

**CURRY COUNTY
PERSONNEL POLICY**

#16-02

ADOPTED APRIL 5, 2016

CURRY COUNTY BOARD OF COMMISSIONERS

WENDELL BOSTWICK, CHAIRMAN

CHET SPEAR, VICE CHAIRMAN

TIM ASHLEY, MEMBER

ANGELINA BACA, MEMBER

BEN MCDANIEL, MEMBER

CURRY COUNTY MANAGER

LANCE PYLE

INDEX

SECTION 1. GENERAL PROVISIONS	2
SECTION 2. DEFINITIONS	4
SECTION 3. EMPLOYMENT STATUS	8
SECTION 4. RECRUITMENT AND SELECTION.....	9
SECTION 5. CHANGES IN EMPLOYMENT STATUS	16
SECTION 6. CONDITIONS OF EMPLOYMENT	19
SECTION 7. EMPLOYEE DISCIPLINE.....	30
SECTION 8. GRIEVANCE PROCEDURES	34
SECTION 9. COMPENSATION AND BENEFITS	39
SECTION 10. LEAVE AND HOLIDAYS	42
SECTION 11. INFORMATION TECHNOLOGY USER AND SECURITY POLICY	55
SECTION 12. MISCELLANEOUS.....	64

COUNTY ORDINANCE 16-02

AN ORDINANCE PERTAINING TO COUNTY EMPLOYEES; ESTABLISHING EMPLOYMENT POLICY AND PROCEDURE FOR EMPLOYEES OF CURRY COUNTY, NEW MEXICO; AND THE REPEAL OF CURRY COUNTY ORDINANCE NO. 10-03.

BE IT ORDAINED by the County Commission of the County of Curry, State of New Mexico: That the following Policy is adopted as the Personnel Policy for the employees working for Curry County.

WHEREAS, the Citizens of Curry County are entitled to and expect the highest quality of County governmental service; and

WHEREAS, employment opportunities in County Government should be open to all citizens; and

WHEREAS, the appointed and elected officials of Curry County are dedicated to making Curry County a model equal opportunity employer; and

WHEREAS, the Curry County Board of Commissioners has determined that the current personnel policies as adopted in Curry County Ordinance No. 10-03 should be repealed and replaced with a set of policies which more accurately reflects the current state of employment law in the State of New Mexico and the United States.

REPEAL OF ORDINANCE 10-03:

Curry County Ordinance 10-03 heretofore adopted on December 7, 2010 is hereby repealed in its entirety and the following Policy is hereby adopted.

SECTION 1. GENERAL PROVISIONS

- A. PURPOSE.** The Purpose of this Personnel Policy Manual is to establish consistent, basic policies and practices concerning relations between the County of Curry and its employees. All provisions of this Personnel Policy Manual shall apply to all County employees unless specifically excluded herein. Individuals who contract independently with the County to provide services are not employees of the County and are not subject to any of the provisions of this Personnel Policy Manual.

The County Manager shall have the responsibility for interpreting this policy. Department Heads are responsible for implementing this policy. In cases where the provisions of this policy may be vague, unclear or subject to multiple interpretations, the County Manager shall provide the interpretations and clarification.

It is hereby declared that the Personnel Policy of the County is:

1. All employment decisions made by the County government shall be based on merit, qualifications, experience, fitness, needs of Curry County, and free of personal and partisan political considerations.

2. Just and equitable incentives and conditions of employment shall be established and maintained to promote efficiency, economy, and productiveness in the operation of the County government.
3. Consideration shall be given to the rights and interests of employees consistent with the best interests of the public and the County.

IT IS; THEREFORE, ORDERED BY THE CURRY COUNTY BOARD OF COMMISSIONERS that the policies and procedures contained herein shall replace and supersede Curry County Personnel Ordinance No. 10-03, its amendments, and all other previously issued personnel policies and regulations applicable to employees of Curry County New Mexico and shall become effective on April 5, 2016.

- B. SCOPE.** Pursuant to its statutory powers, the Board of Commissioners of Curry County hereby exercises its express and derived authority to establish by ordinance policy and procedure regulating employment of all county employees.

Definite rules and regulations cannot be readily formulated for every possible problem and situation. This ordinance serves as a general basis and guide for the proper, efficient, and effective administration of personnel matters of the employees of the County of Curry.

- C. EQUAL EMPLOYMENT OPPORTUNITY POLICY.** Individuals will not be discriminated against on the grounds of race, age, religion, color, national origin, sex, physical or mental handicap or medical condition, in consideration for employment, duration of employment, compensation, terms, conditions, or privileges of employment by Curry County. It is the policy of Curry County to comply with *Section 109 of the Housing and Community Development Act of 1974, Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination in Employment Act, and the New Mexico Human Rights Act*, in all employment programs administered by Curry County. To this end, Curry County is committed to a program of affirmative action to assure full and effective implementation of this policy.

- D. EMPLOYEE KNOWLEDGE AND INFORMATION OF POLICY.** The Administration Department shall provide a copy of this policy to current employees and to all new employees with instructions to read and know of all provisions of these rules. Employees shall sign for the copy of this policy upon receipt.

- E. PRONOUNS.** All pronouns used in this Personnel Policy Manual shall include the masculine, feminine, and neuter gender, shall include the singular and plural, and the context of this Personnel Policy Manual shall be read accordingly.

- F. PUBLIC EMPLOYMENT.** The County Commissioners are responsible for overseeing the general operation of the County, approving the budget, making contracts, and establishing regulations and policies and refrain from getting involved in personnel matters of the County. For purposes of this Policy the County Assessor, Clerk, Probate Judge, Sheriff and Treasurer function as Department

Heads over their respective offices. The County Manager shall act as the County Personnel Coordinator unless the County Manager hires a County employee to serve as the County Personnel Coordinator. Throughout this Policy, if a County Personnel Coordinator is not hired/employed by the County, all references to County Personnel Coordinator shall mean the County Manager.

- G. MODIFICATION/CHANGE.** The County Commissioners may, from time to time, change, modify, delete or alter any and/or all of the terms and provision contained herein and may also add or substitute any new, additional or alternate provisions to this policy as they deem appropriate.

Changes, amendments and/or revisions to this Personnel Policy can be made by the adoption of an ordinance or by adoption of resolution by the Curry County Commission. Any such changes, modifications or amendments, when approved and adopted by the Curry County Commission, shall become effective, shall become a part of this policy, and shall apply to all County personnel on the date approved by the Curry County Board of County Commissioners.

- H. CONDUCT OF ELECTED OFFICIALS.** This Personnel Policy is set up to establish an orderly procedure by which employees of Curry County are aware of their duties and responsibilities and the benefits they are to receive while employed for Curry County. This Policy establishes a chain of command with the County Manager being responsible for the implementation of the policy. The County Commissioners, as set forth in Paragraph G above, have the ultimate authority in changing, altering or modifying this Policy. However, the County Commissioners do not manage or oversee individual County employees and they should refrain from demanding, ordering, or giving directions to County employees pertaining to that employee's work, work performance, working conditions or other personnel matters.

The County Commissioners and all County Elected Officials must follow the appropriate chain of command when talking to or addressing County employees. All Curry County employees are to feel free to perform their work without any pressure, threat or coercion from Elected Officials. Any County employee who believes that this provision has been violated should first go to his/her Department Head and report the same. Said County employee also has the right to file a written grievance with the County Manager and, to request that a copy of the grievance be placed in that employee's personnel file.

SECTION 2. DEFINITIONS

ADMINISTRATIVE LEAVE WITH OR WITHOUT PAY. Administrative leave with or without pay may be granted by the County Manager. Department Heads can grant no more than two (2) weeks of administrative leave for good cause in conjunction with investigative proceedings with written authorization from the County Manager. Administrative leave is time off of or away from work that is granted to an employee based on exceptional circumstances.

ANNIVERSARY DATE. The date twelve (12) months from an employees' date of hire.

ANNUAL LEAVE (VACATION). Leave with pay granted to a classified or qualified unclassified employee after accrual at a specific rate to be used by an employee, consistent with Curry County's policy and approved by the Department Head.

ANNUAL SALARY (FLSA EXEMPT). Annual salary for employees who are exempt from the wage and hour provisions of the Fair Labor Standards Act (FLSA) is based on an annual rate in accordance with the position's specifications.

ANNUAL SALARY (NONEXEMPT). Annual salary for employees covered by the FLSA equals the hourly rate of pay multiplied by hours in a regularly scheduled work week multiplied by fifty two (52) weeks per year.

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

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

APPOINTEE. An employee appointed by the County Manager to an unclassified position.

CHIEF DEPUTY. A chief deputy is an appointee of the Elected Department Head and is an exempt employee, terminable-at-will in an unclassified position. Chief Deputies are governed by this Policy but they serve strictly at the discretion of their immediate elected official.

CLASSIFICATION PLAN. An ordering of the different positions in the County according to duties, responsibilities, and qualifications required.

CLASSIFIED EMPLOYEE. A full or part-time employee is one who has completed the probationary period and who is designated as being entitled to all the rights and benefits of the Curry County Personnel Policy Manual.

CLASSIFIED POSITION. A position for which there is a job description and a set starting salary range, which is subject to recruitment procedures, and for which all employment actions are based on merit; and is a budgeted position approved by the County Commission.

COMPENSATORY TIME. Those hours granted in lieu of overtime, on the basis of one and one-half (1 ½) hours compensatory time for each hour of overtime for employees covered by the Fair Labor Standards Act.

CONTRACT PERSONNEL. Contract personnel are independent contractors. An independent contract position is a position in which the individual retained must enter into a written agreement with the County which determines the conditions under which the individual will work. All independent contractors will serve in accordance with the terms of their contracts. An independent contractor is not an employee of the County.

COUNTY BUSINESS. The work performed by an elected official, or employee of the County in fulfilling the obligation for which that person was employed by the County or elected to the position which he/she holds.

DEMOTION. A personnel action which lowers the employee's pay range, grade, pay, and responsibilities. Demotions may be voluntary or involuntary.

DEPARTMENT HEAD. The person who is either elected or appointed head of a County office or department.

DEPENDENT CHILD. For all purposes set forth in this Policy, a dependent shall be defined as an individual who is younger than the County employee, and either under the age of 19 at the end of the calendar year, or under the age of 24 at the end of the calendar year and a full-time student. An individual who is totally and permanently disabled at anytime during the year, satisfies the age requirement. An individual is a full-time student if enrolled or registered for at least part of five (5) calendar months in a year at a qualified educational institution or other institution that is acceptable for purposes of claiming the child as a dependent for federal tax purposes under the most current IRS policy.

DISABILITY TERMINATION. The separation of an employee from county employment when the employee is physically or mentally unable to perform the essential functions of the position held by the employee and the employer is unable to reasonably accommodate the employee's condition.

DISMISSAL. A disciplinary action, which terminates an individual's employment with the County.

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

ELECTED OFFICIAL. An individual elected by popular vote or appointed to fill vacancies in one of the following elective offices in Curry County: Commissioner, County Clerk, County Treasurer, County Sheriff, County Assessor, and Probate Judge.

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

FULL-TIME. Any position with a work schedule of at least forty (40) hours per work week.

