.

SECTION 4: REQUESTING FAMILY AND MEDICAL LEAVE

- A. An employee requesting FMLA leave must complete an “Application for Family and Medical Leave” form and submit it to the employee’s supervisor for review and transmittal to the Human Resources Department. The completed Application must state the reason for the leave and the starting and ending dates of the leave. When an FMLA qualifying event is anticipated, the employee shall give verbal notice to his/her supervisor as far in advance as possible, followed by a written “Application for FMLA” form, submitted not less than thirty (30) days prior to the date on which the leave is to begin. When an incident is immediate or unforeseen, notice should be given as soon as practical.
- B. After receipt of an application for FMLA from the employee, the Elected Official/Department Head or designee shall complete and provide to the employee the “Notice of Eligibility and Rights and Responsibilities” form and the appropriate medical certification form within five (5) business days. The supervisor shall follow the same procedure if sufficient information exists to lead the supervisor to believe that any requested leave may be FMLA qualifying.
- C. When the Department has enough information to determine whether the leave is being taken for a FMLA-qualifying reason (e.g. after receiving a certification), the Elected Official/Department Head or designee shall complete and provide to the employee the “Designation Notice” form within five (5) business days.
- D. An employee requesting leave based on a serious health condition of the employee or the employee's spouse, son, daughter, or parent, must have the appropriate health care provider complete a "Certification of Health Care Provider" form and return to the supervisor within fifteen (15) calendar days of receiving the “Notice of Eligibility and Rights and Responsibilities form. A certification form may not be required when the Department/Office already has enough knowledge of the medical situation to determine that the leave qualifies as FMLA leave, i.e.: the employee suffered a severe injury at work that clearly will incapacitate him/her and medical information derived through a worker’s compensation claim will likely provide the same information the FMLA medical certification would.
- E. "Certification of Medical Care Provider” forms may be obtained through the Human Resources Department or through their department management.
- F. If the leave is due to adoption or foster care placement, documentation must be submitted from the appropriate agency.
- G. If the leave is to care for a spouse, son, daughter, parent or relative to whom the employee is the next of kin, who has been seriously injured during active military duty, the “Certification for Serious Injury or Illness of Covered Servicemember” must be completed and returned to the supervisor within fifteen (15) calendar days of received the form from the employee’s supervisor
- H. If the leave is due to a spouse, son, daughter, or parent being on or called to active military duty, documentation of such active duty status must be provided. The “Certification of Qualifying Exigency for Military Family Leave” form must be completed and returned to the supervisor within fifteen (15) calendar days of receiving the form from the employee’s supervisor.

FAMILY AND MEDICAL LEAVE (continued)

- I. A request for FMLA leave is subject to the approval of the Human Resources Department. Approval is based on compliance with the provisions of this policy and the FMLA regulations. The Human Resources Department will review all documentation.
- J. The County may require, at its own expense, a second opinion from an independent health care provider. If there is a conflict between the two medical opinions, a third and binding medical opinion may be obtained at the County's expense. [29 CFR §825.307 (b)]
- K. The County may require employees to provide a recertification every thirty (30) days if the leave is for pregnancy, chronic, or permanent long-term conditions and the certification does not specify a minimum duration for the period of incapacity. [29 C.F.R. §825.308 (a)]

If the medical certification indicates that the minimum duration of the condition is more than 30 days, the Elected Official/Department Head may not request recertification until that time period has expired. However, a request for recertification is permitted every six months in connection with an absence of an employee. [29 C.F.R. §825.308(b)]

Recertification may be requested in less than 30 days if: (1) the employee requests an extension of leave, (2) circumstances have changed significantly from the original certification, or (3) the County receives information that casts doubt upon the continuing validity of the certification. [29 C.F.R. §825.308(c)]

If recertification is not provided within 15 calendar days of the request, the County may deny continuation of the FMLA leave until the recertification is provided. [29 C.F.R. §825.313(c)]

SECTION 5: INTERMITTENT OR REDUCED LEAVE SCHEDULE OPTIONS

- A. Eligible employees may take FMLA leave on an intermittent or reduced schedule basis when medically necessary due to the serious health condition of the employee, a covered family member or the serious injury or illness of a covered servicemember. Eligible employees may also take FMLA leave on an intermittent or reduced schedule basis when necessary because of a qualifying exigency. [29 C.F.R. §825.203]
- B. If an employee needs leave intermittently or on a reduced leave schedule for planned medical treatment, then the employee must make a reasonable effort to schedule the treatment so as not to disrupt unduly the employer's operations. For example, an individual may arrange a reduced-leave schedule by working a three-day workweek or by working mornings only. Intermittent leave may be taken hourly, daily, or at weekly intervals. Arrangements for intermittent leave must be coordinated with the department. Employees needing intermittent/reduced schedule leave for foreseeable medical treatment must work with their employers to schedule the leave so as not to unduly disrupt the employer's operations, subject to the approval of the employee's health care provider. [29 CFR §825.203]
- C. When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the employer agrees. [29 CFR §825.202 (c)]
- D. Only the amount of leave actually taken while on intermittent/reduced schedule leave may be charged as FMLA leave. For example, if an individual requests three hours for FMLA purposes, he or she will be charged only that portion, not the full day. [29 C.F.R. §825.205(b)]

FAMILY AND MEDICAL LEAVE (continued)

- E. *Transfer or reassignment.* If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee, a family member, or a covered servicemember, including during a period of recovery from one's own serious health condition, a serious health condition of a spouse, parent, son, or daughter, or a serious injury or illness of a covered servicemember, or if the employer agrees to permit intermittent or reduced schedule leave for the birth of a child or for placement of a child for adoption or foster care, the employer may require the employee to transfer temporarily, during the period that the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. [29 CFR §825.204(a)]

SECTION 6: CONTINUATION OF BENEFITS

- A. During a period of FMLA leave, an employee and dependents will be retained on the County's health, dental and life insurance plans. These benefits are subject to changes that occur within the group plan while the individual is on leave.
- B. If the employee normally pays a portion of the health care premium or premiums for other benefits (life, disability, medical, etc), the County will continue payroll deductions for those premium while the employee is in payroll status. In the event an employee enters into a non pay status, the employee must pay their share of the premiums to the County Benefits Office in Human Resources.

SECTION 7: RETURN FROM LEAVE

- A. Upon return from leave for a personal serious health condition, the employee must present a "Return to Work" form from the health care provider. The employee's return to work may be delayed until such certificate is submitted. [29 C.F.R. §825.312(e)]
- B. If an employee wishes to return to work prior to the expiration of the FMLA leave of absence, notification must be given to the employee's department head at least 2 business days prior to the employee's planned return. [29 C.F.R. §825.311 (c)]
- C. Unless the employee is a "key employee", as defined by the Act, at the end of the FMLA leave, an employee will be restored to his or her old position or to a position with equivalent pay, benefits, and other terms and conditions of employment. The County cannot guarantee that an employee will be returned to his or her original job. A determination as to whether a position is an "equivalent position" will be made by the County. A "key employee" is a salaried FMLA-eligible employee who is among the highest paid ten percent of all the employees employed by the County. (See: C.F.R. §825.217). This provision applies only to an eligible employee's entitlement to restoration and does not affect other benefits such as granting of leave and eligibility for continuation of health benefits during the leave, even if the employee has been notified that reinstatement will be denied.
- D. If, at the expiration of the leave, an employee is unable to perform the essential functions of the job because of a his/her own serious health condition, reasonable accommodations may be made in accordance with the Americans with Disabilities Act (ADA), if applicable.

SECTION 8: FAILURE TO RETURN FROM FMLA LEAVE

- A. Failure to report within three (3) consecutive work days after expiration of a FMLA leave will be considered a resignation.

- B. The County may recover the premium paid by the County for maintaining an employee's and dependents health and dental plan coverage during any period of unpaid leave if the following conditions are met:
 - the employee fails to return from leave after entitlement has expired; and
 - the employee fails to return to work for a reason other than:
 1. the continuation, recurrence, or onset of a serious health condition of the employee or the employee's spouse, son, daughter, or parent, or of a serious illness or injury of the service member, that would entitle the employee to leave, or
 2. other circumstances beyond the employee's control.

- C. Employees may be required to support their claim of inability to return to work because of the continuation, recurrence, or onset of the serious health condition. When required, employees must provide, within 15 days, a copy of a certification from the appropriate health care provider.

Sufficient certification will include a statement that a serious health condition prevented the employee from being able to perform the functions of the employee's position on the date that the employee's leave expired, or that the employee is needed to care for a family member who has a serious health condition on the date that the employee's leave expired. The phrase "is needed to care for" a family member should be interpreted to include psychological, physical, or medical care.

SECTION 9: PROHIBITED ACTS

It is unlawful for an employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided by the FMLA. It is also unlawful for an employer to discriminate or retaliate against an employee for opposing any employment practice thought to be unlawful under FMLA, or for participating in any investigation or proceeding relating to any right provided under the FMLA.

SECTION 10: COMPLAINTS, INVESTIGATION, AND ENFORCEMENT

If an employee requests and is denied FMLA leave, the employee may contact the Director of Human Resources for clarification as to the denial of the leave or to obtain information on their rights and responsibilities under the FMLA. Douglas County shall make, keep, and preserve records pertaining to compliance with the FMLA.

SECTION 11: FMLA POSTING

The County complies with federal guidelines by posting the notice to employees of their rights under the Family and Medical Leave Act (FMLA) and providing a notice of rights to employees who are approved for FMLA leave. Copies of the required posting can be obtained at the Human Resources web site or office.

ARTICLE 18

EMPLOYEE ASSISTANCE PROGRAM (EAP)

SECTION 1: PURPOSE

Douglas County provides confidential and voluntary assistance to all employees and their family members who may be faced with dynamic challenges of financial concerns, legal issues, alcohol or drug problems, marital problems, illness of a family member, emotional worries, or child behavior problems, etc.

EAP counselors are available to meet with employees or family members to assess a problem and develop a plan for resolution. The counselors may suggest a referral to an outside resource, such as a therapist, agency, physician, treatment facility, or other professional that would be appropriate to assist in resolving the problem or situation. Where an employee may be in need of information, a referral, or suggestion may be made over the telephone. There is no charge for employees or their families to use the services of the EAP.

SECTION 2: ACCESS TO EAP

There are three ways an employee may access Employee Assistance Program resources and services.

A. Self Referral: Any referral initiated by the employee in the absence of corrective action is considered a self referral. Self referral may also occur whenever an employee seeks help as a result of a suggestion by management. The employee or family member may contact the EAP directly to speak to a counselor or to schedule an appointment.

B. Supervisory Referral: If a supervisor notes a change in an employee's on-the-job performance and/or behavior and believes that the employee may benefit from the services of the EAP, the supervisor may recommend that the employee contact the EAP for assistance. The supervisor and/or employee may contact Human Resources for assistance in this process.

C. Formal Management (Mandatory) Referral: If an employee exhibits performance or behavioral problems, which are, attributed to ongoing performance problems, the County may require the employee to participate in an EAP program as a condition of his/her continued employment. A mandatory referral should be made only if other corrective action has been taken and has been unsuccessful or if the problem is of an emergency nature. Elected Officials/Department Heads shall contact the Department of Human Resources if it believes that a mandatory referral to EAP is appropriate.

SECTION 3: GENERAL PROVISIONS

The initial assessment/counseling time with the EAP will be considered "County time" for Formal Management (Mandatory) Referral only. Leave time for follow-up sessions with the EAP and/or referral agencies will be handled in accordance with standard leave policies.

Participation in the Douglas County's EAP Program does not jeopardize job security or promotional opportunities. However, it does not excuse the employee from following County and/or departmental policies and procedures or meeting required standards for satisfactory job performance.

All contact between an employee and the EAP is held strictly confidential. In cases where an employee's continued employment is contingent upon contacting the EAP, the EAP counselor will only verify whether or not the employee has contacted the EAP and, if ongoing treatment is necessary, that the employee is following through on the treatment.

ARTICLE 19**TEMPORARY LIGHT DUTY POLICY****SECTION 1: POLICY**

It shall be the policy of Douglas County to have available temporary, light duty assignments for its employees based upon operational needs and at the discretion of the Elected Official/Department Head. Employees may request such an assignment when they are unable to perform their assigned duties due to temporary injuries or physical conditions. Light duty requests will be filled on a first come basis, with priority given to personnel that have a work related injury.

SECTION 2: REQUESTS FOR LIGHT DUTY

Employees that wish to request a light duty assignment must submit a written request to the Elected Official/Department Head or his/her designee, with a letter from their physician specifically identifying the imposed restrictions, and the estimated period for their return to full duty status. The selection of an assignment will be made by the Elected Official/Department Head or his/her designee based on an evaluation of the employee's restrictions, operational needs and the availability of light duty work assignments. Either the employee or the Elected Official/Department Head may request that the assigned position be evaluated by Douglas County's worker's compensation vendor for appropriateness of the assignment in light of the employee's restrictions. Every reasonable effort will be made to accommodate restrictions imposed by the employee's physician when assignments are made.

A copy of the employee's request for light duty and the Elected Official/Department Head's response to the employee's request shall be sent to the Human Resources/Civil Service department.

In instances where all light duty assignments are filled, and an employee that has been injured at work is released to work with restrictions, the following procedure will be in force. An employee, that is assigned to light duty status with other than a work-related injury, will be returned to sick leave status, thus allowing a position to become available for the employee with a work-related injury. The employee selected to be returned to sick leave status, will be the employee that has been on light duty status the longest.

Light duty assignments may be made for a period of up to 90 calendar days. An additional 90 days may be requested by submitting a written request to the Elected Official/Department Head or his/her designee. After reviewing the request the Elected Official/Department Head or his/her designee will make the determination on whether to grant the extension. While this policy is intended to benefit the employees of Douglas County during short-term illnesses and injuries, it is not intended for long-term or life long problems. Employees that request or are assigned light duty must have a reasonable expectation of returning to full duty status as described in their respective job descriptions, within the maximum 180 days allowed under this policy.

ARTICLE 20**EMPLOYEE ETHICS AND CONDUCT****SECTION 1: STATEMENT OF ETHICS**

Employees are expected to conduct themselves in a manner to avoid the appearance of impropriety. Conduct that could appear dishonest to a reasonable observer will undermine the public trust even if the conduct is not illegal. The following conduct is expressly prohibited.

- Employees shall not use their employment in any way to obtain financial gain or avoid financial detriment for the employee, their household or family members or for any business, with which the employee or a member of the employee's household or family is associated.
- Employees shall not award business to a member of their household or family regardless of the mechanism used to provide that business.
- Employees shall not take any official action, the effect of which would be to the employee's private financial gain or loss, without first notifying their immediate supervisor in writing of the actual or potential conflict of interest and obtaining approval prior to taking such action.
- Employees shall not solicit private business from fellow employees or from citizens while on duty and/or in uniform or otherwise readily identifiable as a County employee, such as while in a County vehicle.
- Employees shall not use information received because of County employment for private gain or to avoid financial detriment if the information is confidential or not readily available to the public.
- No employee may solicit or receive any gift in anticipation of official action to be taken by the employee in the course of employment.
- No employee may solicit or receive gifts of sufficient value which could be construed as affecting their judgment or decision making.
- Employees are expected to recognize the possibility of a potential or actual conflict of interest and disclose the conflict to their supervisor and Elected Official/Department Head.

SECTION 2: POLITICAL ACTIVITY

- a. Persons holding positions covered under Douglas County Civil Service shall not be coerced to take part in political campaigns, soliciting votes, contributing, soliciting funds, or supporting, for the purpose of favoring or hindering the appointment or election of candidates for any office. No Civil Service covered employee shall be disciplined, transferred, demoted, or otherwise penalized for supporting or failing to support a political candidate, provided that the employee has not engaged in political activities during their normal County work hours.
- b. Employees may, however, at their sole discretion participate or contribute to the election or appointment of public officials, provided such participation is not performed during County work hours and limited to soliciting funds or support from individuals who are not County employees and does not involve the use of County resources.

SECTION 3: OUTSIDE EMPLOYMENT

- a. For full time Civil Service employees, Douglas County shall be considered the primary employer. No employee shall undertake any employment outside of his/her County employment which is, or can be interpreted to be, inconsistent with or detrimental to his/her County work.

EMPLOYEE ETHICS AND CONDUCT (continued)

- b. Employees of the County may not engage in outside business activities while on duty, nor may any governmental property be used at any time for any but government or community functions which are approved by the Elected Official/Department Head.
- c. Employees may be required to obtain approval of the Elected Official/Department Head in charge prior to accepting outside employment, if a mandatory policy requiring such approval is adopted for the entire department by the Elected Official/Department Head in charge.

SECTION 4: RESTRICTIONS ON SUPERVISION OF RELATIVES

No employee of Douglas County shall have direct supervisory authority over his or her relatives. The term "relative" includes these specific relationships: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister. When popular and legal usage differs, the strict or legal definition is applied to all these terms.

Restrictions

An employee may not advocate a relative's appointment, employment, promotion, or advancement anywhere in his/her department/office or in a department/office over which he/she exercises jurisdiction or control. An employee advocates a relative's appointment if he/she recommends the action either orally or in writing. Because of the special relationship between a supervisor and his/her subordinates, a supervisor is considered to advocate a relative's appointment if he/she simply refers the relative for consideration to one of his/her subordinates (i.e., to someone lower in the department's chain of command). A referral for consideration, in this context, is any action, even though short of an actual recommendation, that reveals an interest in securing or facilitating a person's consideration for appointment, employment, promotion, or advancement. Examples of referrals for consideration are the transmittal of an application or resume to a personnel or line official, providing a letter of introduction to an appointing official, etc. A supervisor may properly reply to a written or oral employment inquiry about the qualifications and suitability of a relative who has applied for employment with Douglas County, provided he/she refrains from advocating employment of a relative. Responding to a reference request is not in itself an advocacy or a recommendation within the prohibitions of this regulation.

Nothing in this policy shall restrict a Elected Official/Department Head from adopting a more stringent policy on the hiring of relatives as long as the policy is communicated to employees and is applied uniformly.

ARTICLE 21**INTERNET, COMPUTER, AND SOFTWARE USAGE****SECTION 1: POLICY**

Douglas County is committed to implementing new technologies for communication and information exchange. The County encourages the work-related use of electronic communication devices and services as effective and efficient communication tools and as valuable sources of information. Electronic communication devices and services provided by the County are County property, their purpose is to facilitate County business, and their use is subject to County control and policy. It is the intention of this policy to express the County's philosophy and set forth general principles and procedures regarding the use of electronic communication devices and services within the County and by County employees. This policy applies to all electronic communication devices and services which are accessed on or from County premises, are accessed from remote locations using County computer equipment or via County paid access methods, and/or is used in a manner which associates the individual with the County. An Elected Official/Department Head may establish more stringent departmental standards than provided in this Article.

SECTION 2: GENERAL STANDARDS

Electronic communication devices and services shall not be used for knowingly transmitting, receiving, retrieving, or storing any communications which are derogatory to any individual or group, are pornographic, lewd, indecent, or of a sexual nature, or are of a defamatory or threatening nature. Electronic communication devices and services shall not be used in a manner which could be construed as discriminatory based on race, national origin, sex, age, disability, or religious or political beliefs. Electronic communication devices or services shall not be used for communication of chain letters, or for any purpose which is illegal, against County policy, or contrary to the County's interests.

Any messages or information sent via an electronic network (i.e., bulletin board, on-line service, or Internet) are statements identifiable and attributable to the County. Use of personal disclaimers in an electronic communication will not relieve any user under this policy and users shall be held responsible for any communication initiated by them. All communications sent via a network must comply with this and other County policies and shall not disclose any confidential or proprietary County information.

No e-mail or other electronic communications shall be sent which attempts to hide the identity of the sender or misrepresent the sender.

Users shall not reveal their passwords without a business necessity or otherwise breach the security of the County's electronic communication system.

Electronic communication devices and services should not be used in a manner that is likely to cause network congestions or is likely to significantly hamper the ability of other individuals to access and utilize the system.

SECTION 3: PERSONAL USE

Electronic communication devices and services have been established for County business use and should not be used for personal, outside business or employment, or non-County related purposes. However, limited, occasional, or incidental use of electronic communication devices and services (sending or receiving) for personal, non-County purposes, is acceptable insofar as that use complies with County policy, does not interfere with the County's business activities, and as long as such use does not involve any of the following:

- a. Interference with existing County rules or departmental policies;
- b. Disruption or distraction from the conduct of County business (e.g., due to volume, content, or frequency);
- c. Solicitation;
- d. A for-profit personal business activity;
- e. Potential to harm the County;
- f. Illegal activities;
- g. Permitting the display, storage or recording of any kind of sexually explicit image or document.

Users shall be responsible for any charges arising from personal use of electronic communication devices or services. Users are expected to act responsibly and shall be subject to disciplinary action if this privilege is abused.

SECTION 4: MONITORING EMPLOYEE'S USAGE

Electronic information created and/or communicated using e-mail, word processing, utility programs, spreadsheets, voice mail, telephones, fax machines, Internet access, etc. may be randomly monitored by the County. County personnel are on notice of the following:

The County has software and systems in place that can monitor and record all Internet usage. The County's security systems are capable of recording (for each and every user) each World Wide Web site visit, each chat, newsgroup, or e-mail message, and each file transfer into and out of the County's internal networks, and the County reserves the right to do so at any time. No county employee should have any expectation of privacy as to his or her Internet usage. The County will review Internet activity and analyze usage patterns, and may choose to disclose this data in any manner the County deems appropriate to assure that the County's Internet resources are devoted to maintaining the highest levels of productivity.

All data, facsimiles, e-mail, and voice mail files are the property of the County, and users shall not have an expectation of privacy in this regard. Users should not assume electronic communications are totally private and confidential and should transmit private and sensitive information in other ways.

The display of any kind of sexually explicit image or document on any County system is a violation of the County's policy on sexual harassment. In addition, sexually explicit material may not be archived, stored, distributed, edited or recorded using the County's network or computing resources.

The County reserves the right, at its discretion, to review any user's electronic files/messages and usage to the extent necessary to ensure that electronic communication devices and services are being used in compliance with the law and County policy and may disclose the contents of any user's electronic files/messages and usage of electronic media and services for a business or legal purpose.

INTERNET, COMPUTER, AND SOFTWARE USAGE (continued)

The County uses software and data to identify inappropriate or sexually-explicit Internet sites. The County may block access from within its networks to all such sites that it is aware of. If an employee becomes connected incidentally to a site that contains sexually explicit or offensive material, the employee must disconnect from that site immediately, regardless of whether that site had been previously deemed acceptable by any screening or rating program.

The County's Internet facilities and computing resources must not be used knowingly to violate the laws and regulations of the United States or any other nation, or the laws and regulations of any state, county, city, or other local jurisdiction in any material way. Use of any County resources for illegal activity is grounds for immediate dismissal, and the County will cooperate with any legitimate law enforcement activity.

The County may restrict any users' time allotment for using the Internet or other electronic communication devices for business purposes should such use be excessive or extravagant. Anyone obtaining electronic access to other organizations' or individuals' materials must respect all applicable laws and shall not copy, retrieve, modify, or forward copyrighted materials except as expressly permitted by the copyright owner.

Internet access and usage by a County employee will be allowed only upon the approval of the employee's department head.

The provision of electronic communication devices and services are at the discretion of the County and are a revocable privilege. Any County employee found to be abusing the privilege of County facilitated access to electronic communication devices or services shall be subject to disciplinary action up to and including dismissal.

ARTICLE 22

DISCIPLINE POLICY

SECTION 1: POLICY STATEMENT

It shall be the policy of Douglas County to administer a discipline policy in order to insure the fair and equitable treatment of any employee who violates applicable work rules and procedures or conducts themselves in such a manner as to disrupt the harmony of County government. Such policy shall also provide adequate protection for any employee accused of misconduct and for appropriate counseling, monitoring, corrective actions, and appeal processes.

SECTION 2: PURPOSE

The purpose of a disciplinary policy is to acquaint all employees with the rules that serve to guide their conduct in order that they can be contributing team members helping to achieve the objectives of better and more efficient service to the citizens of Douglas County.

SECTION 3: ADMINISTRATIVE ACTIONS

- a. Corrective Action by Supervisor: Immediate supervisors have primary responsibility for determining the adequacy of their employees' performance and conduct and for initiating corrective action when necessary. Where corrective action can be accomplished through oral reprimand, closer supervision, counseling (either in-house or through the Employee Assistance Program), or on-the-job training, formal disciplinary action should not be taken.
- b. Disciplinary Actions: Disciplinary actions include written reprimand, suspension, demotion, and termination of employment. Although disciplinary actions may be recommended and initiated by supervisors, such actions may not be accomplished without review and approval by the Elected Official/Department Head or designee.

SECTION 4: DISCIPLINE

In determining the appropriate level of discipline, the following factors may be considered:

- The nature and number of problems involved.
- The seriousness of the infraction.
- The employee's response to prior disciplinary action(s).
- The amount of time that has elapsed between offenses.
- The employee's work performance prior to the infraction.
- The employee's level of responsibility.
- Whether the employee knew, or should reasonably be expected to know what standards of conduct were expected.

The Elected Official/Department Head or designee may consider previous disciplinary action even if the previous discipline was for a different or unrelated offense. Disciplinary action shall be taken in a timely manner. Every attempt must be made to monitor an employee's behavior and to take any necessitated disciplinary action as soon after an offense is identified as possible. Supervisors should not allow easily recognizable multiple violations to go unchallenged before taking appropriate disciplinary action (multiple sick leave abuses, tardiness, insubordination, etc.).

SECTION 5: CAUSE FOR DISCIPLINARY ACTION

The fact that an offense is not listed does not mean that discipline cannot be imposed for such an offense. Cause for discipline includes but is not limited to the following:

1. The employee has been convicted of a felony or crime which renders him unfit to perform the duties of his/her position.
2. The employee has willfully, wantonly, unreasonably, unnecessarily, or through culpable negligence, engaged in brutality or cruelty to a resident of an institution, to a person in custody, or to other persons, provided the act committed was not necessarily or lawfully done in self-defense, or to protect the lives of others, or to prevent the escape of a person lawfully in custody.
3. The employee has violated any of the provisions of these Rules.
4. The employee has violated any department, division, or institution regulation or order, or failed to obey any proper direction made and given by a supervisor.
5. The employee has been insubordinate to his/her supervisor.
6. The employee has been incompetent or inefficient in the performance of the duties of his/her position.
7. The employee has been careless or negligent with the monies or other property of the County.
8. The employee has used or threatened to use, or attempted to use, personal or political influence in securing promotion, leave of absence, transfer, change of pay rate or type of work.
9. The employee has engaged in outside business activities on government time, or has used County property for such activity.
10. The employee has failed to maintain a satisfactory attendance record.
11. The employee has been absent from duty without leave contrary to these Rules, or fails to report after leave of absence has expired, or after such leave of absence has been disapproved or revoked and cancelled by the proper authority.
12. Unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance or alcoholic beverage in the workplace or reporting for duty under the influence of alcohol and/or unlawful drugs.
13. Falsification, fraud or intentional omission of required information on the employment application/resume.
14. Repeated tardiness or unauthorized leave, including unauthorized departure from work area.
15. Failure to maintain satisfactory working relationships with the public or other employees.