GRIEVANCE. A written complaint by a classified employee alleging a violation of rights under these policies or a written complaint filed by an employee regarding workplace harassment as defined and set forth in this Policy.

JUST CAUSE. Any conduct, action or inaction arising from, or directly connected with the employee's work, which is inconsistent with the employee's obligation to the County and reflects the employee's disregard of the County's interest.

LAY-OFF. The involuntary separation of an employee from the County service without fault on the part of the employee, due to the abolition of a position, reorganization, lack of work, or lack of funds.

MERIT SYSTEM. A personnel system designed to attract and hold employees by making individual employment decisions based on qualifications, experience, and performance.

NONEXEMPT EMPLOYEES. All employees who are covered by the Fair Labors Standards Act as defined in the Department of Labor Regulations.

NOTICE/NOTIFICATION. In order to satisfy any of the notice requirements that are set forth in various places throughout this policy, notice or notification shall be defined as a written document, either in original paper form or email and must be delivered within forty-eight (48) hours of the time when they were originally supposed to return to work. A text is **not and does not** constitute notice as required in various places throughout this policy. A text message may be used in the event of an emergency or situation where a written document or email cannot be provided. In those situations, written notification by means of a follow up notification shall be given by means of a paper document or email.

PART-TIME EMPLOYEE. Part-time classified employees working more than 20 hours per week will receive their benefits on a pro-rata basis (on insurance the portion of the premium that is paid by the County is prorated).

PERFORMANCE EVALUATION. The written objective assessment of the employee's work performance made by the supervisor.

POST-DISCIPLINARY HEARING. A hearing conducted by a Hearing Officer at the request of an employee who is grieving a suspension or demotion, or a request by a former employee who is grieving a dismissal, and who has complied with the administrative grievance process as set forth in the Personnel Policy Manual.

PRE-DISCIPLINARY HEARING. A hearing conducted by the County Manager or his/her Designee before the imposition of the disciplinary actions of suspension, demotion, or dismissal of classified employees.

PROBATIONARY EMPLOYEE. All full-time or part-time employees hired to fill a classified position who has not yet completed their initial twelve month (12) probationary period of employment or any subsequent period of probationary employment during which time the employee is terminable-at-will.

PROMOTION. Movement of an employee to a higher classified position within the County's classification plan.

RE-EMPLOYMENT. Hiring of a former County employee.

RESIGNATION. Voluntary separation of employment by an employee prior to retirement.

RETIREMENT. A County employee who has resigned employment with the County and who is drawing an annuity from PERA.

SICK LEAVE. Leave with pay granted to a classified or eligible unclassified employee,

after accrual and approval when personal illness or quarantine keeps the employee from performing the duties of the position, or when the employee's spouse or dependent child is ill.

STUDENT EMPLOYEE. An employee who is enrolled at an educational institution and carrying at least twelve (12) credit hours. Student employees are terminable-at-will and have no grievance rights.

SUBSTANCE ABUSE. The use of alcoholic beverages or controlled substances to the extent that the employee's health is substantially impaired or endangered, or the employee's work performance is impaired.

SUSPENSION. An involuntary leave of absence without pay for disciplinary reasons.

TEMPORARY POSITION. The employment or assignment of an employee to temporarily fill a position vacant due to the temporary absence of an employee or other requirements, and for a period not to exceed thirty (30) hours in any one week period. Any person working in a temporary position can work no longer than 29.75 hours during any one-week period and no more than 1,039 total hours in any nine month period. Temporary positions also include seasonal employees. All temporary employees are terminable-at-will.

TERMINABLE-AT-WILL. The County Manager, a Department Head or Elected Official with the County Manager's approval, can terminate the employment of an at-will employee under their supervision at their discretion without cause. A terminable-at-will employee cannot grieve layoff, suspension, demotion, dismissal, or other disciplinary actions.

TRANSFER. Moving an employee from one position to another in the same pay range within the department or to a position of the same pay range in another department.

UNDER SHERIFF OR EXECUTIVE SECRETARY. Appointees of the Sheriff are exempt employees, terminable-at-will in an unclassified position. Neither the Under Sheriff nor Executive Secretary are governed by this Policy and they serve strictly at the discretion of the elected Sheriff.

SECTION 3. EMPLOYMENT STATUS

A. TYPES OF EMPLOYMENT.

1. Classified Positions.

- a. Full-time classified employees.** A full-time classified employee is an employee who has successfully completed the probationary period, who works a minimum of forty (40) hours per week, and who is entitled to all rights and benefits of the Curry County Personnel Manual.
- b. Part-time classified employees.** A part-time classified employee is an employee who has successfully completed his/her probationary period and who meets the definition of part-time employee.

2. **Unclassified Positions.** The County Manager, Department Heads, Grant employees, Appointees, Chief Deputies, student employees, temporary employees, probationary employees, the executive secretary to the sheriff and the under-sheriff are unclassified positions. Unclassified employees are terminable-at-will, are not entitled to the rights and benefits of Section 8 of this Policy and cannot grieve disciplinary actions. Unclassified employees are subject to all other provision contained herein, unless specifically excluded or unless the employee has a contract with the County.
3. **Probationary Employee.** A newly hired full-time employee who has been hired to fill a classified position and has not yet completed the twelve (12) month probationary period. Probationary employees are not entitled to the rights and benefits of Section 8 of this Policy. Probationary employees accrue annual leave and benefits, but cannot take such until the probationary period is completed, unless prior approval is granted by the Department Head or the County Manager. Sick leave may be requested when necessary and is subject to the approval of the Department Head. All Curry County employees will be required to serve a twelve (12) month probationary period.
4. **Temporary Employee.** A temporary employee is hired on a full-time or part-time basis to a seasonal position or for a position established and who cannot work more than 1,039 hours, or 29.75 hours in any one-week period, or a total of more than nine (9) months in any year. Department Heads will be required to ensure **mandatory compliance** with temporary employees not exceeding times set forth hereinabove. A temporary employee will also include an employee who is hired to perform a specific job or fill the temporary absence of an employee. Temporary employees are terminable-at-will, are not entitled to the rights and benefits of Section 8 of this Policy, are not eligible for County benefits, and do not accrue vacation, sick leave or holiday pay.
5. **Student Employees.** An employee who during at least eight (8) months in any calendar year, or during the period of employment, is enrolled at an educational institution whose academic credits would be accepted by a state educational institution or a public school district and carrying at least twelve (12) credit hours. Student employees are terminable-at-will, are not entitled to the rights and benefits of Section 8 of this Policy and have no grievance rights. Student employees are not eligible for County benefits, and do not accrue vacation, sick leave or holiday pay. Student employees are exempt from PERA membership.

SECTION 4. RECRUITMENT AND SELECTION

Curry County desires to obtain the best possible employees and affords equal opportunity for employment to all. In order to achieve this goal, the following recruitment policies shall apply.

A. APPLICATION.

1. Application Procedure.

- a. **Receipt of Application.** Each applicant for employment with the County shall complete an application form and submit it to Personnel in the Administration Department. An application will be filled out for each position the applicant wishes to apply for. Applications will be good for only one posting. Any false statement made on the application shall be grounds for rejection or subsequent termination.

Each applicant will be required to disclose any family or personal relationship the applicant has with any current employee who is employed by County in the department or office that the applicant is applying for.

Applications for Deputy Sheriff and for Detention Center will be accepted to form an eligibility list that will be good for six (6) months from the date of interview. A background check shall also be required prior to offering of employment to any applicant.

- b. **General Requirements.** All applicants must be of legal age. Applicants for Classified positions must be 18 years of age or older. Evidence of job performance and capability, experience, education, training, skills and other abilities are carefully considered in reviewing individual qualifications. Applicant must furnish proof of qualifications or possession of degree when such is stated on the posting. Proof of identification and right to work in accordance with the *Immigration Reform Act of 1986* is also required.

Each applicant will be required to disclose any family or personal relationship the applicant has with any current employee who is employed by County in the department or office that the applicant is applying for.

The application shall not be worded as to elicit information concerning the age, race, color, national origin, religion, sex, sexual orientation, gender identity, medical condition, physical and mental handicap, or political affiliations of any applicant, except information which is required to assist with equal opportunity efforts and/or where required by statute.

Applications shall be signed, dated, and the truth of all statements contained therein certified by the applicant's attestation.

Any and all employees of the Curry County Adult Detention Center and/or the Curry County Juvenile Detention Center, who are currently employed by Curry County on the date of the adoption of this ordinance, are grandfathered in and shall not be otherwise affected by the adoption of this Ordinance.

- c. **Specific Requirements.** Any position may require additional and/or specific requirements, as set forth in the position specifications, prior to offering of employment.

2. **Salary Plan.** The Curry County Board of Commissioners has adopted a salary plan that may be amended from time to time. Department Heads and Elected Officials are to follow the salary plan and, any new hire/new employee shall be brought in at the entry level for that position, unless, unique circumstances dictate otherwise. Upon a written showing such unique circumstances, a new employee/new hire can be brought in above the entry level with County Manager approval. County Manager only has the authority to authorize an employee to be brought in up to the mid-point level of the salary plan.

B. RECRUITING POSTING PROCEDURE.

1. **Posting and Advertising.** A job announcement will be prepared listing the position, location and basic qualifications, for each entry level classified vacancy within the County. All job announcements shall be posted for at least five (5) working days on designated bulletin boards in the County Administrative Building, County Courthouse and other County sites when applicable. These announcements will be publicly advertised for at least one (1) week. Job announcements shall indicate a closing date, after which applications may be refused. However, depending upon the position and area of recruitment, job announcements may be posted longer than the stated five (5) working days. The County Personnel Coordinator may rescind a posting.
2. **Public Job Announcements Exception.** Vacant positions may be filled without public announcement by temporary employees on a temporary basis. Unclassified positions appointed by the County Manager or Department Heads need not be posted. All positions must first be approved by the County Manager.

C. PROMOTION.

1. **Consideration to County Employees.** It is the policy of Curry County to attempt to promote employees from within. To apply for a posted job vacancy, County employees must contact the Personnel Coordinator with a letter of request for promotion. All employees seeking promotion must meet the basic qualifications for the position for which they are applying, including physical examination, experience, education and certificates. Additional testing may be required when deemed necessary by the appropriate Department Head.

Where a vacancy exists for an unclassified or supervisory position within a department, the Department Head, with the approval of the County Manager, may choose to fill the vacancy from within the department. In those situations, the vacancy shall be posted within the department with each employee within the department being given the opportunity to apply for the vacancy.

2. **Re-employment of Former Employees.** Re-employment preference will be given in the following order: Employees returning from an approved leave or absence, including military leave, medical leave or reduction-in-force in this order followed by former qualified full-time and part-time employees, and

temporary employees who left the County in good standing. Previous work performance will be considered. Nothing set forth in this selection shall require such re-employment, but only consideration of the same by the employing authority.

3. **Basic Qualifications.** Basic qualifications, together with references and desirable attributes, will be contained in the job description for each classified position within the County and include educational levels and skills which relate particularly to that specific job.