DISCIPLINE POLICY (continued)

16. Failure to obtain and maintain a current license, work authorizations permits, or certifications required by law or agency standards as a condition of employment.
17. Discrimination or harassment based, in whole or in part, on race, color, sex, religion, age, disability, or national origin, which manifests itself in the form of comments, jokes, printed material and/or unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature.
18. Possession of materials and/or the utterance of comments in the workplace that are derogatory towards a group or individual based upon race, gender, color, religion, disability, age, or national origin.
19. Has engaged in criminal, dishonest, immoral, or notoriously disgraceful conduct, which is prejudicial to the County or to County's reputation.
20. Working in another non-County job while on sick leave or unpaid medical leave.
21. Misuse of sick leave (example: establishing a pattern of using sick leave immediately preceding or succeeding holidays or days off, calling sick with no sick leave balance, or the overall number and frequency of absences.)
22. Theft, bribery, misappropriation or unauthorized use or possession of County property, property of another employee, or property of inmates, detainees, patients, and/or residents.
23. Use of County computer systems and equipment for the receiving, viewing, forwarding, and transmitting of pornographic, salacious, or inappropriate material.
24. Gambling (on County property or while on duty).
25. Failure to successfully complete a background check.
26. Breach of confidential information including the dissemination of confidential records/information.
27. Deliberate or willful breach of policy or procedure covered under the Health Insurance Portability and Accountability Act (HIPAA).
28. Sleeping on duty.
29. Knowingly making false or malicious statements with the intent to harm or destroy the reputation, authority, or official standing of individuals or organizations.
30. Abusive or disgraceful language making threats or creating a disturbance among co-workers or members of the public.
31. Lying, making false statements, being purposely deceptive to supervisors, co-workers, and members of the public.
32. Having an unauthorized weapon, firearm, or explosive on County property.
33. Verbal, physical, sexual, or mental abuse directed towards an inmate, resident, detainee, co-worker, supervisors, or the public.

DISCIPLINE POLICY (continued)

SECTION 6: PRE-DISCIPLINARY HEARING

- a. It is the policy of Douglas County to allow an employee the opportunity to respond to allegations made which may justify their being suspended, demoted, or terminated. The Pre-Disciplinary Hearing is designed to provide an initial check against mistaken decisions and to assist the Elected Official/Department Head or designee in making a determination as to whether there are reasonable grounds to believe that the allegations against the employee are true and support the proposed actions. The employee is entitled to (1) written notice of the pending allegations, (2) an explanation of the employer's evidence, and (3) an opportunity to present an argument/evidence as to why disciplinary action should not occur.
- b. It is the responsibility of the Elected Official/Department Head or designee in charge to insure that employees for whom suspension or termination of employment has been recommended are given timely notice of the allegations against them and an opportunity to respond prior to any final decision to take such action.
 1. A written Notice of Pre-Disciplinary Hearing shall be delivered to an employee within a reasonable period of time following the decision to consider suspension or termination of employment as a disciplinary action. Every attempt should be made to contact the employee at their assigned work site and to assure delivery there. If that is not possible then Notice will be considered sufficient if sent to an employee's last known address via certified/registered mail.
 2. An employee shall continue to work at assigned tasks until such time as the scheduled hearing is conducted and a final decision rendered except in those instances where the employer perceives a possible significant hazard in keeping the employee on the job. In those instances where the Elected Official/Department Head or designee perceives a potential threat to the wellbeing of other employees or the public or any other possible hazard, the employee may be placed on suspension with pay until the hearing is conducted and the decision is rendered.
- c. The Pre-Disciplinary Hearing (PDH) shall be scheduled within five working days after the delivery or certified mailing of the hearing Notice. Requests by the employee or supervisor for extensions must be directed to the Elected Official/Department Head or their designated representative. An extension may be granted only upon the approval of the Elected Official/Department Head or designee.
 1. Both the Elected Official/Department Head or designee and the employee may have a representative at the PDH if they feel it necessary. A reasonable accommodation must be made to allow the employee to have a representative present if so requested.
 2. Both sides to the allegations involved may present such evidence as they feel necessary to clarify the issues presented or to refute the allegations.
 3. The PDH should be conducted at a location that provides a maximum degree of privacy for those parties involved.

DISCIPLINE POLICY (continued)

- d. If, following the Pre-Disciplinary Hearing, it is the decision of the Elected Official/Department Head or designee that sufficient evidence or cause has been presented to warrant disciplinary action, written Notice of Discipline shall be delivered to the employee.
 - 1. A written Notice of Disciplinary Action shall be delivered to the employee within a reasonable period of time following the PDH. Every attempt should be made to contact the employee at their assigned worksite and to assure delivery there. If that is not possible, then Notice will be considered sufficient if sent to an employee's last known address via certified/registered mail.
 - 2. The Notice shall specify the allegations for which the employee is being disciplined.
 - 3. The Notice shall include the date(s) or information on how the discipline is to occur.
 - 4. The Notice shall include language informing the employee of their right to appeal the disciplinary action to the Civil Service Commission in accordance with this Article.
- e. If, following the Pre-Disciplinary Hearing, it is the decision of the Elected Official/Department Head or designee that there is not sufficient evidence or cause to warrant a suspension or termination of employment, or if a lesser disciplinary action is to be imposed, the employee shall be notified of such decision within a reasonable period of time following the PDH.
- f. While the mechanism surrounding a Pre-Disciplinary Hearing has been described in some detail, it should be remembered that the hearing itself is intended to be a somewhat informal session with each participant having the ability to exchange information and come to an understanding of the issues involved and their importance. It shall be seen as an opportunity to clarify any misunderstanding and provide a basis for future utilization of the employee's potential as well as a means to determine the authenticity of the alleged misconduct.

Sample Notice of Disciplinary Hearing

LETTERHEAD

Date:

To:

From:

Subject: Notice of Pre-Disciplinary Hearing

You are hereby notified that allegations have been brought against you pursuant to the following Douglas County Civil Service Personnel Policy Manual that if substantiated may lead to disciplinary action up to and including termination of employment.

Notice of Pending Allegations: (List the specific allegations from the Civil Service Commission Personnel Policy Manual upon which discipline may be based and should be tailored to fit the individual circumstances in each case.)

Explanation of Evidence:

(provide a detailed description of what the employee did or failed to do which is the basis for the alleged rule violations including dates, times, etc.)

Previous discipline:

In the past, you have been disciplined for the following misconduct. ***(List all prior disciplinary actions including the conduct that necessitated disciplinary action and the disciplinary action taken).***

Therefore, the allegations brought against you in the current action may constitute multiple instances of disciplinary action. **(If applicable).**

Pre-Disciplinary Hearing Time and Location:

The Pre-Disciplinary Hearing on the above allegations brought against you will be held on _____ at _____ .m. in the conference room of the
(day of week, date)

_____.

Purpose of the Pre-Disciplinary Hearing:

According to Douglas Civil Service Commission policy, a Pre-Disciplinary Hearing is conducted for the purpose of providing written notice of the pending allegations to the employee, an explanation of the employer's evidence and an opportunity to present an argument/evidence as to why discipline should not occur. At the hearing, you may have a representative of your choosing. You may attend the hearing and present reasons, either in person or in writing, why disciplinary action against you should not be taken.

Acknowledgement of Delivery and Receipt:

Signature of Elected Official/Department Head
or Designee

Date

Signature of Employee

Date

Sample Notice of Disciplinary Action

LETTERHEAD

DATE:

TO:

FROM:

RE: Notice of Disciplinary Action

Your pre-disciplinary hearing was held at **(date and time)** and was attended by you, **(others in attendance)**. It was explained to you at that time that the hearing was designed for you to respond to the allegations against you and present any information why you believe disciplinary action is not warranted.

You are hereby notified that as a result of said hearing you are **(reprimanded/suspended/terminated)** from your employment with the **(department/office)** effective **(date)**. **(If suspended, state the length of the suspension and the dates when it will be served)**.

The allegations against you upon which your **(reprimand/suspension/termination)** is based are the following:

(State the specific conduct that resulted in the disciplinary action and list each specific charge from the Civil Service Commission Personnel Policy Manual upon which the disciplinary action is based.)

At your pre-disciplinary hearing, you were given an opportunity to respond to these allegations. Based on the information provided at your pre-disciplinary hearing, along with the allegations and investigation against you, the decision has been made that your behavior or misconduct warrants the disciplinary action imposed, and I therefore have made a determination that **(suspension/termination)** of your employment is necessary. It will be necessary for you to return to this office your **(any relevant property, i.e.: I.D. card, I-disk, Proxy card, passwords, etc)**.

You have the right to Appeal this decision to the Douglas County Civil Service Commission within 10 calendar days in accordance with Article 23 of the Douglas County Civil Service Commission Personnel Policy Manual or within the timelines detailed within your union contract if represented by a Union. You also have the right to legal representation at your Civil Service hearing. The Commission hears only appeals of terminations, suspensions, and demotions.

Sincerely,

cc:

Acknowledgement of Delivery and Receipt:

Signature of Elected Official/Department Head
or Designee

Date

Signature of Employee

Date

ARTICLE 23

APPEAL AND GRIEVANCE PROCEDURES

SECTION 1: APPEAL FROM DISCIPLINARY ACTIONS

The right to appeal suspensions, demotions, and terminations to the Civil Service Commission is established by Nebraska statute. Any employee who has been discharged, suspended, or demoted in rank or compensation by the Elected Official/Department Head may appeal such order to the Commission within ten calendar days after service of the written order. Notice of such appeal shall be in writing signed by the employee appealing or his/her representative and delivered to any Civil Service Commission/Human Resources office. The delivery of the notice of appeal shall be sufficient to perfect an appeal and no other act shall be deemed necessary to confer jurisdiction of the Commission over the appeal. See Article 4 regarding the Commission's hearing process.

SECTION 2: GRIEVANCE OF NON-DISCIPLINARY ACTIONS

Grievance is a procedure by which an employee may address non disciplinary issues arising out of Civil Service guidelines. The grievance must cite the specific Civil Service rule that has been allegedly violated along with underlying facts. Employees may grieve issues, which involve interpretation of Civil Service policies or alleged violation of these policies. Complaints involving discrimination, harassment, or violation of state or federal statutes/regulations will be investigated by the Director of Human Resources. See Article 30 for harassment/discrimination complaint procedure.

- Step 1. The aggrieved employee shall present in writing his/her grievance to their supervisor within ten (10) working days from the date on which the employee became aware of such grievance. The supervisor shall attempt to adjust the matter and shall respond in writing to the employee presenting the grievance within ten (10) working days from its presentation.
- Step 2. If satisfactory settlement is not reached under Step 1, copies of all correspondence between the employee and the supervisor shall be presented to the Elected Official/Department Head or his/her designated representative within ten (10) working days from the date any decision was made by the supervisor under Step 1. The Elected Official/Department Head or his/her designated representative shall respond in writing to the employee presenting the grievance within ten (10) working days.

In the event the supervisor or Elected Official/Department Head or designee fails to respond to the employee's grievance within the period provided, it shall be presumed that the grievance is denied.

Any time limitation provided herein may be waived or extended in writing by mutual agreement of the parties involved. Any grievance not processed within the time limitations provided herein shall constitute a withdrawal of the same.

In all matters involving the interpretation of Civil Service policy or the Personnel Policy Manual, the Human Resources Director shall be notified as soon as reasonably practicable after the supervisor has been notified of the grievance, and the Human Resources Director consulted prior to the settlement of the dispute.

ARTICLE 24

DOUGLAS COUNTY DEPARTMENT OF TRANSPORTATION (DOT)/ COMMERCIAL DRIVER'S LICENSE (CDL) DRUG TESTING POLICY

SECTION 1: POLICY OVERVIEW

Douglas County (hereinafter referred to as the County) has a vital interest in maintaining safe, healthful, and efficient working conditions for all of its employees. Being under the influence of a drug or alcohol on the job poses serious safety and health risks, not only to the user, but to all those who work with or otherwise come into contact with the user. The possession, use, or sale of illegal drugs or alcohol on the job also poses unacceptable risks for safe, healthful, and efficient operations and will not be tolerated.

The U. S. Department of Transportation (DOT) Federal Highway Administration (FHWA) has established rules requiring operators of motorized vehicles to have an anti-drug and alcohol program for employees.

It is the County's intention to comply fully with the DOT regulations governing drug and alcohol use and testing, and the requirements of the DOT regulations have been incorporated into this policy. In the event DOT regulations are amended, this policy and the applicable term(s), condition(s) and/or requirement(s) of this policy shall be deemed to have been amended automatically at that time, without the need for redrafting, in order to reflect and be consistent with DOT regulations. In such case, the County reserves the right to apply the amended requirements immediately, and without giving prior notice to drivers and/or applicants, unless such notice is required by DOT or another applicable law. The County reserves the right to amend the list of positions covered by this policy and the supervisory positions required to attend training without redrafting the entire policy. **A list of non supervisory and supervisory positions is attached in Appendix 1.** It is also the County's intention to comply with any applicable state requirements governing drug and/or alcohol testing which are not preempted by DOT regulations. The County also intends to comply with the applicable requirements of the Drug-Free Workplace Act of 1988, the Americans with Disabilities Act and the Family and Medical Leave Act.

Under the County's Policy, drug and alcohol testing will be conducted on any current and/or prospective driver who is subject to commercial driver's license (CDL) requirements and who may be required to operate a commercial motor vehicle (CMV): having a gross vehicle weight or gross combined total weight rating in excess of 26,000 pounds in interstate or intrastate commerce; of any size used to transport hazardous materials in a quantity that requires the vehicle to be placarded regardless of the vehicle's size; or designed to transport sixteen or more passengers, including the driver.

Any job applicant applying for a position who refuses or fails a pre-employment drug test will not be hired. Any employee covered by this policy who refuses or fails a drug and/or alcohol test will immediately be removed from operating a commercial vehicle. Any employee covered by this policy who refuses to submit to or fails a drug and/or alcohol test shall be subject to management/supervision intervention for cause that may result in referral to substance abuse mandatory treatment and/or disciplinary action up to and including termination.

All provisions of this Article apply equally to applicants and employees.

It is understood that a policy cannot address every situation that may arise, and in those situations, which are not covered in this policy, each shall be handled on its individual merits by the department in question in consultation with the Human Resources Department.

SECTION 2: EMPLOYEE CATEGORY

An employee is defined herein as a driver for the County who is required to maintain current certifications that they are qualified to drive under U.S. Department of Transportation (DOT) regulations. This includes any current and/or prospective driver who is subject to commercial driver's license (CDL) requirements and who may be required to operate a commercial motor vehicle (CMV): having a gross vehicle weight or gross combined total weight rating in excess of 26,000 pounds in interstate or intrastate commerce; of any size used to transport hazardous materials in a quantity that requires the vehicle to be placarded regardless of the vehicle's size; or designed to transport sixteen or more passengers, including the driver. For purposes of this Policy and the County's drug and alcohol testing program, performing a "safety-sensitive function" means for positions covered by the *Federal Highway Authority (FHWA)* where the driver is subject to CDL requirements.

In addition, any employee contracted by the County filling any driver position, will be covered by and is expected to maintain a drug testing policy in accordance with federal regulations to continue this contractor relationship.

Drivers who are contracted by the County and who participate in the drug and alcohol testing program of that other company, need not be subject to drug testing by the County. However, the other company must certify that the driver is fully qualified to drive and will provide a written statement in compliance with DOT regulations, upon written approval of the driver.

SECTION 3: PROHIBITED DRUG-RELATED CONDUCT

The County prohibits the following conduct:

- a. Using, being under the influence of, or possessing unauthorized controlled substances while performing County business or while in or about a County facility or worksite except for items held as property or evidence or as required by an official job description.
- b. Using or being under the influence of a legal drug (such as "over-the-counter" and prescription drugs) while performing County business, or while in or about a County facility or worksite, to the extent such use affects the safety of any employees or others. Employees in doubt about the effects of a certain drug should consult their personal physician or the County's Medical Review Officer regarding any adverse side effects.
- c. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance by any employee while performing County business, or while in or about a County facility or worksite, except for items held as property or evidence or as required by an official job description.
- d. Tampering with a specimen provided for drug testing for the purpose of altering the results of the urine drug test.
- e. Refusal to take a drug test.

SECTION 4: PROCEDURES FOR REQUIRED DRUG TESTING

The County is required by DOT to conduct tests under the following conditions or times: (a) before a driver-applicant is hired or an existing non-DOT worker performs DOT driving duties ("pre-employment/pre-duty" testing); (b) on a random basis; (c) following certain accidents (post-accident testing); (d) for reasonable suspicion; (e) return-to-duty, and (f) follow-up. The County's procedures and requirements for each test are discussed below.

a. Pre-employment/Pre-Duty Testing

A pre-employment drug test will be conducted when an employee/applicant is conditionally hired for a position listed in this policy. Prior to taking a pre-employment/pre-duty drug test, the employee/applicant will be given forms notifying the applicant to report for a drug test. The forms would include instructions and an explanation of the collection procedures for each test. The applicant will also be asked to execute a general consent and release to be tested for drugs.

All offers by the County to hire an applicant for, or to assign or transfer an employee/applicant to, a covered FHWA driver position are conditioned upon the applicant: (i) executing the County's general consent and release to be tested for drugs forms; (ii) taking and passing a drug test as directed by the County; (iii) executing the County's authorization to obtain past drug and alcohol test results form (which authorizes the County to obtain all of the applicant's past drug and alcohol test results, including any refusals to test, from each company for whom the driver either worked, or took or refused to take a pre-employment/pre-duty testing during the previous two years and the result of those tests including any refusals); (iv) receiving educational material about drugs and alcohol; (v) complying with any other conditions or requirements of which the County advises the applicant at the time of the offer.

An applicant who refuses or fails to execute the County's general consent and release to be drug tested forms, who refuses or fails to execute the County's authorization to obtain past drug and alcohol test results form, who refuses or fails to submit to a pre-employment/pre-duty drug test as directed, or whose result is positive for the drug test, will not be considered eligible to work for the County.

Human Resources is required to check the applicants past drug testing results for all previous jobs in the last 2 years requiring a Commercial Driver's License. Human Resources will notify the hiring supervisor regarding the results of this inquiry and advise if the individual is eligible for employment.

An applicant has the right to have their original split sample retested (by a DHHS certified laboratory, the original laboratory will follow approved transfer procedures) at their expense, if requested in writing to the Medical Review Officer with a copy to the Human Resources Department within 72 hours of the final result provided by the MRO. If upon retest the results are found to be negative, the County will reimburse the costs involved with the retest. If the second test is found to be positive, the applicant will not be hired.

b. Random Testing

All employees working in a position covered by this policy are subject to unannounced testing based on random selection. This includes temporary employees performing work in a covered position. Independent contractors are not covered by this policy. The independent contractors are required to provide certification their company has a drug free policy in place.

The County will test the required percentage of covered employees every twelve months for drugs. The selections should be made at unannounced intervals spread throughout the calendar year. A person may be randomly selected more than once or not picked at all during the annual period.

To assure that the selection process is random, all employees covered by this policy will be placed in a common pool. The County's drug testing vendor will be provided the names for the pool and will select those to be tested by an acceptable random method.

Whenever a driver is randomly selected to be tested, he/she will be notified of this in writing and instructed to report to the collection site within 1 hour of notification. Human Resources will officially notify the employee's supervisor of the drug test result.

A driver who tests positive or who refuses to submit to a test is medically unqualified to drive and/or perform any other safety-sensitive function.

A driver who refuses to submit to a random test, who fails to report for the test as directed, or who tests positive, will be subject to disciplinary action, up to and including termination of employment.

Following a positive drug test result, the Elected Official/Department Head or his/her designee should confidentially contact the employee and place the employee on administrative leave until his/her pre-disciplinary meeting. A pre-disciplinary meeting will be arranged as soon as possible with the department head. The employee should be advised of the purpose of the meeting and that he/she is entitled to have union representation present.

c. Post-Accident Testing

The immediate supervisor must be notified of each reportable accident and the driver is required to take a post-accident drug/alcohol test under the following circumstances:

1. An accident where a fatality occurs; test each surviving driver performing a safety sensitive function at the time of the accident.
2. Non-fatality accident, test (a) if anyone is **immediately** transported to a medical facility and the driver receives a citation for a moving traffic violation, **or** (b) if one or more vehicles receive disabling damage and the driver receives a citation for a moving violation.
3. Post accident drug tests must be performed with 32 hours of the accident.
4. Post accident alcohol tests must be performed within 8 hours of the accident.

DOUGLAS COUNTY DEPARTMENT OF TRANSPORTATION (DOT)/
COMMERCIAL DRIVER'S LICENSE (CDL) DRUG TESTING POLICY (continued)

It is possible that a driver will be directed to submit to a drug and/or alcohol test at the accident scene by a federal, state, or local law enforcement officer. Whenever a test is conducted by a law enforcement officer, the driver is required to contact his/her supervisor or another County official immediately to report this and to provide the County with the name, badge number and telephone number of the law enforcement officer who conducted the test. Whenever a driver is involved in a DOT accident and is not tested for drugs and alcohol by a law enforcement official, the driver is required to immediately report for drug and alcohol tests.

A driver who is required to take a post accident drug test will be considered by the County as unqualified to work and relieved from duty and be placed on administrative (paid) leave pending the results of his/her drug test.

A driver who is seriously injured and cannot provide a specimen at the time of the accident shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were any controlled substances in his/her system.

If the employee is injured, the employee may be placed on injury leave. In accordance with State worker's compensation laws, employees who are injured and have a positive drug test may not be entitled to worker's compensation benefits.

Human Resources will officially notify the employee's supervisor of the drug test results. A driver who tests positive for drugs and/or alcohol, who refuses or fails to submit to a post-accident drug and alcohol test as required, who unnecessarily delays reporting to the test site following an accident, or who otherwise fails to comply with the County's post-accident testing procedures, will be subject to disciplinary action, up to and including termination. A pre-disciplinary meeting will be arranged as soon as possible with the department head. The employee should be advised of the purpose of the meeting and that he/she is entitled to have union representation present.

d. Reasonable Suspicion Testing

The County will require current employees to submit to testing for drugs and alcohol based on specific, contemporaneous, articulable observations concerning the appearance, behavior, and speech or body odors of the employee by at least two supervisors/managerial level employees, at least one of which has been trained in detecting the signs and symptoms of prohibited drug or alcohol use.

Drivers who are required to submit to a reasonable suspicion test will be escorted by a supervisor or management representative to the appropriate specimen collection site for a drug and alcohol test.

(Stated below)

A driver who is required to take a reasonable suspicion drug test will be considered by the County as unqualified to work and relieved from duty and placed on administrative (paid) leave pending the results of his/her drug test.

Human Resources will officially notify the employee's supervisor of the drug test results. A driver whose reasonable suspicion test is positive, or who fails or refuses to submit to a reasonable suspicion test when directed to do so by a supervisor, will be subject to disciplinary action, up to, and including termination. A pre-disciplinary meeting will be arranged as soon as possible with the Elected Official/Department Head or designee. The employee should be advised of the purpose of the meeting and that he/she is entitled to have union representation present.

e. Referral to Substance Abuse Professional

If, after a pre-disciplinary meeting, it is determined the employee will be allowed to continue his/her employment with the County, the employee shall be referred to an EAP counselor or Substance Abuse Professional (SAP). Failure to comply with the recommendations of the SAP, including participation in any rehabilitative program will be cause for discipline.

f. Return to Duty Testing

Before a return-to-duty test is performed, the employee must be evaluated by a Substance Abuse Professional (SAP) or Employee Assistance Program (EAP) counselor to determine whether the driver has followed the recommendations for action by the SAP, including participation in any rehabilitation program.

The driver must have a verified negative drug test result or an alcohol test result of less than 0.02 to return to a safety-sensitive function. An employee who fails a return to duty test will be subject to termination.

g. Follow-up Testing

Once allowed to return-to-duty, the driver shall be subject to unannounced follow-up testing for at least 12 but not more than 60 months. The frequency and duration of the follow-up testing will be recommended by the SAP as long as a minimum of six tests are performed during the first 12 months after the employee has returned to duty.

Follow-up testing is separate from and in addition to the regulated random testing program. Employees subject to follow-up testing will remain in the random pool and will be tested whenever their names come up for random testing, even if that means duplicate tests may be performed the same week, month, etc.

An employee who fails a follow up drug test is subject to termination.

SECTION 5: DRUG TESTING PROCEDURES

Drug testing will be performed utilizing split urine sample collections.

Under the DOT guidelines, urine samples will be tested for marijuana, cocaine, opiates, amphetamines, and PCP. The levels are as follows:

| | Initial | Confirmation | Split Sample Retest |
|--------------|------------|--------------|-------------------------|
| Marijuana | 50 ng/ml | 15 ng/ml | Any detectable presence |
| Cocaine | 200 ng/ml | 200 ng/ml | Any detectable presence |
| Opiates | 2000 ng/ml | 2000 ng/ml | Any detectable presence |
| PCP | 25 ng/ml | 25 ng/ml | Any detectable presence |
| Amphetamines | 1000 ng/ml | 500 ng/ml | Any detectable presence |

In the event the DOT or FHWA expands the list of drugs for which testing is or may be required, the County reserves the right to begin testing immediately for those drugs without prior notice to drivers or applicants unless notice is required by DOT, FHWA or other applicable law.

Photo identification is required to be shown at the time of collection. Upon notification that a drug test is required, an employee will report at the designated time to the collection site.

The collection agency shall adhere to all requirements outlined in federal regulations and in the contract between the County and the vendor.

SECTION 6: PROHIBITED ALCOHOL-RELATED CONDUCT

No employee shall report for duty or remain on duty with the odor of alcoholic beverages about their person and while having an alcohol concentration of 0.02 or greater. No employee shall use alcoholic beverages while performing their job. No employee shall perform their job within four (4) hours after using alcoholic beverages. No employee shall refuse to submit to an alcohol test. No employee shall perform their job with alcoholic beverages in his/her possession while being on duty, except for items held as property or evidence or as required by an official job description. Any attempt to invalidate or tamper with the alcohol test will subject the employee to disciplinary action, up to and including termination.

SECTION 7: PROCEDURES FOR REQUIRED ALCOHOL TESTING

a. Random Testing

All employees working in a position covered by this policy are subject to unannounced testing based on random selection. This includes temporary employees performing work in a covered position. Independent contractors are not covered by this policy. The independent contractors are required to provide certification that their company has a drug/alcohol free policy in place. The County will randomly test the required percentage of covered employees every twelve months using the same selection process described in the random drug testing policy.

Whenever a driver is randomly selected to be tested, he/she will be notified of this in writing and instructed to report to the collection site within 1 hour of notification. Human Resources will officially notify the employee's supervisor of the test result. A driver who tests positive or who refuses to submit to a test is medically unqualified to drive and/or perform any other safety-sensitive function. In addition to the penalties imposed by DOT, a driver who refuses to submit to random test, who fails to report for the test as directed, or who tests positive, will be subject to disciplinary action, up to and including termination of employment.

b. Reasonable Suspicion Testing & Post Accident Alcohol Testing

The County will require current employees to submit to testing for drugs and alcohol based on specific, contemporaneous, articulable observations concerning the appearance, behavior, and speech or body odors of the employee by at least two supervisors/managerial level employees, at least one of which has been trained in detecting the signs and symptoms of prohibited drug or alcohol use.