D. SELECTION PROCEDURES.

1. Testing.

- a. **Performance Tests.** Performance tests, urinalysis and/or other screening may be conducted for certain County positions. Other tests may be required from time to time for certain positions. Drug testing will be done pursuant to the County policies provided for in Section 6-G of this manual. A confirmed positive test for drugs or alcohol shall result in rejection of the applicant.
- b. **Physical Examinations.** The County shall require any applicant selected to fill a classified position to take a pre-employment physical examination to determine whether the employee can perform the essential functions of the position. The County's offer of employment is contingent upon the physician's statement that the applicant can perform the essential functions of the position. Annual physical examinations may be required for certain County positions. Fees for the County required physical examination shall be paid by the County.
- c. **Background Information.** Applicants will execute necessary authorizations for disclosure of background information. References provided by the applicant will be fully processed for at least the top three (3) candidates. All applicants selected will have a Motor Vehicle Driving Record check performed by the County.

2. Interview.

- a. The County Personnel Coordinator shall determine which applicants meet the basic qualifications of the job and refer the best qualified applicants to the hiring authority. The County Personnel Coordinator shall refer the qualified applicants to the Department Head of their representative who shall interview at least the top three (3) applicants. In the event there are three (3) or fewer applicants, all qualified applicants shall be interviewed. The hiring authority shall consist of at least three (3) individuals to include the Personnel Coordinator and Department Head, or their designees.

All applicants will be questioned as to whether or not they have a family relationship or other type of relationship with any current County employee working in the department or office that the applicant is applying for a job in.

- b. Interviews shall be conducted in compliance with Title VII, Equal Employment Opportunity Regulations and other applicable laws.
- c. No County Department Head, employee, or any other person can sit in, conduct or in any way participate in an interview if **any of the persons to be interviewed** are related in any way or manner whatsoever with **any person** that is scheduled to be interviewed. Any relationship with any person to be interviewed must be disclosed, in writing, to the Personnel Coordinator immediately. It is the Department Head, their representative, or any other person, who may conduct, sit in or otherwise participate in any interviews, duty and obligation to notify the Personnel Coordinator of said relationship in writing. Nepotism is a serious problem and any violation or failure to comply with this provision shall be grounds for disciplinary action up to and including termination of employment from Curry County.

3. Final Selection.

- a. **Basis for Final Selection.** Final selection shall be based on the applicant's qualifications in relationship to the requirements of the position based upon the following criteria, but not necessarily in this order:
 - (1) Applicant's complete application. If applicant puts no or is otherwise unable to meet any of the specific qualifications for the position, the applicant cannot be hired without prior written approval from the Personnel Coordinator.
 - (2) Physician's certification that the applicant can perform the duties of the position.
 - (3) Skills and/or proficiency test as required.
 - (4) Department Heads/Elected Officials shall ensure that all information on the application is completed.
 - (5) Education, background and experience.
 - (6) Personal interview.
 - (7) Results of any other tests required.
 - (8) Psychological examination, if required.
- b. Final selection for a position will be made by the Department Head who oversees that department. If the employee does not work directly for a Department Head, then the final selection shall be made by the County Manager or his/her designee. The Department Head and/or the Manager or Manager's designee will then provide written notice to the Personnel Coordinator, who will then notify the applicant. Any offer of employment

shall be subject to that person's satisfactory completion of any testing or other requirements as may be required in the application process.

c. The applicant pool for position will only be good for thirty (30) days from the date of interview.

4. **Notification of Interview Results.** Applicants who have been interviewed shall be notified in writing by the Personnel Coordinator of their applicant status within fifteen (15) working days of the interview.

E. INELIGIBILITY. Applicants or employees will be considered ineligible for hire or rehire by Curry County if the employee has:

1. Made any false statement or omitted any relevant information on his application.
2. Does not meet the requirements of the position.
3. Failed to complete the pre-employment medical examination, drug screening urinalysis or other requirements as directed by the employing authority.
4. Not been certified by a physician that he can perform the physical requirements of the position.
5. Not a legal resident of the United States.
6. Failed to fulfill the statutory requirement of Section 4-41-8 NMSA (1978) (1987 Comm. Supp.) if applying for position of deputy sheriff.
7. Not met the criteria for insurance bonding as required by County or State law where applicable.

The above list is not exhaustive and does not include all of the reasons which would make an application ineligible for hire or rehire. The failure by any applicant to have successfully completed the probationary period in a similar county position may make the applicant ineligible for rehire.

F. REASONABLE ACCOMMODATIONS POLICY.

1. **Statement of Purpose.** It is the policy of Curry County to provide reasonable accommodations for qualified persons with disabilities who are employees or applicants for employment. Curry County will adhere to all applicable federal, state and local laws, regulations and guidelines with respect to providing reasonable accommodations as required to afford equal opportunity to qualified persons with disabilities. Reasonable accommodations as required by law will be provided.
2. **County Disabilities Coordinator.** For purposes of compliance with the American's with Disabilities Act (ADA), and any similar or related state or federal act, Curry County hereby designates the County Personnel Coordinator as the Disabilities Coordinator and in the absence of a Personnel

Coordinator the Curry County Manager shall serve as the Disabilities Coordinator.

3. **Definitions of Disabilities.** Any person who has or who acquired a physical or mental impairment, or who has a record of such an impairment or who is regarded as having an impairment which limits one or more major life activities, such as self care, performing manual tasks, seeing, hearing, speaking and working on a temporary or permanent basis.
 - a. **Physical or Mental Impairment:** Any physiological disorder, disfigurement or anatomical loss or limitations, or any mental or physiological disorder acquired as a result of illness, accident or birth.
 - b. **Qualified Person with Disability:** A person with a disability whose experience, education and/or training enables the person with a disability, with reasonable accommodations, to perform the essential functions of the job.
 - c. **Reasonable Accommodations:** Adjustments made for the known disability of an employee or applicant by structuring the job or the work environment in a manner that will enable the person with a disability to perform the essential functions of a job. Reasonable accommodation includes, but is not limited to, modifying written or oral examinations; making facilities accessible; adjusting work schedules; restructuring jobs; the purchase of assistive devices; and the acquisition of interpreter services for hearing impaired employees.
4. **Practices.** Department Heads shall prepare an analysis of jobs within their units, which includes defining the essential functions, elements and tasks; as well as the environment in which job activities occur. Such documentation shall be developed with the assistance of the Personnel Coordinator and be updated and reviewed periodically.

When an employee is unable to perform the essential duties of a specific position because of a mental or physical handicap, efforts shall be made to allow the employee to continue to work through reasonable accommodation. In considering an employee with a disability, it is appropriate to determine the ability of that employee to perform the essential functions of a job with a reasonable accommodation.

In determining the extent of the County's accommodation obligations, the following factors, among others, are to be considered:

- a. business necessity, and
- b. financial cost and expenses

"Business necessity" includes reasonable consideration of productivity, safety and efficiency in operation of County business.

5. **Request Process, Applicants.** An applicant with a known disability needing an accommodation in the examination or interview process shall request this accommodation from the County's ADA Coordinator in a timely fashion (no less than 48 hours prior to an exam or interview). The ADA Coordinator will provide the requested reasonable accommodation pursuant to County guidelines if the accommodation can be provided.
6. **Request Process, Employees.** An employee with a known disability may request an accommodation from their Department Head. The Department Head and the Personnel Coordinator, in cooperation with the employee shall determine if the accommodation is reasonable and, if so, provide the accommodation. Under certain circumstances, i.e., disability is not visible, a request for medical verification of the disability is appropriate. If medical examination is necessary and the County requires a medical examination to be conducted, the County will pay for such examination. If a reasonable accommodation is agreed upon, the accommodation will be provided. If a reasonable accommodation cannot be agreed upon, the matter will be referred to the County Manager.

Any employee may challenge an action related to reasonable accommodations by following the same guidelines set forth in the Grievance Procedure as outlined in Section 8 of this Policy.

SECTION 5. CHANGES IN EMPLOYMENT STATUS

- A. **DEMOTION.** An employee may be demoted to a lower position, lower pay grade or pay range as a result of a disciplinary proceeding or when the employee would otherwise be terminated because his position is being abolished due to a lack of funds or lack of work or when the employee does not possess the necessary ability to render satisfactory performance in the position presently held; or when the employee voluntarily requests such a demotion. Demoted employees will receive a reduction in pay commensurate with the new position. An employee who is demoted will serve a probationary period for the new position for a period of six (6) months (182 consecutive days).
- B. **PROMOTION.** Curry County encourages the professional growth of its employees and rewards the initiative, creativity, effort, commitment, and diligence of its employees through the promotional process. County employees are encouraged to take advantage of promotional opportunities and apply for higher paying positions for which they qualify. Promoted employees will receive an increase in pay which is commensurate with the new position. A promotion is a movement to a higher classified position within the County's classification plan. If a promotion moves an employee to a position where he or she becomes a supervisor of a "near relative", that individual must immediately notify his or her Department Head and the Personnel Coordinator of that matter, in writing. This Curry County Personnel Policy does not allow for any employee to act as a direct supervisor to a "near relative".

An employee who is promoted will be required to serve a six (6) month (182 consecutive days) probationary period in the new position. This probationary period is an integral part of the evaluation process, and is used for observing the

employee's performance in the new position. If the employee does not satisfactorily complete the six (6) month probationary period, the employee will be returned to his/her previous position. While the employee is serving the probationary period, the employee's salary will be temporarily increased to reflect the salary at the new position. The salary increase during this probationary period is not a permanent benefit and, the employee acknowledges and understands that should the employee not satisfactorily complete the probationary period and is restored to his/her prior job, the employee's salary will be reduced back down to the salary level it was prior to the probationary period.

Interim Position—an employee may be appointed to interim position at the County with the approval of the County Manager until the position can be posted, background checks performed and interviews conducted. The interim position is an unclassified position, and as above, neither the position and/or pay increase are permanent. While the employee is serving in the interim position, the employee's salary will be temporarily increased to reflect the salary for the interim position. The salary increase during the interim period is not a permanent benefit and, the employee acknowledges and understands that the salary will be reduced back down following the interim appointment to the salary level it was prior to the interim position. Any employee can be transferred back at any time and without any reason to the position prior. Interim periods are for short periods of time not to exceed six (6) months and neither the employee's right to maintain, hold or be promoted to the interim position, nor the increase in pay, are grievable. The County Manager can extend the interim period if it is in the best benefit to the County and additional recruitment time is needed.

All County employees understand and acknowledge that they have no right to a grievance to a determination of their not satisfactorily completing the probationary period and/or to their being restored to their previous position and that pay rate.

- C. TRANSFER.** An employee may be transferred, voluntarily or involuntarily, to a vacant position for which he is qualified if the employee meets the qualification requirements, if it is in the best interest of the County, if further training and development of an employee in another position would be beneficial to future staffing potential of the County, or if it meets a personal need of the employee. There shall be no pay adjustment for employees involuntarily transferred from one position to another of comparable responsibility. An employee cannot grieve involuntary transfers. An employee who is transferred will serve a trial period for the new position for a period of six (6) months. If at any time during this trial period, the County determines that the employee cannot perform the job satisfactorily the employee may be reassigned and/or terminated. Sheriff Deputies who are required to be certified must serve a twelve (12) month probationary period or upon successful completion of the Law Enforcement Academy, if not completed within the first twelve (12) months.
- D. RESIGNATION.** A County employee who wishes to resign shall submit a written notice or letter of resignation at least five (5) working days prior to his/her date of departure. Upon receipt of a notice of resignation, the letter of resignation shall be delivered by the Department Head to the Personnel Coordinator by the end of the next business day. All County equipment, uniforms, and other County property shall be turned into the department upon termination; if it is not returned the

employee's final paycheck may be reduced by the value of the unreturned items. Any employee who voluntarily resigns from Curry County will be eligible for rehire through the selection process heretofore identified.