If an alcohol test is not administered within two (2) hours following the accident, the supervisor must prepare and maintain a record stating the reasons the test was not promptly administered and forward to Human Resources.

If the alcohol test has not taken place within eight (8) hours following the accident, there shall be no further attempt to administer the test and the supervisor shall maintain the same record, and forward to Human Resources.

c. Test Results

In the event that the driver provides an adequate breath specimen and the initial test registers an alcohol concentration level that is less than 0.02, the test result will be reported as a "negative" and no additional test will be required at that time.

In the event that the driver provides an adequate breath specimen and the initial test registers an alcohol concentration level of 0.02 or greater, a second, confirmatory test will be performed. In the event that the driver provides an adequate breath specimen and the confirmatory test registers less than 0.02, the test result will be reported to the County as "negative".

DOT prohibits any driver whose confirmatory test registers 0.02 or more but less than 0.04 from performing or from continuing to perform any safety-sensitive function until the driver's next regularly-scheduled duty period, but for no less than 24 hours following the test. A driver who, after providing an adequate breath specimen, has a confirmatory test that registers 0.02 or more but less than 0.04 will, at a minimum be relieved of duty until his/her next regularly-scheduled duty period, but for no less than 24 hours, and may be subject to additional disciplinary action by the County, up to and including termination.

A driver who, after providing an adequate breath specimen, has a confirmatory test that registers 0.04 or greater will, at a minimum be relieved of duty without pay until his/her next regularly-scheduled duty period, but for no less than 24 hours, and may be subject to additional disciplinary action by the County up to and including discharge. The County must refer the employee to an SAP for evaluation if the employee is expected to return to duty.

DOUGLAS COUNTY DEPARTMENT OF TRANSPORTATION (DOT)/
COMMERCIAL DRIVER'S LICENSE (CDL) DRUG TESTING POLICY (continued)

If a screening or confirmatory test cannot be completed, the technician must, if practicable, begin a new test using a new alcohol testing form with a new sequential test number. Refusal by an employee to complete and sign the alcohol testing form, to provide breath, or otherwise to cooperate with the collection process must be noted on the form and the test will be terminated.

If an employee attempts and fails to provide an adequate amount of breath, the technician must note this on the form and immediately inform the employer. The employer shall direct the employee to obtain, from a licensed physician who is acceptable to the employer, an evaluation concerning the employee's medical ability to provide an adequate amount of breath. The evaluation should be made as soon as practical after the attempted breath test. If the physician indicates that there was a valid medical reason for the inadequate amount of breath, the employee's failure to provide an adequate amount of breath will not be considered a refusal. If no valid medical reason is determined, the inadequate amount of breath must be considered a refusal to take the test.

d. Return to Duty Testing (When Original Test Was Between .02 – .04)

When the employee with a positive alcohol test between .02 – .04 is ready to take the return to duty alcohol test, the individual will contact Human Resources to arrange the appointment with the collection service. Human Resources will inform the supervisor of the test results. If the test is positive, the employee will not be allowed to return to work, and will be driven home.

If the return to duty test is positive, a pre-disciplinary meeting will be arranged as soon as possible with the department head to discuss disciplinary action up to and including termination of the individual from County employment. The employee should be advised by the supervisor the purpose of the meeting and that he/she is entitled to have representation present.

e. Return to Duty Testing (When Original Test Was Over .04)

When the employee with a positive alcohol test over .04 is ready to take the return to duty alcohol test, the individual will call Human Resources to arrange the appointment with the collection service. The supervisor will contact the SAP to verify that the individual complied with the SAP's recommendations.

Human Resources will inform the *supervisor* of the test results. If the test is positive, the employee will not be allowed to return to work, and will be driven home. A pre-disciplinary meeting will be arranged as soon as possible with the department head to discuss disciplinary action up to and including termination of the individual from County employment. The employee should be advised by the supervisor the purpose of the meeting and that he/she is entitled to have representation present.

DOUGLAS COUNTY DEPARTMENT OF TRANSPORTATION (DOT)/
COMMERCIAL DRIVER'S LICENSE (CDL) DRUG TESTING POLICY (continued)

f. Follow-up Alcohol Test

Once allowed to return-to-duty, the driver shall be subject to unannounced follow-up testing for at least 12 but not more than 60 months. The frequency and duration of the follow-up testing will be recommended by the SAP as long as a minimum of six tests are performed during the first 12 months after the employee has returned to duty.

Follow-up testing is separate from and in addition to the regulated random testing program. Employees subject to follow-up testing will remain in the random pool and will be tested whenever their names come up for random testing, even if that means duplicate tests may be performed the same week, month, etc.

If the follow up test is positive, a pre-disciplinary meeting will be arranged as soon as possible with the department head to discuss disciplinary action up to and including termination of the individual from County employment. The employee should be advised by the supervisor the purpose of the meeting and that he/she is entitled to have representation present.

SECTION 8: LEAVE POLICY

Following disciplinary action other than termination the employee may request vacation and/or floating holiday, and at the expiration of his/her vacation, request leave without pay until such time that he/she is released to return to work following a negative drug/alcohol test. Should he/she be required to undergo inpatient substance abuse treatment, he/she will be allowed to utilize accrued sick leave until the completion of inpatient treatment.

SECTION 9: MEDICAL REVIEW OFFICER (MRO)

The MRO for the County is a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information. The MRO will carry out those duties and responsibilities required by the federal regulations and as agreed to by contract with the County's vendor.

SECTION 10: SPLIT SAMPLE TESTING

If there is no legitimate medical reason for a confirmed positive test, the employee is permitted to submit a written request to Human Resources for a test of the split sample within 72 hours of receipt of the final test results from the MRO. The expense for this test is solely the responsibility of the employee, unless the test is negative. At that time, the County will reimburse the employee for their expenses incurred in this test.

SECTION 11: TESTING LABORATORY

The County will use a **Substance Abuse and Mental Health Services Administration (SAMHSA)** certified laboratory. The testing laboratory will comply with all methods and procedures of 49 CFR Part 40 and will provide quarterly summaries and annual reports to the County showing compliance. The laboratory retains all confirmed positive samples in secured frozen storage for one year. If requested, they will retain the sample for an additional reasonable period.

SECTION 12: QUALITY ASSURANCE/QUALITY CONTROL

Quality Assurance/Quality Control will be handled by the drug and alcohol program contractor per DOT regulations.

SECTION 13: INFORMATION ON DRUGS AND ALCOHOL

Every employee covered by this policy will receive the drug education:

The County will provide drug and alcohol educational materials for all drivers, explaining the DOT's requirements and the County's policies and procedures to meet those requirements. In addition to this policy, the County will provide drivers with information concerning: (i) the effects of drugs and alcohol on an individual's health, work, and personal life; (ii) the signs and symptoms of a drug or alcohol problem; and (iii) the available methods of intervention when a problem does exist.

Referral assistance is provided through Employee Assistance Program. A copy of this policy will be given to each employee to read and understand. The employee is given the opportunity to ask questions related to this policy and once they understand, will sign off certifying that they do understand. This sign-off sheet (**Acknowledgement of Receipt of Drug Policy**) will be kept on file by the Human Resources Department.

Applicants are required to execute a certification regarding requirements of the County Drug Testing program as a condition of being hired. An applicant who refuses to do so will not be hired.

A copy of this policy will be displayed in the work area.

SECTION 14: SUPERVISORY TRAINING

All supervisors of individuals performing safety sensitive positions previously defined in employee category are required to complete a minimum of sixty (60) minutes of training for detecting signs and symptoms of drug use on the job and sixty (60) minutes covering alcohol testing program. Information will be provided about the specific physical, behavioral, and performance indicators of drug and alcohol abuse in the workplace, policy guidelines, and utilization of the Employee Assistance Program in conjunction with the testing program.

SECTION 15: EMPLOYEE ASSISTANCE PROGRAM

An employee who refuses or fails a drug or alcohol test may be referred to a Substance Abuse Professional (SAP) or the Employee Assistance Program. Rehabilitation assistance will be provided in accordance with the appropriate Employee Assistance Program Policy. If an employee fails to follow the guidelines set in this drug and alcohol testing policy, then disciplinary action may be taken up to and including dismissal. Employees are responsible financially for the cost of an SAP.

DOUGLAS COUNTY DEPARTMENT OF TRANSPORTATION (DOT)/
COMMERCIAL DRIVER'S LICENSE (CDL) DRUG TESTING POLICY (continued)

SECTION 16: RECORDKEEPING

The County will keep the following records for the periods specified. The records will be maintained by Human Resources. Records that demonstrate the collection process conforms to 49 CFR Part 40 will be kept for one year. Records of employee drug test results that show employees who failed a drug test, and the type of test failed, if any, will be kept for a minimum of 5 years, and include the following information:

- The functions performed by each employee who fails the drug test.
- The prohibited drugs which were used by each employee who fails the drug test.
- The disposition of each employee who fails the drug test (e.g. termination, rehabilitation, leave without pay, etc.).
- Documentation that supports the MRO's determinations.
- Records that demonstrate rehabilitation will also include the MRO's determination.

Records of employee drug test results that show employees passed a drug test will be kept for a minimum of one year. A record of the number of employees tested by type of test will be kept for a minimum of 5 years. Records confirming that supervisors and employees have been trained as required by this policy will be kept for a minimum of 3 years. Training records will include copies of all training materials. These records will be maintained by the County Human Resources Department.

SECTION 17: CONFIDENTIALITY

Each individual's record of testing and results under this policy will be maintained private and confidential. With the exception of the testing laboratory, MRO, Human Resources or upon request of FHWA or State agency officials as part of an accident investigation, for statistical information, or for training records, the results of individual drug tests will not be released to anyone without the expressed written authorization of the individual tested or as is otherwise required by DOT regulations or by other applicable federal or state law.

All written records will be stored in locked containers or in a secure location with access available only by the individuals listed above. Unless an employee gives his or her written consent, the employee's drug testing and/or rehabilitation records will not be released to a subsequent employer.

Appendix 1: Listing of Jobs and Supervisors

CDL Driving Positions

Supt Road Maintenance & Traffic

District Supervisor

Foreman

Laborer

Auto Equipment Operator I

Auto Equipment Operator II

Auto Equipment Operator III

Small Engine Technician

Traffic Services Technician

Auto Equipment Operator - Temporary

Park/Trail Maintenance Technician

Garage Supervisor

Equipment Mechanic I

Equipment Mechanic II

Equipment Mechanic III

Therapeutic Recreation Aide

Clerk III - DCHC

Driver

Therapeutic Recreation Coordinator

Note: Not all incumbents in some job titles have a CDL

CDL Supervisors

Construction & Maintenance Manager

Supt Road Maintenance &Traffic

District Supervisor

Foreman

Parks Maintenance Supervisor

Purchasing Agent

Garage Supervisor

Therapeutic Recreation Coordinator

Director Environmental Services-DCHC

Finance Director-DCHC

The County may add job titles to this list without prior notice providing one or more incumbents use a CDL in the course of their duties.

ARTICLE 25

DOUGLAS COUNTY NON-DEPARTMENT OF TRANSPORTATION ANTI-DRUG PLAN & NON-DEPARTMENT OF TRANSPORTATION ALCOHOL MISUSE PLAN

SECTION 1: DRUG POLICY OVERVIEW

Douglas County (hereinafter referred to as the County) has a vital interest in maintaining safe, healthful and efficient working conditions for all of its employees. Being under the influence of a drug or alcohol on the job poses serious safety and health risks, not only to the user, but to all those who work with or otherwise come into contact with the user. The possession, use, or sale of illegal drugs or alcohol on the job also poses unacceptable risks for safe, healthful, and efficient operations and will not be tolerated.

It is the County's right, obligation, and intent to maintain a safe, healthful, and efficient working environment for all of its employees and to protect County property, equipment, and operations from the risks associated with drug use in the workplace. The Non-DOT (Department of Transportation) Anti-Drug Plan Summary is designed to provide an overview of the County Policy and does not represent every aspect of the program. Specific policies and procedures for the Non-DOT Drug program will "mirror" the DOT FHWA (Federal Highway Administration) Drug Program *excluding* the random drug testing or as noted herein.

This Anti-Drug Plan can be altered or modified with proper notice. The County will use a certified laboratory.

SECTION 2: POLICY APPLICATION

The provisions of this Anti-Drug Plan apply to all employees of the County, regardless of status, except those employees subject to the Department of Transportation's FHWA drug program and commissioned Sheriff's Department employees covered by Merit Commission Rules.

SECTION 3: DRUG AWARENESS PROGRAM

The County will inform employees of: (1) the dangers of drug use in the workplace; (2) the County's drug-free workplace Anti-Drug Plan; (3) the availability of treatment and counseling for employees seeking such assistance; and (4) the penalties the County will impose for violations of its Drug-Free Workplace Program.

SECTION 4: PROHIBITED CONDUCT

The County prohibits the following conduct:

- a. Using, being under the influence of, or possessing unauthorized controlled substances while performing County business or while in or about a County facility or worksite except for items held as property or evidence or as required by an official job description.
- b. Using or being under the influence of a legal drug (such as "over-the-counter" and prescription drugs) while performing County business, or while in or about a County facility or worksite, to the extent such use affects the safety of any employees or others. Employees in doubt about the effects of a certain drug should consult their personal physician or the County's Medical Review Officer regarding any adverse side effects.