If the County employee fails to give five (5) working day's prior notice, or who may otherwise be terminated, shall not be eligible for rehire.

E. POST-EMPLOYMENT INTERVIEW. Any employee who resigns or has been terminated from County employment must schedule an exit interview with the Personnel Coordinator. An employee who has resigned from County Service must schedule an exit interview on or after the date of their final paycheck. An employee who has been terminated must schedule an exit interview within five (5) days of termination. The employee will receive their final paycheck, retirement information and other information about their employment with Curry County. The interview is to assess information about the employee's job, work environment, and the County organization in general which can be used to improve the organization. Information shared about the County during an exit interview will not be made a part of the employee's personnel file. An exit interview is not an opportunity to grieve working conditions or disciplinary matters.

F. REDUCTION-IN-FORCE. If it is necessary for the County to reduce the number of County employees because of reorganization, lack of funds, or lack of work, the County Manager shall make the determination of the employees to be affected. The reduction will be determined in the following manner:

1. Lay-offs will be recommended by Department Heads. If a Department Head fails to make a recommendation, the County Manager will make said recommendation. Temporary, student and probationary employees within a Department will be laid-off before full or part-time classified employees with the same classifications within the given Department unless specific skills and knowledge must be retained.
2. Lay-offs of classified employees shall be done in reverse order of seniority. For the purpose of this section, seniority shall mean total years of continuous, uninterrupted service as a classified employee of the County applied to the current classification held. The contents of the employee's Personnel file may also be taken into consideration.
3. Employees to be laid-off shall be notified in writing by the Personnel Coordinator.
4. Classified employees who are laid-off will be considered for recall on a seniority basis within the classification subject to recall. For a period of six (6) months from the date of lay-off, qualified individuals on lay-off status will be given preference on positions to be filled in the classification that the employee held prior to lay-off. To be considered for other vacancies, the laid-off employee must reapply.
5. Any classified employee who is laid-off and returns to County employment within six (6) months of lay-off shall not be required to serve a probationary period if the employee returns to the employee's previous classification. A

laid off classified employee returning to classified County employment will be credited for all unused sick leave left unused at the time of lay-off if such return is within six (6) months. A lay-off as a result of a reduction-in-force cannot be grieved.

G. DISMISSAL. Unclassified employees serve at the discretion of the Department Head or County Manager under whom they are employed and may be dismissed with or without cause. Classified employees may be dismissed pursuant to Section 8 of this Policy. Appointees with written contracts may be dismissed pursuant to the terms of the contracts.

H. MEDICAL DISABILITY TERMINATION. Employees shall be involuntarily terminated no earlier than six (6) months and no later than twelve (12) months from the last day of work after a qualified, licensed physician certifies that the employee is physically unable to perform the essential functions of the employee's position. During the initial six (6) month period of disability, the employee will be placed on medical leave without pay status. This period may be extended up to six (6) months with the approval of the County Manager.

The employee must submit monthly reports from a qualified, licensed physician on the employee's condition. However, if the employee is declared to be permanently disabled, and unable to perform the duties of the job, then the employee will be terminated if all leave has been exhausted.

SECTION 6. CONDITIONS OF EMPLOYMENT

A. PROBATIONARY PERIOD.

1. Probationary Period for New Hires. An employee hired to fill a classified position shall serve a probationary period of twelve (12) months, during which time the employee is a terminable-at-will employee and is not entitled to the rights and benefits of Section 8 of this Policy. The probationary period is an integral part of the evaluation process and is utilized for observing the employee's performance and obtaining the most effective adjustment of a new employee to the position.

a. Probationary employees shall undergo an initial evaluation at the end of six (6) months of employment with the County. The Personnel Coordinator shall notify the employee's Department Head prior to the six (6) month period and notify said Department Head that an evaluation is necessary. The Department Head shall complete the evaluation within five (5) calendar days of notification, and thereafter return the same to the Personnel Coordinator, unless exigent circumstances exist. In no event shall the evaluation be performed more than ten (10) days after receipt. The Personnel Coordinator, with the approval of the County Manager, shall prepare a standard six (6) month evaluation form that shall be used by all Department Heads, with the exception of the Sheriff's Office and the Detention Center. Department Heads can change or modify six (6) month evaluation form. However, before being used, the Department Head shall submit the evaluation to the Personnel Coordinator and County Manager, who will review the same.

- b. Three weeks prior to an employee's anniversary date, the Personnel Coordinator shall notify the probationary employee's Department Head and the Department Head **SHALL COMPLETE** a performance evaluation with said employee. If the employee has not satisfactorily completed the probationary period, the employee shall be terminated or the probationary period may be extended by the Personnel Coordinator for up to sixty (60) days with the Department Head's written recommendation and County Manager's approval. The Personnel Coordinator shall be responsible for advising payroll of any status change with regard to probationary employees. The Personnel Coordinator, with the approval of County Manager, shall prepare a performance evaluation form that will be used to perform said evaluation on all probationary employees.
 - c. A County employee, whether probationary or non-probationary, hired to fill a law enforcement position shall serve a twelve (12) month probationary period, during which time the employee shall obtain the statutorily required certification for the position. Failure to obtain such certification within the twelve (12) month period, unless extended, bars the employee from becoming a classified employee and shall result in the employee's dismissal.
 - d. If the employee satisfactorily completes the probationary period, and the letter and performance evaluation are sent to the Personnel Coordinator, the employee will be placed in the classified County service. If the employee does not satisfactorily complete the probationary period, unless extended, the employee will be dismissed. A probationary employee may be terminated at anytime during the probationary period and the termination cannot be grieved.
 - e. If the employee is hired to a full-time or part-time classified position, the first day of work shall be counted in computing the beginning of the probationary period.
- 2. Temporary and Student Employee Hired to a Classified Position.** An employee who fills a temporary or student position and is subsequently hired to fill a classified position shall serve the required probationary period. The beginning date of the probationary period is the date the employee changes from temporary to full-time or part-time status.
- 3. Former County Employee Hired to a Classified Position.** All benefits will accrue at the same rate as any new employee. A former County employee shall be required to serve the same probationary period as a new hire.
- 4. Elected Officials and Employee Conduct.** An Elected Official and/or employee of Curry County shall treat their position as one of public trust. The Elected Official or employee shall use the power and resources of his/her office only to advance the public interest and not to obtain personal benefits or pursue private interests. Curry County Elected Officials and employees shall conduct themselves in a manner that justifies the confidence placed in them by the people, and at all times maintain the integrity and discharge

ethically the high responsibilities of public service. Full disclosure of any real or potential conflict of interest shall be a guiding principle for determining appropriate conduct. At all times, Curry County Elected Officials and employees shall use reasonable efforts to avoid undue influence and abuse of office while serving in a public service.

Any Elected Official, Appointed Official, and all Curry County employees are required by law and shall disclose if they have outside work and/or a secondary job or place of employment outside of their employment with Curry County. No Curry County Elected Official or employee shall use or disclose any confidential information that may be acquired by virtue of their office or their position with Curry County for their own or another's private gain.

Curry County adheres to the New Mexico Governmental Conduct Act set forth in Section 10-16-1 et. seq., NMSA 2011. It shall be the duty and obligation of each County Elected Official and employee to complete and submit an annual disclosure form pursuant to the New Mexico Governmental Conduct Act and submit the same to the County Personnel Coordinator. Nothing in this Personnel Policy shall alter the duties and responsibilities of a County Elected Official or employee pursuant to the New Mexico Governmental Conduct Act and, in interpreting any provision of this Policy said provisions shall be interpreted in such a way as to be harmonious with the terms and conditions of the New Mexico Governmental Conduct Act.

B. LETTERS OF COUNSELING.

Letters of counseling prepared by Department Heads, for employees within their departments, are not to be considered as disciplinary in nature. The purpose of a letter of counseling is to help/aid/coach the employee in understanding the applicable rules, policies and regulations that pertain to said employee and/or the position and type of work the employee is engaged in. Letters of counseling are to be used to help train, for guidance and advice. All said letters of counseling shall be signed and dated by the employee.

The original of any and all letters of counseling are to be delivered to the Personnel Coordinator within twenty-four (24) hours or the next business day. Said letter(s) shall be maintained by the Personnel Coordinator in the employee's file and clearly marked as "Letters of Counseling".

C. POLITICAL ACTIVITIES.

1. County Employees, Department Heads and County Commissioners shall not:
 - a. Directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer of employee to pay, lend or contribute anything of value to a party, committee, organization, agency, or person for political purposes.
 - b. Participate in or work on any political election in a County office on County property.

- c. Use any County vehicle, equipment, office, office space or uniform for purposes of any political campaigning, political statement, political support or any and all other political purposes.

D. NEPOTISM.

1. No one related to a Department Head will be hired, appointed, or employed in that department during that Department Head's term of employment. No County employee shall supervise, or hold a supervisory position in the same department as a near relative.
2. When there is a change in assignment of relative relationships among County employees which leads to one related employee supervising another, both employees must inform the Department Head in writing within five (5) working days. **The Department Head must transmit** the letter and a recommended course of action to the County Personnel Director within five (5) working days of receipt of the letter. The County Personnel Director will arrange for the transfer of one of the employees in question and will officially notify those involved within ten (10) working days, if a position is available. If no position is available within three (3) months of notice, one employee will be terminated. Any employee not submitting a letter indicating a change of relative or spousal relationship, as specified in this section, will be disciplined. No assignment of employees as referenced in this section, shall become a permanent and/or an established transfer, raise, promotion and/or assignment unless and until the terms and conditions set forth in this paragraph have been fully and completely complied with.

E. WORKPLACE HARASSMENT.

This Workplace Harassment policy is intended to promote a safe and harmonious work environment free from all forms of unlawful harassment. **All employees are required to understand the extreme importance of this workplace harassment policy.**

1. **Policy.** Curry County is committed to taking reasonable steps to provide a professional working environment free from all forms of harassment, whether based on sex, sexual orientations, gender identity, race, color, religion, national origin, age, disability, or any other protected classification.

Although this policy focuses on sexual harassment, the terms and provisions in this Policy apply equally to and shall be enforced with regard to any and all forms of harassment based on protected classification. In addition, the procedures described in this policy shall be followed for any and all other claims of harassment. This policy also applies to harassment by an elected official or the County Manager, as well as when a County employee is subject to harassment in the work place by someone outside the County.

All County employees and members of the public have a right to be free from harassment from employees on official duty for the County. County employees are forbidden from engaging in harassing conduct in the workplace. Employees are also forbidden from engaging in conduct outside if

that work creates a hostile work environment at work. Any act of harassment based upon a protected classification is a violation of county policy.

2. Definition of Sexual Harassment. According to the Equal Employment Opportunity Commission, sexual harassment is any unwelcome sexually oriented behavior, demand, comment or physical contact initiated by any individual at the work place when:

- a. Submission to such conduct is made either explicitly or implicitly, a term or condition of an individual's employment;
- b. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions/opportunities affecting such individual, or
- c. Such conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile or offensive working environment.