DOUGLAS COUNTY NON-DEPARTMENT OF TRANSPORTATION ANTI-DRUG PLAN &
NON-DEPARTMENT OF TRANSPORTATION ALCOHOL MISUSE PLAN (continued)

- c. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance by any employee while performing County business, or while in or about a County facility or worksite, except for items held as property or evidence or as required by an official job description.
- d. Tampering with a specimen provided for drug testing for the purpose of altering the results of the urine drug test.
- e. Refusal to take a drug test.

SECTION 5: TESTING FOR CONTROLLED SUBSTANCES

a. **Pre-Employment/Pre-Duty Testing**

The County will require all applicants it intends to hire to be tested for the use of controlled substances as a pre-qualification condition. Applicants who test positive for the use of controlled substances, or who refuse to submit to such testing, will not be allowed to begin employment.

b. **Reasonable Suspicion Testing**

The County will require current employees to submit to testing for controlled substances based on specific, contemporaneous, articulable observations concerning the appearance, behavior, and speech or body odors of the employee by at least two supervisors or managerial level employee, at least one of which has been trained in detecting the signs and symptoms of prohibited drug use. Failure on the part of the supervisor(s) to accurately document the specified behavior for reasonable suspicion may be subject to disciplinary action up to and including termination.

Employees who are requested to undergo reasonable suspicion testing will be transported to the collection site and home by a County representative or public transportation (bus or taxi). The employee will be required to submit to the drug test. Any attempt to invalidate or tamper with the test, or refuse the test will subject the employee to disciplinary action, up to and including termination.

A driver involved in an accident while conducting County business may be directed to submit to a drug test at the accident scene by a federal, state, or local law enforcement officer. Whenever a test is conducted by a law enforcement officer, the driver is required to contact his/her supervisor or the Elected Official/Department Head immediately to report this and to provide the County with the name and telephone number of the law enforcement officer who conducted the test in lieu of taking a test at the County Collection site.

DOUGLAS COUNTY NON-DEPARTMENT OF TRANSPORTATION ANTI-DRUG PLAN &
NON-DEPARTMENT OF TRANSPORTATION ALCOHOL MISUSE PLAN (continued)

An employee who is required to take a reasonable suspicion test will be considered by the County as unqualified to work and placed on paid administrative leave pending the results of his/her test(s).

An employee who has a positive drug test will be subject to disciplinary action up to and including termination. If, after a pre-disciplinary meeting, it is determined the employee will be allowed to continue his/her employment with the County, the employee shall be referred to an EAP counselor Substance Abuse Professional (SAP). Failure to comply with the recommendations of the SAP, including participation in any rehabilitative program will be cause for discipline.

An employee who has a positive drug test, following disciplinary action other than termination, may request vacation, and at the expiration of vacation, request leave without pay until such time he/she is released to return to work. Should the employee be required to undergo inpatient substance abuse treatment, he/she will be allowed to utilize accrued sick leave until the completion of inpatient treatment.

If the employee is injured, the injury will be evaluated in accordance with the State Worker's Compensation Law.

c. **Return to Duty Testing**

An employee who has a positive drug test result will be required to take a return to duty drug test. Before a return-to-duty test is performed, the employee must have been evaluated by a Substance Abuse Professional (SAP) or Employee Assistance Program (EAP) counselor and has complied with their recommendations including participation in any rehabilitation program. The employee must have a verified negative drug test result to return to their job. A positive test result may be cause for termination from the County.

d. **Follow-up Testing**

Once allowed to return to duty, the employee shall be subject to unannounced follow-up testing for at least 12 but not more than 60 months. The frequency and duration of the follow-up testing will be recommended by the SAP as long as a minimum of six tests are performed during the first 12 months after the employee has returned to duty. A positive test result may be cause for termination from the County.

e. **Random Testing**

Some groups of employees are subject to random testing as provided in their collective bargaining agreements.

f. **Confidentiality**

Each individual's record of testing and results under this policy will be private and confidential.

DOUGLAS COUNTY NON-DEPARTMENT OF TRANSPORTATION ANTI-DRUG PLAN & NON-DEPARTMENT OF TRANSPORTATION ALCOHOL MISUSE PLAN (continued)

g. Supervisory Training/Employee Awareness

Departments shall designate supervisors who will be required to complete a training program for detecting signs and symptoms of drug and alcohol use on the job. Employees will be asked to read a copy of the Drug Policy and sign a statement of acknowledgement.

SECTION 6: DRUG TESTING PROCEDURES

Drug testing will be performed utilizing split urine sample or blood collections. Samples will be tested for marijuana, cocaine, opiates, amphetamines, and PCP. An employee may request at their own expense the split sample be retested after a positive test. The least invasive test procedure shall be used. The levels are as follows:

| | Initial | Confirmation | Split Sample Retest |
|--------------|------------|--------------|-------------------------|
| Marijuana | 50 ng/ml | 15 ng/ml | Any detectable presence |
| Cocaine | 300 ng/ml | 150 ng/ml | Any detectable presence |
| Opiates | 2000 ng/ml | 2000 ng/ml | Any detectable presence |
| PCP | 25 ng/ml | 25 ng/ml | Any detectable presence |
| Amphetamines | 1000 ng/ml | 500 ng/ml | Any detectable presence |

The County reserves the right to test for the above drugs or amend the list of drugs with proper notice to employees or applicants. A photo identification is required to be shown at the time of collection. Established chain of custody procedures will be followed.

SECTION 7: PENALTIES FOR VIOLATIONS

Employees found to be in violation of this policy will be removed from their position and may be subject to disciplinary action up to and including termination.

SECTION :8 ALCOHOL POLICY OVERVIEW

Douglas County (hereinafter referred to as the County) has a vital interest in maintaining safe, healthful, and efficient working conditions for all of its employees. Being under the influence of alcohol on the job poses serious safety and health risks, not only to the user, but to all those who work with or otherwise come into contact with the user. The possession, use, or sale of alcohol on the job also poses unacceptable risks for safe, healthful, and efficient operations.

It is the County's right, obligation, and intent to maintain a safe, healthful, and efficient working environment for all of its employees and to protect County property, equipment, and operations from the risks associated with alcohol use in the work place. This Alcohol Misuse Prevention Plan Summary is designed to provide an overview of the County policy and does not represent every aspect of the program. Specific policies and procedures for the Non-DOT Alcohol program will "mirror" the DOT FHWA Alcohol Testing Program *excluding* the random alcohol testing or as noted herein. This Alcohol Misuse Prevention Plan can be altered or modified with proper notice.

SECTION 9: POLICY APPLICATION

The provisions of this Alcohol Misuse Prevention Plan apply to all employees of the County regardless of status except those employees subject to the Department of Transportation's FHWA drug program and commissioned Sheriff's Department employees covered by Merit Commission Rules.

SECTION 10: ALCOHOL AWARENESS PROGRAM

The County will inform employees of: (1) the dangers of alcohol use in the work place; (2) the County's Alcohol Misuse Prevention Plan; (3) the availability of treatment and counseling for employees seeking such assistance; and (4) the penalties the County will impose for violations of its Alcohol Misuse Prevention Plan.

SECTION 11: PROHIBITED CONDUCT

No employee shall report for duty or remain on duty with the odor of alcoholic beverages about their person and while having an alcohol concentration of 0.02 or greater. No employee shall use alcoholic beverages while performing their job. No employee shall perform their job within four (4) hours after using alcoholic beverages. No employee shall refuse to submit to the following alcohol tests:

1. reasonable suspicion;
2. return to duty;
3. follow-up testing as recommended by a substance abuse professional.

No employee shall perform their job with alcoholic beverages in his/her possession while being on duty, except for items held as property or evidence or as required by an official job description. Any attempt to invalidate or tamper with the alcohol test will subject the employee to disciplinary action, up to and including termination.

SECTION 12: ALCOHOL TESTING PROCEDURES

Alcohol testing procedures will be performed using a saliva, breath alcohol, or blood. The least invasive test procedure shall be used.

SECTION 13: TESTING FOR ALCOHOL

a. Reasonable Suspicion Testing

The County will require current employees to submit to testing for alcohol based on specific, contemporaneous, articulable observations concerning the appearance, behavior, and speech or body odors of the employee by at least two supervisors/managerial level employees, at least one of which has been trained in detecting the signs and symptoms of prohibited alcohol use. Failure on the part of the supervisor(s) to accurately document the specified behavior for reasonable suspicion may be subject to disciplinary action up to and including termination.

Employees who are requested to undergo reasonable suspicion testing will be transported to the collection site and home by a County representative. The employee will be required to submit to the test. Any attempt to invalidate or tamper with the test, or refuse the test will subject the employee to disciplinary action, up to and including termination.

DOUGLAS COUNTY NON-DEPARTMENT OF TRANSPORTATION ANTI-DRUG PLAN &
NON-DEPARTMENT OF TRANSPORTATION ALCOHOL MISUSE PLAN (continued)

A driver involved in an accident while conducting County business may be directed to submit to an alcohol test at the accident scene by a federal, state, or local law enforcement officer. Whenever a test is conducted by a law enforcement officer, the driver is required to contact his/her supervisor or the Elected Official/Department Head immediately to report this and to provide the County with the name and telephone number of the law enforcement officer who conducted the test in lieu of taking a test at the County Collection site.

An employee who, after providing an adequate specimen, has a confirmatory test that registers 0.02 or more but less than 0.04 will, at a minimum be relieved of duty without pay until his/her next regularly-scheduled duty period, but for no less than 24 hours, and may be subject to additional disciplinary action by the County, up to and including termination.

Additionally, an employee who, after providing an adequate specimen, has a confirmatory test that registers 0.04 or greater will, at a minimum be relieved of duty without pay until his/her next regularly-scheduled duty period, but for no less than 24 hours, and may be subject to additional disciplinary action by the County up to and including termination. The County must refer the employee registering .04 or greater to a Substance Abuse Professional (SAP) or EAP counselor for evaluation if the employee is expected to return to duty.

An employee, who has a positive alcohol test, following disciplinary action other than termination, will request vacation, and at the expiration of vacation, request leave without pay until such time he/she is released to return to work. Should the employee be required to undergo inpatient substance abuse treatment, he/she will be allowed to utilize accrued sick leave until the completion of inpatient treatment.

If the employee is injured, the injury will be evaluated in accordance with the State Worker's Compensation Law.

b. Return to Duty Testing

An employee who has a positive alcohol test of .02 or greater will be required to take a return to duty alcohol test.

No employee who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform their job for the County, until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

Before a return-to-duty test is performed, the employee must be evaluated by a Substance Abuse Professional if the test result was .04 or greater to determine whether the employee has followed the recommendations for action by the SAP, including participation in any rehabilitation program.

The employee must have a verified alcohol test result of less than 0.02 to return to the job. . A positive test result may be cause for termination from the County.

DOUGLAS COUNTY NON-DEPARTMENT OF TRANSPORTATION ANTI-DRUG PLAN &
NON-DEPARTMENT OF TRANSPORTATION ALCOHOL MISUSE PLAN (continued)

c. **Follow-up Testing**

Once allowed to return-to-duty, the employee shall be subject to unannounced follow-up testing for at least 12 but not more than 60 months. The frequency and duration of the follow-up testing will be recommended by the SAP as long as a minimum of six tests are performed during the first 12 months after the employee has returned to duty. A positive test result may be cause for termination from the County.

d. **Confidentiality**

Each individual's record of testing and results under this policy will be private and confidential.

e. **Supervisory Training/Employee Awareness**

Departments shall designate supervisors who will be required to complete a training program for detecting signs and symptoms of drug and alcohol use on the job. Employees will be asked to read a copy of the Alcohol Policy and sign a statement of acknowledgement.

SECTION 14: PENALTIES FOR VIOLATIONS

Any employee found to be in violation of this policy will be removed from their position and may be subject to disciplinary action up to and including termination.

ARTICLE 26

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT ("HIPAA")

SECTION 1: GENERAL POLICY

It is Douglas County's policy that all employees in *covered departments* must preserve, protect, and treat all health information in accordance with the Health Insurance Portability and Accountability Act ("HIPAA") and its implementing regulations, Douglas County HIPAA privacy and security policies/procedures, departmental confidentiality policies/procedures, and Nebraska law. Such adherence is expected whether health information is accessed pursuant to an employee's essential job functions or whether accessed inadvertently or incidentally to essential job functions.

SECTION 2: DEFINITIONS

Covered Departments

- a. Douglas County Health Center:
 1. Long Term Care/Assisted Living
- b. Community Mental Health Center
- c. Health Department:
 1. Childhood Lead Poisoning Prevention Program (Division of Environmental Health)

SECTION 3: COMPLIANCE WITH DOUGLAS COUNTY HIPAA PRIVACY AND SECURITY POLICIES

Douglas County has adopted Privacy and Security Policies that are in compliance with HIPAA laws. All employees in covered departments will be responsible for knowing and following said policies. Employees who violate the Privacy and Security Policies shall be subject to discipline in accordance with the constructive discipline guidelines set forth in Article 24 of this Manual.

SECTION 4: WHISTLEBLOWER/REPORTING AND INTERNAL INVESTIGATIONS

a. POLICY

1. Mandatory Reports

Employees with first-hand knowledge of the facts are required to report their knowledge or belief that:

 - a. There has been a violation of HIPAA or a breach of Douglas County's HIPAA Compliance Plan.
 - b. There has been an improper use or disclosure of protected health information.
2. Permissive Report

Employees are encouraged to report their belief that:

 - a. Douglas County's policies and procedures do not comply with HIPAA.
 - b. Douglas County's HIPAA-related policies and procedures interfere with quality patient care.
3. Protection

Employees who make a mandatory or permissive report shall be protected from retaliatory action.
4. Sanctions

Employees who fail to make a mandatory report are subject to discipline.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (“HIPAA”) (continued)

b. DEFINITIONS

First-hand knowledge means information gained as a result of direct observation or contact, or direct admission of the person engaged in the violation, but does not include information relayed by a third party.