3. Examples of Sexual Harassment. Sexual harassment can occur in a variety of forms. Harassing conduct based on gender often is sexual in nature but sometimes is not. This policy forbids harassment based on gender regardless of whether the offensive conduct is sexual in nature. Sexual harassment is unacceptable in the workplace itself and in other work-related settings such as business trips and business –related social events. The following are some common examples of behaviors or situations that may constitute sexual harassment if they are unwelcome and if they create a hostile, intimidating or offensive work environment:

- a. Oral or written sexual statements, comments, jokes, questions or innuendoes;
- b. Display of sexually oriented visual items such as calendars, cartoons, photos or posters;
- c. Assault, molestation or unwelcome physical contact such as kissing, touching, patting, pinching, brushing against or hugging;
- d. Requests, demands or subtle pressure for sexual activity;
- e. Threats or retaliation against an employee who refuses unwelcome sexual attention or sexual behavior;
- f. Overt promises or practices that imply preferential treatment for any employee in exchange for dates, sexual attention or sexual behavior;
- g. Sexual insults and suggestions including, but not limited to, lewd remarks, obscene gestures and sexually suggestive materials;
- h. Any conduct that ridicules, or is malicious or abusive to an individual because of the individual's gender;

- i. Pressuring an employee to go out on a date; or
 - j. Asking employees questions of a sexual nature.
 - k. Discussing their sexual preference, sexual relationships or even sexual matters seen on TV, YouTube, movies, or other formats including books and magazines.
4. **Sexual Harassment can be a form of discrimination.** The termination or breakup of a relationship can often result in individuals having fixed, negative or otherwise heightened feelings towards the other. If a County employee has such a feeling towards another County employee that works the same shift, it is that employee's duty and obligation to notify and advise his/her Department Head of the same. The Department Head shall then promptly report the matter to the Personnel Coordinator. Should the situation reach the level of harassment, the employee, as well as the Department Head, shall report the matter in the same manner as their obligation to report harassment under this policy.
5. **Responsibility to Report Harassment.** Any employee, who knows and/or has any reason to believe that they are or have been a victim of harassment should first confront the person or persons responsible for the offensive behavior and indicate that it was unwelcome and should be stopped, unless they are fearful or have other reasons not to do so. Even if the employee confronts the responsible person(s), the employee **is required under this Policy and shall promptly report** the matter to the Personnel Coordinator and/or the County Manager. The Personnel Coordinator is the person who is authorized under this policy to receive and act upon any complaints of harassment or discrimination of behalf of the County. All employees who observe or become aware of any form of harassment are also required to notify and bring the matter to the attention of the Personnel Coordinator, even if they are not the victim of said harassment.
- If the harassment is by the County Manager, the employee(s) shall report the matter to the County Attorney.
6. **Investigation of Complaints.** The County will investigate all reports of alleged harassment. Information associated with the investigation will be kept confidential, to the extent possible, and consistent with the County's obligation to investigate promptly and thoroughly. All employees are to cooperate with an investigation by the County in response to an allegation of harassment. Refusal to cooperate in an investigation may result in disciplinary action, up to and including termination.
7. **Appeal.** Any affected employee who is dissatisfied with the conclusion or results of an investigation, or with any corrective measures taken, may appeal the decision to the County Manager. Any such appeal must be in writing and must include the nature of the employee's dissatisfaction with the conclusions or results of the investigation. Any appeal must follow the

grievance process. If the complaint is against the County Manager, the appeal shall be to the Board of County Commissioners.

8. **Protection Against Retaliation.** The County will not retaliate against an individual who reports harassment in good faith and such retaliation in and of itself is grounds for disciplinary action, up to and including termination without prior progressive discipline. Retaliation is a serious violation of this policy and should be reported immediately.
9. **Discipline.** Unlawful harassment, including sexual harassment, of employees or members of the public and bullying may be cause for a Disciplinary Proceeding. If the County determines that harassment has occurred or that counseling, training, disciplinary measures or termination are appropriate, it will take appropriate measures to correct the problem following County disciplinary procedures. Serious cases of harassment constitute cause for termination without prior progressive discipline.

Employees who knowingly make false allegations of sexual harassment may be subject to disciplinary action. If any workplace harassment complaint is found not to be accurate and contains inconsistent information, disciplinary action may be brought against the complainant.

10. **Mandatory Training.** Periodic mandatory training for all employees, including Department Heads, will be provided by the County to increase knowledge of the workplace harassment policy, state and federal laws and the process for enforcing the policy.
11. **Vendors and Customers.** Employees should report sexual harassment from vendors, customers, other county employees and the general public utilizing this Policy.

F. WHISTLEBLOWER PROTECTION.

1. New Mexico statutes prevent Curry County or any of Curry County's employees from taking any retaliatory action against a County employee who may:
 - a. Communicate to the public employer or a third-party information about an action or a failure to act that the public employee believes in good faith constitutes an unlawful or improper act;
 - b. Provides information to, or testifies before, a public body as part of an investigation, hearing, or inquiry in to an unlawful or improper act; or,
 - c. Objects to or refuses to participate in any activity, policy or practice that constitutes an unlawful or improper act.
2. Pursuant to this Personnel Policy, it is the responsibility of each Elected Official to ensure that the Curry County Whistleblower Protection Notice is conspicuously posted in each and every County office.

3. Any Curry County employee that believes that there has been an unlawful or improper act has a duty and obligation to report the same.

G. SUBSTANCE ABUSE TESTING.

This policy regarding testing for substance abuse is adopted to assure that the County is in compliance with Federal mandates regarding substance abuse in the workplace and to provide a safer environment for all employees and the public.

As an employer, the County is required to adhere to various federal, state, and local laws and regulations regarding alcohol and drug abuse. The County also has a vital interest in maintaining safe, healthful, and efficient working conditions for its employees. Being under the influence of alcohol, or the presence of certain drugs in the body system, may pose serious safety and health risks not only to the user but to all those in contact with the user. Curry County encourages employees to seek and obtain counseling.

The County maintains an Employee Assistance Program (EAP) for those employees voluntarily seeking assistance regarding substance abuse and other personal or emotional problems. Although voluntary participation is preferable to the disciplinary action, employees who are substance abusers do not always avail themselves of this program.

Therefore, the County is implementing testing for substance abuse as follows:

1. **Pre-employment Drug Testing.** Certain offers of employment shall be extended conditional upon the applicant passing a drug test which shall be administered to the applicant by a laboratory selected by the County. Upon acceptance of the conditional offer by the applicant, the Personnel Coordinator will schedule the applicant for an appointment with the designated physician and notify the applicant and the appropriate Department.

Applicants will be referred to a collection site to provide a specimen for analysis. The laboratory will complete the analysis and report the results back to the designated physician. If the applicant fails the pre-employment drug screen as a direct result of a positive drug test, the conditional offer of employment will be rescinded. He/she may appeal the results to the designated physician whose determination regarding the drug test results shall be final. The County Personnel Coordinator and the appropriate Department Head shall be notified. The representative will then notify the appropriate individual in the hiring department as to pass/fail of the pre-employment physical.

In the event that the drug test results are returned showing that the test is not valid or that the test specimen was diluted, the applicant will be notified of the same and allowed to take a second pre-employment drug test. Should the second specimen be returned not valid or diluted, the candidate will not be considered for employment by County.

2. **Voluntary Assistance (Self-Referral).** The County encourages employees who believe or suspect they may be abusing a substance to voluntarily refer themselves to the Employee Assistance Program for assistance. The EAP staff will be prepared to confidentially assist employees requesting their services. Employees may self refer any time prior to being notified that they have been scheduled for a drug/alcohol test or, in the case of reasonable suspicion, prior to having been directed to report for a drug/alcohol test. The EAP Counselor is the Personnel Coordinator or his/her Designee.

Employees who voluntarily seek assistance for substance abuse shall receive without charge, brief counseling, a medical examination, and a treatment assessment with the goal of developing a County recommended treatment program. All of the County's group health insurance plans provide limited benefits to help defray the cost of treatment. Employees should either refer to their schedule of benefits or consult with an EAP counselor to determine the exact benefits available.

Employees in safety sensitive positions who self-refer shall be placed on the appropriate leave status until successfully completing the County's recommended treatment program. Employees in non-safety sensitive positions may, with the approval of the EAP Counselor and the Department Head be permitted to perform their duties and continue in the work place while participating in the County's recommended treatment program unless other disciplinary action is pending.

All employees who self-refer must submit to a blood/alcohol and/or drug test within thirty (30) days after entering the program and shall be compliant with the County's recommended treatment program within sixty (60) days after entering the program. Compliance with the County's recommended treatment program shall mean that the employee has submitted to a blood/alcohol and/or drug test; the result of that test is negative; the employee has provided the County with a written agreement to submit to periodic and unannounced testing for a period of two (2) years following the employee's return to work; and, has cooperated with his/her County's recommended treatment program. Additionally, employees in safety sensitive positions must be certified by the designated physician that they can return to work without endangering the safety of themselves or others.

During treatment the employee's pay status shall be as follows:

- a. Accrued leave shall be used, and;
- b. If insufficient, the employee shall be placed on Leave Without Pay in accordance with the Personnel Rules and Regulations.

Employees who do not successfully complete the County's recommended treatment program within sixty (60) calendar days from the date of self-referral will be terminated from County employment.

3. **Reasonable Suspicion Substance Abuse Testing.** Reasonable suspicion that an employee is under the influence of alcohol or other substances which

could impair job performance and/or safety means that an employee is affected by the use of drugs or alcohol in an objectively detectable manner. It is supported by objective evidence, based upon known specific, articulated, and observable facts that would lead a reasonable person to believe that the employee is under the influence of alcohol or other substances. In assessing whether reasonable suspicion exists, the employee's ordinary individual characteristics will be taken into consideration. Additionally, an employee's admission of abuse of alcohol or other substances to a supervisor in his/her chain of command, and the Personnel Coordinator, or a provider of medical services under contract to the County shall constitute reasonable suspicion.

When there is reasonable suspicion that an employee has reported to work, is conducting work, has been involved in an accident, is representing the County, or is on the County premises while under the influence of alcohol or other substances, the impacted employee's Department Head (or his/or designee) shall contact the Personnel Coordinator.

The Personnel Coordinator should be consulted regarding the circumstances and evidence as to whether or not testing is appropriate to the specific situation. If the Personnel Coordinator and appropriate Department Head decide to proceed with the testing, the Personnel Coordinator shall notify the laboratory and schedule the employee for testing immediately. The Department shall be responsible for transporting the employee to the testing site. Department Heads are to avoid placing themselves and/or others into situations which might endanger the physical safety of those present. The impacted employee shall be placed on leave with pay status in accordance with the Personnel Rules and Regulations. An employee who refuses an instruction to submit to an alcohol or drug test shall not be permitted to finish his or her shift and shall immediately be placed on leave with pay status pending disciplinary action. Any safety sensitive County employee who is tested under this provision and the second test is returned invalid or diluted, will immediately be removed from his/her safety sensitive position until the results of the third test are received by the County.

When an employee reports to the designated physician for treatment or examination and the health care provider suspects that the employee is a substance abuser, the health care provider shall refer the employee to the EAP for substance abuse testing and/or assessment. The counselor shall notify the County Personnel Coordinator, who shall place the employee on leave with pay status in accordance with the Personnel Rules and Regulations.

All testing results shall be reported back to the County Personnel Coordinator. If the test results are negative, the EAP will notify both the employee and the County Personnel Coordinator to that effect and the employee shall be returned to work at the inception of the employee's next regularly scheduled work shift unless disciplinary action is pending.

If the results are positive, the EAP shall notify the employee and the County Personnel Coordinator, who shall consult with the impacted employee about the test results. The designated physicians' assessment, a written copy of the

test results, and a written copy of the Custody and Control document shall be provided to the Personnel Coordinator.

If the specimen is determined to be invalid or if it is diluted, the employee will immediately be notified and required to take a second test during his/her shift to repeat the procedures set forth hereinabove for testing. If the employee is unable to provide a specimen at that time, then the employee will be allowed a period of time, not to exceed three (3) hours (supervised) and no more than forty ounces of water during this period of time in which to submit a sample. If this second specimen is returned invalid or diluted, the employee will be immediately notified within twenty-four (24) hours (excluding non-work days) and requested to perform the same procedures for a third specimen. If the third specimen is returned invalid or diluted, the employee shall immediately be placed on leave with pay status pending review by the Personnel Coordinator in conjunction with the employee's Department Head.

There shall be two (2) classifications of the County employees for purposes of administering this and other Administrative Instructions or the County's Personnel Rules and Regulations regarding the County's Substance Abuse Policy. At a minimum, all law enforcement officers, detention officers, transport officers, employees required to have a commercial driver's license, van drivers, and employees who have control or access to controlled drugs or reports associated with these drugs shall be classified as safety sensitive positions. It shall be the responsibility of the Personnel Coordinator to determine additional positions, if any, which will be classified as safety sensitive.

The following criteria shall be used as a guide for determining additional positions to be classified as safety sensitive:

- a. The extent to which the job responsibilities impact upon the safety of the public.
- b. The extent to which the job responsibilities expose the employee or coworker to hazardous conditions.
- c. The extent to which the job responsibilities require responsibility for the physical safety of others.

For those employees whose position is classified as safety sensitive, a valid and positive test, or refusal to submit to a test, shall be considered just cause for termination of the employee.

Probationary employees shall not be entitled to the benefit of the Drug Treatment Program.

Those employees whose position is classified as non-safety sensitive shall be placed on accrued leave or leave without pay if the employee has no accrued benefits in accordance with the Personnel Policy until they successfully complete the County's recommended treatment program. Accrued leave will begin with sick leave, then other accrued leave. This shall occur within thirty

(30) days unless written authorization to exceed thirty (30) days is commended by the Department Head and is approved by the Personnel Coordinator. During the County's recommended treatment program, the employee's pay status shall be as follows. First, accrued leave shall be exhausted and, if insufficient, the employee shall be placed on Leave Without Pay in accordance with the Personnel Policy. Prior to returning to work, the employee must sign an agreement to submit to periodic and unannounced testing. Refusal to submit to a substance abuse test, or a positive test after the initial positive test, shall be considered just cause for termination of the employee whether the second positive test occurs prior to, or after, the employee's return to work.

3. **Random Tests.** The County shall have the right to request that any employee in a safety sensitive position undergo random drug or alcohol testing. All such testing will be administered as set forth in this Policy and must be performed by the employee within one (1) hour of the request being made.

SECTION 7. EMPLOYEE DISCIPLINE

A. BASIS FOR EMPLOYEE DISCIPLINE.

1. **Just Cause Discipline.** Classified employees shall only be disciplined for just cause. Disciplinary actions will be consistent with governing laws and regulations and will be taken without regard to race, age, religion, color, national origin, sex, sexual orientation, gender identity, physical or mental handicap or medical condition.
2. **Disciplinary Action.** Disciplinary action is the suspension, demotion and/or termination of any classified County employee. Any Department Head may initiate disciplinary action against an employee consistent with this Personnel Policy Manual. Copies of any documented disciplinary action must be furnished to the Personnel Coordinator's office prior to the Disciplinary action being enforced with the employee. All disciplinary action shall be in writing and shall be placed in the employee's file with the signature of the recipient, acknowledging receipt of the action or signature showing the employee's refusal to acknowledge receipt of the action.
3. **Consultation with County Attorney.** Dismissal, demotion, and suspension require consultation with the County Personnel Coordinator, who shall contact and obtain approval from the County Attorney before implementation. Whenever such consultation is not practical because of urgency or other pressing reasons, the Department Head may, by written document, place the employee on administrative leave with pay pending a review of the situations/circumstances by the County Personnel Coordinator and County Attorney.
4. **Peace Officer's Employer-Employee's Relations Act.** Prior to any disciplinary action, investigation, or questioning of any member of the Curry County Sheriff's Department, the Personnel Coordinator will make sure that

the Peace Officer's Employer-Employee's Relations Act, Section 29-14-1 et. seq. NMSA 2015, as may be amended, is followed/complied with.

5. **Letters of Counseling.** Letters of counseling are not disciplinary in action. Letters of counseling prepared by Department Heads, for employees within their departments, are to be used to help/aid/coach the employee in understanding the applicable rules, policies and regulations that pertain to said employee and/or the position and type of work the employee is engaged in. Letters of counseling are to be used to help train, for guidance and advice. All said letters of counseling shall be signed and dated by the employee.

The original of any and all letters of counseling are to be delivered to the Personnel Coordinator within twenty-four (24) hours or the next business day. Said letter(s) shall be maintained by the Personnel Coordinator in the employee's file and clearly marked as "Letters of Counseling".

- B. **PROGRESSIVE DISCIPLINE.** The County will use progressive discipline when it is determined by the County to be appropriate. The step of corrective action used depends on the severity of the infraction, prior disciplinary actions and the employee's previous work record. The initial disciplinary action may be anything up to and including dismissal. The progressive forms of discipline are:

1. **Written Reprimand**

- a. An employee shall receive a written reprimand because the deficiency or infraction is of a degree that, in the opinion of the Department Head, it requires documentation. Causes for written reprimands include, but are not limited to:
 - (1) Substandard work performance.
 - (2) Repeated absences or tardiness.
 - (3) Insubordination (failure to follow the lawful order of a recognized Department Head).
 - (4) Failure to follow safety rules.
 - (5) Failure to meet prescribed standards of work.
 - (6) Failure to follow County Policies, rules or regulations.
 - (7) Non-cooperation by an employee with fellow employees or other personal conduct which substantially interferes with the performance of his/her or another employee's work.
 - (8) Harassment and/or bullying.
 - (9) Failure to report work related injuries.
 - (10) Failure to report accidents or vehicle collisions.

- b. Written reprimands for an employee shall first be submitted to the Personnel Coordinator for review and approval prior to being issued to an employee.
 - c. Once approved, the employee will be asked to come in and meet with his/her immediate supervisor and they will go over the written reprimand with the employee. The purpose of a written reprimand is to notify the employee of any deficiency or infraction in order to prevent the same or similar actions from occurring and ensure the employee is aware of the County's policy, rule or regulation. After the supervisor has gone over the written reprimand with the employee, the employee will be asked to acknowledge having read the comments by signing the document.
 - d. If the employee refuses to sign, a witness will attest in writing that the statement was presented to the employee for signature. The witness' signature indicates that the employee was given a copy of the statement, but does not necessarily indicate concurrence with its content.
 - e. All written reprimands shall be forwarded to the Personnel Coordinator within twenty-four (24) hours after presentation to the employee or the next work day. The written reprimand shall be placed in the employee's personnel file.
- 2. Performance Improvement Plan.** In addition to any letters of counseling or written reprimand, the employee's Supervisor or Department Head, working with the employee, can prepare a written performance improvement plan in an effort to inform the employee of ways to improve his/her performance with regard to the issue or issues that have resulted in the issuance of a letter of counseling and/or letter of reprimand.
- 3. Suspension.** An employee may be suspended without pay for a single serious offense. An employee may also be suspended without pay as a result of multiple written reprimands, or continued inadequate job performance, or misconduct, after previous attempts to correct the deficiency have failed. All suspensions shall be in writing and, the same procedure as set forth above, in Subparagraph B(1)(b) for reprimands shall apply. Causes for suspensions include, but are not limited to:
- a. Any of the causes listed for written reprimands.
 - b. Continued instances of inefficiency in work performance.
 - c. Negligent damage to property and/or person(s).
 - d. Failure to report loss of driver's license, when a driver's license is required as a condition of employment.
 - e. Operation of a County vehicle or a private vehicle while on County business without a valid driver's license.
 - f. Sleeping on the job.

Suspensions of classified employees are grievable pursuant to Section 8 of this manual.

- 4. Demotion.** An employee may be demoted to a lower position, to a lower pay grade or to a lower salary for a single serious offense or multiple or repetitious violations of County Policy or continued inadequate job performance or misconduct. Causes for demotion include any cause listed in this policy for suspension or dismissal. Written demotions shall follow the same procedure as set forth in Subparagraph B(1)(b). The demotion of a classified employee is grievable pursuant to this policy.
- 5. Corrective Action Plan.** As part of a disciplinary action, when demotion or suspension is recommended, the Department Head shall prepare and submit to the Personnel Coordinator a corrective action as part of the employee's disciplinary action. A corrective action plan can incorporate any of the permitted disciplinary actions, together with a plan for additional training, if needed, and/or placing the employee on a period of probation not to exceed six (6) months. Corrective action plans can be prepared by the Department Head or, with the assistance of the Personnel Coordinator. Each corrective action plan will be prepared to fit the particular needs, issues, or concerns presented.
- 6. Termination.** Termination is the final consequence when progressive discipline has failed to change unacceptable behavior or performance, or when the employee has engaged in other behavior that is of a serious nature and which is unacceptable of County employees. Written terminations shall follow the same procedure as set forth in Paragraph B(1)(b) hereinabove. Grounds for termination may include, but are not limited to:
 - a. Continued disciplinary problems, including but not limited to multiple written reprimands or multiple suspensions.
 - b. All causes listed for the previous disciplinary actions.
 - c. Theft, acceptance of a bribe, kickback or embezzlement.
 - d. Conviction of a job related felony or misdemeanor pursuant to the Criminal Offender Employment Act, NMSA 2978, 28-2-1 et. seq.
 - e. Serious acts of negligence which causes damage to County property or to persons.
 - f. Conduct unbecoming of an employee of Curry County.
 - g. Deliberate falsification of information on the employee's job application, sick leave requests, work time sheets, or other County records.
 - h. Substance abuse on the job.
 - i. Intentional abuse or destruction of County property or equipment.
 - j. Refusal to carry out lawful orders.

- k. Failure to meet standards of substance abuse rehabilitation programs.
- l. Failure to maintain a drivers license if required by the job description for the position or failure to maintain a good driving record.
- m. Fighting on the job or other actions that result in the injury of an employee.
- n. Refusal to take and/or submit to required drug testing and/or failure of any drug tests.

The above examples are typical of the types of infractions sometimes encountered but are not inclusive of all situations which may arise. The County reserves the right to exercise judgment and render disciplinary action or termination, as determined appropriate, based on the circumstances of each case. Terminations of classified employees are grievable.