Improper use or disclosure means a use or disclosure of protected health information not authorized by a policy of Douglas County.

Protected health information means information that relates to the past, present or future physical or mental health, health care or condition of an individual or payment for health care, including identifying demographic information, which identifies an individual, regardless of whether the information is gathered, stored or transmitted in written, electronic, video or even oral form.

Retaliatory action means action by Douglas County, one of its department directors or supervisors, which is intended to, or foreseeably will, have the effect of intimidating, threatening, coercing, discriminating against or otherwise retaliating against an individual.

c. PROCEDURES

It is the policy of Douglas County that any member of the workforce who has first-hand knowledge of certain acts, events or omissions with serious potential consequences to Douglas County or its patients shall report such acts, events or omissions in accordance with this policy. All mandatory and permissive reports shall be investigated to the extent necessary to determine their validity. No workforce member making a report pursuant to this policy shall be retaliated against by Douglas County for having made such report.

1. Mandatory and permissive reports shall be made in writing to the department director or in writing to the Privacy Officer at LC 2, Civic Center. A department director or supervisor shall immediately turn over any report received by him/her to the Privacy Officer.
2. Information regarding the obligation to report and the means of reporting shall be consistently communicated throughout Douglas County through orientation and training sessions and other means developed from time to time.
3. All members of the workforce making reports are encouraged to disclose their identity, recognizing that anonymity may hamper complete and timely investigation. Nonetheless, no report shall be refused or treated less seriously because the reporter wishes to remain anonymous. The option of anonymous reporting shall be communicated to all workforce members along with methods of reporting.
4. All mandatory and permissive reports, however received, shall be investigated according to the following procedure:
 - a. The Privacy Officer shall establish and develop a written record for each report.
 - b. No promises will be made to the employee making the report, or witnesses providing supporting information about the report, by the Privacy Officer or anyone else regarding his or her culpability or what steps may be taken by Douglas County in response to the report.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (“HIPAA”) (continued)

- c. The Privacy Officer shall conduct an initial assessment of each report to determine whether the report has merit and warrants further investigation. A written record will be established for each report at the time of initial assessment.
 - d. The Privacy Officer shall determine, in consultation with the County Attorney’s Office, whether the alleged wrongdoing: (1) is a violation of State or federal law or administrative regulation; (2) is a violation of a policy, procedure or plan connected with the HIPAA Compliance Plan; (3) is a violation of other administrative policy; (4) poses a risk to the general public; or (5) otherwise puts Douglas County at risk of economic injury or injury to reputation.
 - e. If the Privacy Officer believes that the allegation, if true, constitutes a violation of statute or regulation, he or she shall report the matter immediately to the appropriate department head and legal counsel for consideration and determination of appropriate action, including further investigation, corrective action, disciplinary action and/or government reporting.
 - f. Further investigation of the report will be conducted by the Privacy Officer (or under the direction of legal counsel at the request of the Privacy Officer) in conjunction with the department head and/or designee.
 - g. The following steps may be taken to assure that documents are not altered or destroyed: (1) taking control of the files of individuals suspected of wrongdoing, (2) limiting access to files, computers and other sources of documents by individuals suspected of wrongdoing, or (3) placing individuals under investigation on temporary leave with pay or assignment of other duties if appropriate under the circumstances.
 - h. If it is determined that the matter is not likely to involve serious legal consequences or is outside the scope of the HIPAA Compliance Plan, then it shall be referred to the appropriate department director or supervisor for resolution in accordance with Douglas County Civil Service Policy Manual. Minor infractions of rules will ordinarily be referred to the individual's department head/supervisor for the necessary and appropriate education and/or discipline.
 - i. The Privacy Officer, in consultation with department directors and supervisors, may recommend suspension of any questionable practices during the course of an investigation.
5. Following the investigation, the Privacy Officer shall document the findings of the investigation using a HIPAA Action Summary Form and other forms as appropriate. The final report shall be signed by and placed in a permanent file maintained by the Privacy Officer.
6. No one involved in the process of receiving and investigating reports shall communicate any information about a report or investigation, including the fact that a report has been received or an investigation is ongoing, to anyone within Douglas County who is not involved in the investigation process or to anyone outside Douglas County without the prior approval of the Privacy Officer.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT ("HIPAA") (continued)

7. All records relating to reports of potential wrongdoing shall be retained and preserved in accordance with Douglas County's policy governing record retention. All records shall also be treated as HIPAA Records and retained as such. During executive session the Privacy Officer shall make quarterly reports to the County Board summarizing reports filed, results of completed investigations and actions taken.
8. The confidentiality of the reporter and the content of the report should be preserved to the extent permitted by law and by the circumstances. Information about reports, investigations or follow-up actions shall not be disclosed to anyone other than those individuals charged with the responsibility for investigation and remedial action as well as legal counsel.

SECTION 5: NON-RETALIATION

a. POLICY

Employees are protected by law, and Douglas County will not retaliate against employees for:

1. Filing a complaint with the Secretary of Health and Human Services alleging HIPAA violations by Douglas County or any of its covered departments.
2. Filing a complaint with the Douglas County Privacy Officer alleging violations by Douglas County or any of its covered departments.
3. Testifying, assisting or participating in an investigation, compliance review, proceeding or hearing dealing with a complaint or enforcement under HIPAA.
4. Opposing any act or practice made unlawful by HIPAA, provided that the member has a good faith belief that the practice is unlawful and the manner of opposing it is reasonable and does not involve a disclosure of protected health information in violation of HIPAA.
5. This policy does not affect the member's obligation to promptly report violations of Douglas County's HIPAA Compliance Plan and improper uses and disclosures of protected health information to Douglas County in order that Douglas County may investigate, remediate and mitigate as appropriate.
6. Discipline for (1) engaging in acts that violate applicable laws and regulations, (2) knowingly making false reports or (3) discipline of the individual for any other performance-related reason unconnected to reporting potential violations, is not retaliation.

Authority: 45 C.F.R. § 164.530(g)(2).

b. PROCEDURES

1. A member of the workforce who believes that retaliatory action is being taken because he or she has taken any action protected under this policy should notify the Privacy Officer and/or the Chief Administrative Officer to report the concern.
2. An investigation of a report under this policy will proceed in the same manner as a report under Douglas County's policy on "Reporting and Internal Investigations."

ARTICLE 27

EQUAL EMPLOYMENT OPPORTUNITY

SECTION 1: POLICY

- a. It is the policy of Douglas County and the Civil Service Commission to provide equal employment opportunities to employees and applicants for employment without regard to race, color, religion, sex, national origin, age, disability, marital status, pregnancy, political belief or affiliations, or any other legally protected characteristic except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary for proper and efficient operations.
- b. This policy applies to all terms and conditions of employment including, but not limited to recruitment, examination, selection, appointment, rate of pay, promotion, transfer, retention, termination, layoff, daily working conditions, training, awards, compensation, benefits, disciplinary measures, or any other aspect of employment or personnel administration.
- c. The Human Resources Director shall take action as necessary to eliminate any barriers to equal employment opportunities.

ARTICLE 28
ANTI-HARASSMENT POLICY

SECTION 1: GENERAL POLICY

- a. It is the policy of Douglas County and the Civil Service Commission to promote a work atmosphere where employees are treated with dignity and respect. Harassment in the workplace based upon race, color, religion, sex, national origin, age, disability, marital status, pregnancy, or any other legally protected characteristic, is a form of discrimination and is prohibited by state and federal law. Douglas County will do its best to prevent and promptly correct instances of harassment or discrimination in the workplace.
- b. Any employee who believes himself or herself to be a victim of harassment and/or discrimination, or any individual who has witnessed or has knowledge of instances of such conduct is encouraged to report the information to management to enable it to investigate and to take corrective action where appropriate. Douglas County will use its best efforts to stop harassment and discrimination before such incidents rise to the level of a violation of state or federal law.
- c. This policy applies to all Douglas County Civil Service employees and Department Heads/Elected Officials. This policy also applies to members of the public, contractors, customers, or other persons conducting business with the County or on County owned or leased property.

SECTION 2: UNLAWFUL HARASSMENT DEFINED

- a. For purposes of this policy harassment is defined as:
 1. Conduct that is based on an individual's race, color, sex, religion, national origin, age, disability, marital status, pregnancy, or any other legally protected characteristic that
 2. Is unwelcome;
 3. Is severe or pervasive (frequent); and
 4. Creates a hostile work environment or results in a tangible adverse employment action.
- b. Examples of behaviors that are to be avoided because they might be unlawful if they meet the definition of harassment may include but are not limited to the following: unwanted physical contact; use of epithets, slurs, inappropriate jokes, frequent derogatory remarks, comments or innuendos; obscene or harassing phone calls, e-mails, letters, notes or other forms of communication, that is directed at an individual or group of individuals because of a person's race, color, sex, religion, national origin, age, disability, marital status, pregnancy, or any other legally protected characteristic.
- c. Sexual Harassment is a form of unlawful harassment. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment where: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Examples of behaviors that may rise to the level of possible sexual harassment may include but are not limited to the following: unwelcome sexual advances, demands/threats for sexual favors or actions; posting, distributing, or displaying sexual pictures or objects; suggestive gestures, sounds or stares; unwelcome physical contact; sending/forwarding inappropriate emails of a sexual or offensive nature; inappropriate jokes, comments or innuendos of a sexual nature; obscene or harassing telephone calls, e-mails, letters, notes or other forms of communication; and any conduct of a sexual nature that may create a hostile work environment.

ANTI-HARASSMENT POLICY (continued)

- d. Hostile Work Environment is defined as harassment that is sufficiently severe or pervasive as to alter the conditions of employment and create an abusive environment in which to work. This definition goes beyond casual, infrequent, or isolated instances. The person alleging a hostile environment must show a pattern or practice of harassment against him or her; a single incident or isolated incidents generally will not be sufficient. In determining whether a reasonable person in the individual's circumstances would find the work environment to be hostile, the totality of the circumstances must be considered.
- e. Not all inappropriate conduct in the workplace meets the definition of harassment. To be unlawful harassment, the conduct must be based on an individual's race, color, sex, religion, national origin, age, disability, marital status, pregnancy, or any other legally protected characteristic; must be unwelcome; must be sufficiently severe or pervasive; and must either create a hostile work environment or result in a tangible adverse employment action. However, other forms of inappropriate conduct in the workplace, although not in direct violation of this policy, may still be addressed through appropriate sanctions pursuant to the Civil Service Rules.

SECTION 3: REPORTING PROCEDURE

- a. Any individual who feels that he/she has been the victim of harassment and/or discrimination in the workplace, or arising out of County employment, or any individual who has witnessed or has knowledge of instances of such conduct, is encouraged to immediately report the incident to his/ her supervisor or Elected Official/Department Head. At any time, an individual may bypass the chain of command and report the incident to the Director of Human Resources, the Chief Administrative Officer to the County Board, or the Civil Division of the County Attorney's Office.
- b. Employees are expected to take steps to avoid being in a situation that could lead to a hostile work environment. If an employee feels they are subject to inappropriate behavior, they should tell the other person to stop the behavior or conduct before it becomes severe or pervasive. The employee should not do anything to encourage or contribute to the behavior.
- c. Supervisors and administrators who knowingly condone, fail to report, or fail to take action to remedy incidents of harassment or retaliation may themselves be subject to appropriate sanctions.

SECTION 4: INVESTIGATIVE PROCEDURES

- a. Supervisors and Elected Officials/Department Heads who receive a written or verbal complaint of discrimination/harassment should contact the Director of Human Resources as soon as possible for assistance in investigating and resolving the issue.
- b. Allegations of discrimination, harassment or retaliation, shall be investigated and dealt with in a fair, unbiased and timely manner. The County will take prompt action to investigate the complaint and prevent any further instances of such behavior. All employees, including but not limited to supervisors, managers, or Elected Official/Department Heads, shall fully cooperate with the investigation.
- c. After investigation, all parties shall be informed, in writing, of the findings of the investigation. If there is reasonable cause to believe that the conduct complained of is unlawful, a violation of this policy, or otherwise inappropriate, the County will take corrective action. Such action shall include, but is not limited to, eliminating the prohibited conduct, counseling, disciplinary action, mandatory training, or transfer.

SECTION 5: PROHIBITION AGAINST RETALIATION

Retaliation for opposing any employment practice thought to be discriminatory or for participating in any investigation of discrimination/harassment is prohibited by state and federal law. This policy is intended to encourage individuals to report incidents of discrimination and/or harassment. Retaliation against an individual for reporting discrimination/harassment, or for enforcing this policy, is strictly prohibited. For purposes of this policy, retaliation means an adverse employment action taken against an individual because he/she has, in good faith, reported instances of harassment or alleged harassment, or participated in or has been a witness in any procedure to investigate or redress a complaint of harassment.

SECTION 6 CONFIDENTIALITY

All parties and witnesses to a complaint of harassment must maintain confidentiality to the extent reasonably possible. However, complete confidentiality may not be maintained in all instances. In order to conduct an effective investigation and, when appropriate, to impose appropriate sanctions, it may be necessary to reveal information regarding the complaint to the alleged harasser and potential witnesses. Appropriate supervisors will be informed about the progress of a complaint and/or investigation strictly on a need to know basis.