- 7. **Unlawful Act.** No employee will be disciplined for refusing to perform an unlawful act.

SECTION 8. GRIEVANCE PROCEDURES

A. INITIAL STEPS IN FORMAL GRIEVANCE PROCEDURE. This formal grievance procedure is available for employees for suspensions, demotions or dismissals only.

- 1. **Conditions or Actions Not Grievable.** The following conditions or actions are not subject to review under the formal grievance procedure:
 - a. Disputes as to whether or not an established County policy or practice is appropriate.
 - b. Matters where a method of review is mandated by law.
 - c. Matters where the County is without authority to act or does not have the ability to provide a remedy.
 - d. Probationary employees disciplined or dismissed prior to the expiration of their probationary period.
 - e. Temporary and student employees disciplined or dismissed prior to or at the end of their anticipated employment period.
 - f. All unclassified employees disciplined or dismissed at any point during their employment with the County or appointees, or other at will employees.
 - g. Employee complaints charging discrimination based on race, color, creed religion, gender, age, national origin or handicap. Such complaints shall be administered by the County Manager in compliance with the Civil Rights Act of 1964 and the New Mexico Human Rights Act.

- h. Transfers, temporary assignments and removal from temporary assignments.
- i. Objections to working conditions or matters pertaining to salary.
- j. Letters of counseling and any and all written reprimands. The employee shall have the right, if they choose to write a written rebuttal, which will be placed in the employee's file. There will be no further response from the County.

2. **Written Notification.** With the prior approval of the County Personnel Coordinator, the Department Head shall present the employee with written notification of intent to suspend, demote, or dismiss in advance of the proposed action. The written notification must explain the reasons for the proposed action. The employee will be given the opportunity to respond to the charges for the proposed disciplinary action prior to the implementation of any suspension, demotion or dismissal and that is the purpose of the predetermination hearing. The notice of the anticipated action and notice of the predetermination hearing shall be hand-delivered to the employee or the employee may be notified to come in and pick up his/her predetermination hearing notification.

If the Department Head is recommending termination of the employee, the employee will be placed on administrative leave with pay as soon as the Department Head's written recommendation has been completed. The employee shall remain on administrative leave with pay until a written decision is rendered from the predetermination hearing, if any. The employee who has been served a letter of intent to suspend, demote or termination, may waive the predetermination hearing. To waive his/her right to a predetermination hearing, the employee must submit a letter to the County Manager prior to the date and time of the predetermination hearing stating that said employee is waiving his/her right to the hearing and that said employee agrees to accept the disciplinary action as outlined in the letter from his/her Department Head.

An employee's electronic access to County systems will be suspended while said employee is on leave. Any and all employees who are immediately suspended will be required to turn in all of their electronic equipment, including laptops, together with keys and weapons. In addition, all access by the employee to the County's electronic system will be immediately suspended.

3. **Immediate Suspension.** In cases where County property, other employees or citizens are at risk as a result of the employee's actions, the employee's Department Head may put the employee on administrative leave with pay with concurrence by the Personnel Coordinator while the matter is being investigated or until the appropriate action is contemplated. Any such action must be in writing and a copy provided to the Personnel Coordinator within twenty-four (24) hours of the delivery of said suspension to employee. An employee who is suspended is not to communicate with anyone in their

official capacity as an employee of the County without prior approval of Department Head or Personnel Coordinator.

Any and all employees who are immediately suspended will be required to turn in all of their electronic equipment, including laptops, together with keys and weapons. In addition, all access by the employee to the County's electronic system will be immediately suspended.

4. **Predetermination Hearing.** Employees must pursue grievances according to the rules contained herein.
 - a. The predetermination hearing shall be conducted by the County Manager or the County Manager's written designee, who must be a senior manager within the County. If the County Manager is unable to conduct the predetermination hearing, the County Manager's designee shall serve as the Hearing Officer for any proposed disciplinary action.
 - b. The predetermination hearing is a closed door, confidential hearing. The employee is entitled to be represented by an attorney and have witnesses appear for his/her benefit. All witnesses will remain outside of the hearing until they are called in to present testimony.
 - c. The County Manager shall schedule the time, place and date of the predetermination meeting within five (5) business days after the employee is given written notification. The employee and the employee's Department Head must be advised of the scheduled hearing in writing.
 - d. The purpose of the predetermination meeting is to provide the employee the opportunity to respond to the proposed disciplinary action. The meeting will be held prior to the implementation of any proposed disciplinary action identified in this section. The employee is given the opportunity to present all evidence or information he/she wishes to present in response to the proposed disciplinary action.
 - e. The County Manager or his/her designee will issue a decision in writing within ten (10) business days of the predetermination hearing. The written decision shall include the time, date and location of the meeting; persons present; and the determination. The written decision shall be delivered directly to the employee, the employee may be called to the County Manager's office to receive the decision in person or the decision may be sent by certified mail.
 - f. Disciplined employees shall continue to be paid at the same rate until the County Manager renders his/her written decision.

B. POST-DISCIPLINARY HEARINGS.

1. **Employee Notification.** Within ten (10) business days of receipt of the written predetermination decision, the grieving employee must notify the County Personnel Coordinator of the employee's intent to pursue a post-disciplinary hearing by sending a written request for a grievance hearing to

the Personnel Coordinator's office. The written request must be received by the Personnel Coordinator within this ten (10) business day period.

- 2. Post-Disciplinary Hearing Scheduled.** Within sixty (60) calendar days of the receipt of the written request the County Personnel Coordinator shall schedule a grievance hearing. The parties must agree in writing to any postponement of the grievance hearing beyond sixty (60) calendar days. At this hearing, the grieving employee and the County shall have an opportunity to present witnesses, physical evidence and cross-examine the witnesses. The grieving employee and the Department Head may be represented by legal counsel.
- 3. Conduct of Post-Disciplinary Hearing.** All post-disciplinary hearings are closed door and not opened to the public. The employee and his/her attorney or representative are entitled to appear at the post-disciplinary hearing.
- 4. Personnel Hearing Officer.**
 - a. The personnel hearing office shall be hired by the County.
 - b. A personnel hearing officer shall be a person experienced in grievance arbitration.
 - c. The personnel hearing officer must adhere to the terms and conditions of this personnel policy. The personnel hearing officer shall not be allowed to substitute his/her belief and/or opinion for any of the terms, conditions or provisions contained within this personnel policy.
 - d. A personnel hearing officer shall not be actively involved in partisan political activities or the political affairs of Curry County.
- 5. Personnel Hearing Officer's Duties and Responsibilities.**
 - a. The personnel hearing officer may conduct pre-hearing conferences in order to obtain information necessary to the issuance of a pre-hearing order.
 - b. The personnel hearing officer may consolidate cases in which two (2) or more grieving employees have cases containing identical or similar issues or to expedite final resolution of the cases provided that such consolidation would not adversely affect the interest of the parties.
 - c. The personnel hearing office shall operate the hearings in accordance with common law evidentiary standards applicable to administrative hearings. The hearings shall be conducted in an orderly and informal manner without adherence to the technical rules of evidence required in judicial proceedings.
 - d. In the hearing of grievances, the personnel hearing officer may admit and consider any evidence, including affidavits, which is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of

serious affairs. The personnel hearing officer shall exclude incompetent, immaterial, irrelevant, or unduly cumulative testimony. Documentary evidence may be received in the form of copies or excerpts unless the sources of the information or other circumstances indicate lack of trustworthiness.

- e. The employee and employee's representative are required to be prepared at the time of the post-disciplinary hearing.
- f. Once the hearing is scheduled, the hearing will not be postponed except for an emergency, unless a continuance is requested at least fifteen (15) calendar days prior to the date of the hearing.
- g. The personnel hearing officer is limited to determine whether or not Curry County, acting through any of its agents, employees or Department Heads, has followed and complied with the terms and provisions of this personnel policy. The recommended disciplinary actions shall only be reversed if the personnel hearing officer finds that Curry County, acting through any of its agents, employees or Department Heads, violated or failed to follow the terms set forth in this personnel policy.
- h. The hearing officer's decision is binding on the parties.

C. POST-DISCIPLINARY HEARING PROCEDURES.

1. Rules of Procedure.

- a. The decision of the Hearing Office may only be reviewed in the District Court of Curry County for the following specific reasons:
 - (1) Where the decision is arbitrary or capricious and is not supported by substantial evidence;
 - (2) Where the decision is made in violation of the applicable constitutional provisions or is otherwise illegal; or
 - (3) Where the decision is in excess of the statutory authority or jurisdiction of the Hearing Officer.
- b. Appeal of the decision of the Hearing Officer to District Court shall be taken within thirty (30) calendar days of the final adverse decision of the Hearing Officer.

D. PROCEDURE FOR GRIEVING WORKING CONDITIONS AND OTHER WORK RELATED PROBLEMS. An employee may discuss any action that is not grievable, such as letters of counseling, written reprimands or working conditions with the Department Head in an attempt to work out a solution. If the employee is not satisfied with the proposed solution, the employee must address the problem to the County Manager. The County Manager's decision will be final. If the action involves the County Manager, the employee shall address the problem to the County Attorney.

SECTION 9. COMPENSATION AND BENEFITS

- A. PURPOSE.** The purpose is to establish compensation for all positions in Curry County. Such a plan shall establish a salary and wage schedule containing a minimum and maximum wage or salary for each position. Pay ranges are intended to furnish administrative flexibility. Wage and salary increases are dependent upon the financial condition of the County.
- B. HOURS OF WORK.** Full-time employees are expected to work forty (40) hours per week (five (5) eight (8) hour days) except the Sheriff's employees and Detention employees shall work hours as provided in Subparagraph F of this section. Working hours may fluctuate at the discretion of the Department Head.
- C. BREAKS.** Lunch breaks are normally one (1) hour, except for departments with established thirty (30) minute lunch breaks. Department Heads may limit or delay breaks if, in their opinion, continuous work is required, and the entire break or remainder of a break will be taken at a later time determined by the Department Head. There will be no accumulation of breaks. Department Heads retain the right to assign their employee(s) to work a complete shift and take his/her lunch period on pay status.

If during any training period it is determined to be in the County's best interest to continue training over or through the lunch hour, the County will pay for the lunch of those attending and participating in the training as authorized in writing prior by the County Manager.

- D. SUMMONS, SUBPOENAS, COURT ORDERS, ETC.** A summons, subpoena, court order, or any other document that is being served or to be served on a County employee, shall only be received and/or accepted by the named employee. Arrangements can be made for service of documents on designated County employees within that department but only, if said department has policies in place to ensure that said subpoena that is served or delivered to a designated individual will only be accepted if the employee named on or in the document is at work, or will be at work on the day that the document is delivered. If there are any payments made with the document, all employees, if they are being compensated by the County for the time they are ordered to appear on the document, shall deliver the check for his/her appearance to his/her immediate Department Head within two (2) business days of receipt of the same, who shall then deliver the same to the Curry County Finance Director. The employee will only be able to receive and accept the payment with any court document if the employee is on his/her own private time. No exempt employee shall accept any payment and said exempt employee shall be required to turn over the same to the Curry County Finance Director within two (2) business days of receipt of the same.
- E. PAY PERIODS/WORK WEEK.** A "pay period/work week" is a two-week period beginning on a Sunday at 12:01 a.m. and ending fourteen (14) days later on Saturday at midnight. The method of payment results in twenty-six (26) pay periods per year. All employees shall be paid by direct deposit. All terminations, voluntary or involuntary will receive a check for their final payment and must be picked up in person at the Personnel Coordinator's office. Direct deposit/checks will be issued

every other Friday. If a holiday falls on Friday and the banks are closed, paychecks will be direct deposited on Thursday. Direct deposit/checks may be issued early, but only in the event of an emergency and approved in writing by the County Manager. If an employee has not completed all of his/her required enrollment paperwork for the County or, has not completed his/her timesheet in accordance with County policies, the County Finance Director has the authority to change the paycheck to a hardcopy check and require the employee to come to the County Finance Director's office to pick up his/her paycheck and, to correct the matter or perform what other tasks are required to bring the paperwork into compliance with County policies.