ARTICLE 29

REASONABLE ACCOMMODATIONS

SECTION 1: GENERAL POLICY

- a. The purpose of this policy is to establish a process for requesting a reasonable accommodation for a religious belief or for a disability, as defined by the Americans with Disabilities Act (ADA), and the County's procedures for handling such requests. The County will make reasonable accommodations for the impairments of qualified individuals with disabilities, consistent with the qualifications required for the essential functions of the position, unless the accommodation would cause undue hardship to the County. The County will also make reasonable accommodations for individuals' bona fide religious beliefs and practices to the extent required by federal or state law, unless undue hardship to the County would result.
- b. Elected Officials/Department Heads may approve requests from employees for reasonable accommodation. They are encouraged to contact the Human Resources Department for assistance. If the Elected Official/Department Head denies a request for accommodation, the Human Resources department will be informed in writing.
- c. Whenever supervisors become aware of an obvious need for an accommodation, the County shall determine whether or not the employee can perform the essential job functions with or without an accommodation. If an accommodation is required, the County will work cooperatively in an informal, interactive process with the individual to propose a reasonable accommodation.
- d. All documentation relating to a request for an accommodation shall be maintained by the Director of Human Resources in a file separate from all other employment records.

SECTION 2: PROCEDURE FOR ACCOMODATING DISABILITIES AND RELIGIOUS BELIEFS

- a. Disabilities under the Americans with Disabilities Act (ADA):
 1. When an employee or applicant requests accommodation in writing, the individual or his/her representative notify the County that he/she needs an adjustment or change at work for a reason related to a medical condition or limitation. To request an accommodation, an individual may use "plain English" and need not mention the Americans with Disabilities Act (ADA) or use the phrase "reasonable accommodation."
 2. Any supervisor or manager to whom the request is made shall document the request and any pertinent information provided in the course of the request. The supervisor or manager will contact the Director of Human Resources as soon as practical. The Director of Human Resources and the supervisor will initiate an informal, interactive process with the employee or applicant.
 3. The Director of Human Resources or a representative, the supervisor, and the individual will meet and engage in an informal process to clarify what the individual needs and identify the appropriate reasonable accommodation. The County may ask the individual relevant questions that will enable it to make an informed decision about the request.
 4. The County may ask the individual for reasonable documentation from an appropriate health care or rehabilitation professional to establish that a person has a disability covered by the ADA, and that the disability necessitates a reasonable accommodation. An individual will not be asked for documentation when: (1) both the disability and the need for reasonable accommodation are obvious, or (2) the individual has already provided the County with sufficient information to substantiate that he/she has a qualifying disability as defined by the ADA.

REASONABLE ACCOMMODATIONS (continued)

5. The County may choose among reasonable accommodations as long as the chosen accommodation is effective. The County is not obligated to show that it is an undue hardship to provide the more expensive or more difficult accommodation. While the preference of the individual with a disability will be given primary consideration, the County has the discretion to choose between effective accommodations.
 6. The County may not require a qualified individual with a disability to accept an accommodation. If, however, an employee needs a reasonable accommodation to perform an essential function or to eliminate an impediment, and refuses to accept an effective accommodation, he/she may not be qualified to remain in the job.
 7. The County does not have to provide an accommodation if doing so would impose an undue hardship on the operation of the County's business. Under the ADA, the term "undue hardship" means significant difficulty or expense in, or resulting from, the provision of the accommodation, and takes into account not only the financial difficulty imposed on the County, but also whether the accommodation would be unduly disruptive, costly, extensive, or substantial.
- b. Religious Beliefs and Practices.
1. An individual may request a reasonable accommodation in writing for his/her religious beliefs or practices. "Religion," includes all aspects of religious observance and practice, as well as moral or ethical beliefs sincerely held with the strength of traditional religious views. When an employee or applicant requests accommodation of a religious belief or practice, the individual must describe the nature of his/her religious belief or practice and the employment rule or requirement which conflicts with the religious belief or practice.
 2. Elected Officials/Department Heads may approve requests from employees for reasonable accommodation. They are encouraged to contact the Human Resources Department for assistance. If the Elected Official/Department Head denies a request for accommodation, the Human Resources department will be informed in writing.
 3. A Human Resources representative, the supervisor, and the individual may meet if necessary to clarify what is necessary to provide the appropriate reasonable accommodation. The Human Resources representative may ask the individual relevant questions that will enable the County to make an informed decision about the request. This includes asking what sort of accommodation is sought. This may include a request for information or documentation concerning the individual's religious belief or practice.
 4. The County does not have to agree to a specific accommodation preferred by the employee or applicant, as long as the accommodation provided is reasonable.
 5. The County does not have to provide an accommodation if doing so would impose an undue hardship. In the context of accommodating religious beliefs or practices, what constitutes an undue hardship for the County must be determined on a case-by-case basis.

ARTICLE 30

WHISTLEBLOWER PROTECTION POLICY

SECTION 1

Douglas County strictly prohibits unfair and discriminatory practices against its employees. It believes employees have a right to work in a safe work environment which is free of harassment or retaliation. Douglas County is committed to acting legally, ethically, and responsibly in all aspects of its activities. All forms of retaliation and discrimination against employees are prohibited.

SECTION 2

No Douglas County official, department head, or employee may retaliate or discriminate against another employee who has in good faith, disclosed information to any County official or County agency, concerning an activity, policy, or practice of another County employee or agency which is believed to be in violation of a city, county, state, or federal rule, regulation, or law.

- a. Examples of retaliation may include unwarranted reassignment to a lesser position, formal disciplinary action including written warnings, suspensions, demotions or termination, loss of pay and/or benefits, denial of training or promotional opportunities or harassment of a verbal, physical, or psychological nature.

SECTION 3

An employee who believes that a County Official or Department Head has violated a rule, policy, regulation, or law, or who has acted in an illegal or unethical manner, may report such action without fear of reprisal or retaliation. The employee must make a timely and good faith effort to provide such information to his or her supervisor or designated authority.

- a. The employee is encouraged to work within the system to report and correct any violations or problems.
- b. The employee is encouraged to document the actions and incidents which are being reported. Such documentation should include the date of the incidents, time, location, perceived violations, and if possible, the names of other individuals who witnessed the perceived violation.
- c. The employee should report the violation first to his or her supervisor, as well as the Department Head, Elected Official, and Chief Administrative Officer. Should the employee feel uncomfortable reporting to those individuals, they may report the violation to the Director of Human Resources, Chief Civil Deputy County Attorney, or other designated authorities.
- d. The employee has an obligation to verify such incidents or actions, to insure that proper and appropriate information has been gathered and prepared prior to claiming that a violation has occurred.

SECTION 4

An employee may refuse to accept a work assignment which he or she deems as dangerous or hazardous to the employee or others if (1) the employee has NOT been provided the normal precautions, protection, resources, and training necessary to perform the work or (2) the employee is asked to perform work which is substantially outside the scope of the employee's position:

- a. Should an employee claim the activity is dangerous or hazardous, the employee must immediately report the health hazard or violation to his or her supervisor indicating the specific reasons for the claim.
- b. The supervisor must immediately determine the appropriateness of the claim, and if so warranted, the department head will conduct an investigation to determine the validity of the claim.

WHISTLEBLOWER PROTECTION POLICY (continued)

- c. The primary goal is the safety and health of the employees. If the department head believes that performing such work may place the employee at undue risk, corrective measures must immediately be taken by the department.
- d. An employee may refuse work which he or she deems as illegal. Reported illegal action will be investigated by the Department Head, Elected Official and Chief Administrative Officer may be forwarded to an appropriate law enforcement agency for additional investigation. This does not exempt law enforcement, corrections or medical personnel from carrying out lawfully given orders by a Superior Officer or by a designated Medical Practitioner or Authority.

SECTION 5

An employee who has reported an action or violation, and who feels he or she has subsequently been retaliated against or discriminated against by a County Official or department head, may file a complaint with the Human Resources Department. The employee must file a complaint within twenty (20) business days of the action and must demonstrate that the action has been taken because of the employee's disclosures.

- a. The complaint must be in writing and include the reasons therefore, the actions which the employee perceives as retaliation or harassment, the requested remedial action, listings of the dates, times, and parties involved, and the employee's signature.
- b. Human Resources will review the complaint and provide a written response to the employee within twenty (20) business days.

SECTION 6

Employees filing frivolous or malicious claims may be subject to disciplinary action. Claims will not be protected if:

- a. It can be shown the claim was made in bad faith; or
- b. The claim was made without reasonable inquiry as to its truth; or
- c. The employee failed to make a timely and good faith effort to provide the information to the designated authority.

ARTICLE 31

DONATED LEAVE

SECTION 1: PURPOSE

Donated Leave is a leave sharing program intended to provide a means for employees to assist another employee who, because of a personal non-occupational catastrophic illness, or the catastrophic illness of a family member, will be in a leave without pay status for a minimum of 10 consecutive working days. Employees will be allowed to donate or receive accrued vacation hours in accordance with this rule.

SECTION 2: CATASTROPHIC ILLNESS DEFINITION

A catastrophic illness of an employee is any non-occupational illness, injury or physical or mental condition of such serious nature as to require long-term absence from work. Catastrophic illness of a family member shall be defined as those illnesses, injuries, or physical or mental conditions which are of such serious nature as to require long term and/or full time care by the employee. Family members are defined as parent, spouse, or child as defined by Family Medical Leave Act (FMLA). Chronic illnesses or injuries which result in intermittent absences from work may be considered catastrophic however eligibility for catastrophic leave under these circumstances is determined on a case by case basis.

SECTION 3: ELIGIBILITY TO RECEIVE DONATED LEAVE

To be eligible for donated leave the following requirements must be met:

1. The employee must be a non-probationary employee who is eligible to receive and use vacation leave.
2. The employee or family member has a catastrophic illness as defined above.
3. The employee must exhaust all applicable paid leave, including compensatory time, floating holiday, vacation, and sick leave during a leave of absence due to catastrophic illness, causing the employee to be in a leave without pay status for a minimum of 10 consecutive working days.
4. The recipient employee must file with their Elected Official/Department Head:
 - A Request for Donated Leave Form.
 - A Medical Certification Form from their health care provider or the family member's health care provider, verifying catastrophic illness.

The County retains the right to require periodic medical certification to verify eligibility. Periodic updates are typically one per month. Eligibility shall cease when the employee can return to work or the family member is once again able to care for him/her self.

SECTION 4: CONDITIONS FOR RECEIVING LEAVE DONATIONS

An employee may receive and use leave donated by another County employee under the following conditions:

1. An employee who receives any donated leave must first exhaust applicable paid leave, including compensatory time, floating holiday, vacation, and sick leave during a leave of absence due to catastrophic illness, causing the employee to be in a leave without pay status for a minimum of 10 consecutive working days.
2. If an employee is otherwise eligible for County sponsored long-term disability benefits or eligible to receive a disability benefit from the Social Security Administration the employee may receive donated leave up to the amount necessary to cover the elimination period applicable to the employee's coverage.
3. Donated leave may not be used to extend employment beyond the point that it would otherwise end by rule or law. For example, if an employee would have otherwise been terminated due to layoff or other reasons, donated leave may not be used to extend employment.
4. An employee who uses donated leave is not on "pay status" and does not accrue vacation, or sick leave benefits.
5. If an employee is otherwise eligible for County-paid health benefits the employee will continue to receive those benefits while receiving donated leave.

SECTION 5: LIMITS ON LEAVE DONATION

An employee may only receive donated leave up to the amount of time the health care provider has indicated the employee will be unable to work. For the care of the employee's family member, donated leave may only be received for the amount of time the health care provider has indicated the family member will require long term or full time care by the employee.

An employee may receive a maximum of 480 hours of donated paid leave at any one time. If the employee exhausts the donated leave before the employee can return to work, the employee may request an unpaid leave of absence. At no time may an employee have more than 480 hours of donated leave at his or her disposal nor may an employee receive more than 480 hours of leave in any one calendar year. Approval will be granted in smaller increments such as a pay period so that an employee does not receive more donated hours than needed.

SECTION 6: DONATED TIME NOT USED

When the recipient employee returns to work, any donated leave which was not used by the recipient will be retained by the recipient as sick leave and be subject to the sick leave policy, Article 17.

If the recipient employee terminates from County service for any reason, any donated leave hours, which were not used by the recipient and were converted to sick leave under the above formula will not be paid to the employee.

SECTION 7: CONDITIONS FOR MAKING LEAVE DONATIONS

An employee may donate leave to another County employee under the following conditions:

1. Donors may donate vacation hours only.
2. Donations must be made in increments of 8 hours.
3. Donors must have an accrued vacation leave balance of at least forty (40) hours subsequent to making a leave donation.
4. Donors must sign a declaration that their donation is voluntary, is intended as a gift, and has been made without coercion, compensation or for other consideration.
5. Donations are irrevocable. If the recipient employee returns to work, or terminates employment for any reason, the leave donated will be converted to sick leave per the Section on Donated Time Not Used.
6. An inter-departmental donation of accrued vacation is allowed.
7. Donations are made employee to employee. There will be no pooling of donated hours.
8. A non-probationary employee may voluntarily donate vacation leave.

SECTION 8: CALCULATING DONATED LEAVE

Donated vacation hours are converted into an equivalent number of recipient sick leave hours, regardless of differences between participants' pay rates.

Donations may be solicited by the recipient employee or on his or her behalf by coworkers or supervisors. The employing department may, at the recipient employee's request, notify department employees that the recipient employee is eligible to receive voluntary donations of accrued vacation. The department may not release any medical information regarding the recipient employee or his or her family member, unless authorized by the employee or family member.

Employees are prohibited from threatening or coercing other employees concerning any aspect of this rule including, but not limited to, pressuring another employee to donate time or refuse to accept donated time.

SECTION 9: PROCEDURE FOR REQUESTING DONATED LEAVE

1. Employee submits a completed Request for Donated Leave form and Medical Certification form to his/her Elected Official/Department Head.
2. The Elected Official/Department Head completes their portion of the request form and submits forms to the Department of Human Resources.
3. Human Resources reviews the information to determine eligibility and notifies the recipient employee and the Elected Official/Department Head of its determination.

This Program is not subject to the grievance section of the Civil Service Policy Manual or any collective bargaining agreement.