F. PAYROLL DEDUCTIONS. There are several items for which payroll deductions may be made from an employee's paycheck. Any and all mandatory deductions will be automatically withheld from an employee's paycheck. If the employee desires to secure group insurance, or other non-mandatory withholdings, the employee's portion will be deducted from his/her paycheck.

G. OVERTIME PAY AND COMPENSATORY TIME FOR NONEXEMPT EMPLOYEES. Overtime is actual time worked in excess of forty (40) hours in a work period of seven (7) days. In computing the number of hours worked during the week for overtime purposes, time absent from work, such as sick leave, annual leave, personal leave, compensatory time, and administrative leave shall not be computed as hours worked. Employees covered by the Fair Labor Standards Act, other than those involved in a public safety activity, who are required to work more than the forty (40) hour work week shall be compensated for such overtime work by the award of compensatory time off at the rate of one-and-one-half (1½) hours for each hour of overtime worked as required by FLSA, to a maximum of forty (40) hours of compensatory time.

Employees compensated by grant funds which does not provide or allow for overtime cannot accrue overtime pay and will not be paid overtime by the County. It will be these individual's duty and obligation to work with the Department Head or Supervisor to adjust their schedule so as not to incur overtime.

Compensatory time shall be taken within sixty (60) days in which the compensatory time was earned, unless otherwise approved by County Manager. If the amount of compensatory time is at a level that causes hardship and liability to the County or if the employee is unable to take the leave within the designated time, the County Manager shall have the authority to pay the employee the compensatory time in the employee's paycheck instead of being allowed to continue to accrue. Sheriff's Department and Detention Officers required to work more than eighty-six (86) hours during a fourteen (14) day period shall be compensated for such time by the award of compensatory time at the rate of one-and-one-half (1½) hours for each regular hour of overtime worked as required by FLSA. Straight time will be paid for the first 86 hours in fourteen (14) day pay period for law enforcement personnel.

Overtime shall be kept to a minimum and authorized only under special circumstances. Such overtime can only be authorized by the Department Head. Compensatory time off will be approved at the discretion of the Department Head.

Employees shall be encouraged to utilize such compensatory time and not to accumulate the same. Employees shall for each hour accumulated beyond the maximum compensatory time allowable be compensated one-and-one-half (1½) times the employee's hourly rate, if applicable. If compensatory time is applicable, the rate shall also be one-and-one-half (1½) times the employee's hourly rate. In the case of a termination of employment, an employee shall be paid for unused compensatory time at the rate of compensation not less than the regular final rate received by the employee.

Outside employment for Sheriff Deputies for special events will be paid at time and a half and not calculated as time worked for the County. Curry County pays through the Administration Department for hours worked for outside agencies and is reimbursed by the outside agencies. (Example: football games, Clovis Schools). Said procedure is attached hereto and may be amended from time to time by the Curry County Commission.

- H. OVERTIME PAY AND COMPENSATORY TIME FOR EXEMPT EMPLOYEES.** Exempt employees are on call and may have to work early, late and/or on weekends. With the County Manager's prior written approval, an exempt employee may request to work on a Saturday, Sunday, or holiday in lieu of working a day during the normal week, Monday through Friday, but only under unique circumstances, which are set forth in writing. Exempt employees must claim annual, personal or sick leave if they do not report to their County office for a minimum of four (4) hours a day during the normal work week. The exempt employee may be providing and performing County work from home, or taking calls or responding to issues at home, but the same does not constitute reporting to the exempt employee's County office, and leave must be taken. In unusual or special circumstances, permission may be granted in writing by the County Manager for an exempt employee to work from his/her home or other places outside his/her County office. With the approval of the County Manager, exempt employees may be assigned four (4) ten (10) hour days of being in the office and the fifth as available to serve an on-call capacity. If that is the case, they do not have to take vacation, annual or sick for the fifth day of the work week.
- I. GRATUITIES.** County employees shall be prohibited from accepting gifts or other considerations of \$25.00 value or more from vendors given with the intent of modifying the employee's performance of his/her duties or encouraging the employee to make purchases of material or services from the vendor involved. Any attempt to influence an employee's performance of his/her duties by a vendor or other person must be reported to the Personnel Coordinator.
- J. TIME SHEETS.** Time sheets are to be filled out each pay period by every County employee. At the completion of such pay period, the employee and Department Head must approve and sign the time sheet. In addition to time worked each day, holidays, time spent on annual leave, sick leave or other leave during the pay period, must be recorded on the time sheet. Any special considerations should be noted on the time sheet and initialed by the Department Head. The Department Head will be responsible to see that the time is keyed into the computer system and time sheets are then forwarded to the Finance Department on Monday of County payroll week.

No changes shall be made to a time sheet after said time sheet has been initialed by the Department Head, without prior consultation with the Department Head. Any changes, corrections, additions or modifications to an employee's time sheet must also be initialed by the Department Head prior to implementation.

- K. PERA BENEFITS.** All County employees except student, temporary and part-time with nineteen (19) hours of work or less per week, are required to join the Public Employees Retirement Association of New Mexico (PERA). Copies of the latest PERA rules and provisions may be obtained in the office of the County Personnel Coordinator.

Employees planning to retire should initiate the process at least three (3) months before the projected date of retirement.

If an employee is drawing a pension from Public Employees Retirement Association, it is the responsibility of the employee to notify the Personnel Coordinator within thirty (30) days of being hired.

- L. OPTIONAL MEDICAL AND OTHER INSURANCE BENEFITS.** The County provides optional medical and other insurance benefits to all employees except temporary employees, student employees and part-time employees who work nineteen (19) hours of work or less per week. Insurance plans may be changed at the discretion of the County Commission and specific benefits of the current policy may be obtained from the Administration Department. The County pays a portion of the total premium and the employee pays the remaining amount. The amount paid by the County is determined by the Curry County Board of Commissioners and may be changed or modified by Commission action. Employees working less than forty (40) hours per week as well as employees that are on leave without pay during the two week pay period will have their insurance benefits prorated accordingly. Since the County pays insurance premiums in arrears and on a bimonthly basis, for purposes of this section, cancellation of benefits shall be determined by the final payment date of their premium, either the 1st or 16th of the month.

SECTION 10. LEAVE AND HOLIDAYS

- A. AUTHORIZED LEAVE.** Leave is any authorized absence, with or without pay, during regularly scheduled work hours which is approved by the proper authority in accordance with the provisions of these policies. All leave must be deducted from the employee's annual leave, personal days, and/or sick leave.

Leave is granted in accordance with work-load requirements in the department and is subject to the approval of the Department Head.

The Department Head is responsible for the maintenance and transmittal of leave records for their department to the Administration Office.

- B. UNAUTHORIZED LEAVE.** Absence without approved leave is subject to disciplinary action and shall result in a loss of pay. Absence without leave for three (3) consecutive scheduled days shall be considered job abandonment and the employee shall be terminated.

An employee who is unable to attend work must notify his/her Department Head as soon as practicable, but in no event later than two (2) hours prior to the start of his/her next shift or time to work. Failure to call or notify the immediate supervisor or Department Head within this two (2) hour period shall constitute an unexcused absence. Within a reasonable time, but no later than three (3) calendar days after the absence, the employee must follow up and obtain written approval from the employee's Department Head or Elected Official. While the original notification may be by any means, including texts and/or phone calls, as soon as practicable, the employee shall provide his/her Department Head with written notification documenting the absence and reason therefore.

Upon receipt of written notification of absence by an employee, the Department Head must, in writing, authorize that employee's absence and provide the Personnel Coordinator with a copy of the same.

C. ANNUAL LEAVE (VACATION). County employees, other than elected officials, appointees not under contract, temporary employees, student employees and all part-time employees accrue annual leave on the following basis:

- | 1. Total years of
<u>Service</u> | County Accrual Rate
<u>Bi-Weekly</u> | Annual
<u>Leave</u> |
|-------------------------------------|---|------------------------|
| 0-72 months | 3.077 hours | 10 days |
| 73-120 months | 4.615 hours | 15 days |
| 121+ months | 6.153 hours | 20 days |
2. Once an employee is designated as a Department Head, that person shall, at that time, accrue annual leave at the level of those employees who have worked 73-120 months as of the date they become a Department Head, or they shall retain their own level of annual leave, whichever is higher.
 3. Employees do not accrue annual leave for time worked in excess of forty (40) hours per week.
 4. Part-time employees who work more than twenty (20) hours per week accrue annual leave on a pro-rata basis.
 5. Upon termination from County employment, an employee shall be paid for his unused, accrued annual leave.
 6. An employee may take annual leave subject to approval of their immediate Department Head just prior to resignation.
 7. After the initial first year of employment, annual leave accrued at the end of a calendar year must be taken within the next calendar year or it will be forfeited, unless permission to the contrary is granted by the County Manager. The County Manager may only authorize an additional twelve (12) months within which the employee must take and/or use said leave.

8. Vacations shall be scheduled with the employee's immediate Department Head as early in the year as possible. Approval of vacation requests is contingent upon departmental needs.
9. A probationary employee shall not be able to use accrued annual leave until completion of the probationary period, unless it is approved prior by the Department Head or the County Manager. Any such approval must be in writing, provide an explanation and must be signed by the Department Head or County Manager. A copy of said notification shall be provided to the Personnel Coordinator.
10. Annual leave shall not be charged in less than multiples of one-quarter (1/4) hour unless approved by the Department Head.
11. Temporary employees, student employees and part-time employees working nineteen (19) hours or less per week do not accrue annual leave.
12. Annual leave may be taken only with prior approval of their Department Head.

D. HOLIDAYS.

1. Days off for legal holidays for County employees will be designated by the Board of County Commissioners at least annually.
2. Temporary employees, student employees and part-time employees working nineteen (19) hours or less per week are not entitled to holiday pay.
3. Those employees, other than full-time employees who work more than twenty (20) hours, shall incur holiday benefits on a pro-rata basis, depending on the number of hours of work above twenty (20) hours per week.
4. For employees whose regular work schedule includes the Monday through Friday five (5) week days, when the holiday falls on a Saturday, the holiday will be observed on Friday, and when the holiday falls on Sunday, the holiday will be observed on Monday, unless the Board of Curry County Commissioners chooses to do otherwise.
5. When a holiday falls during an employee's vacation, the day shall be counted as a holiday and not a vacation.
6. Detention officers will be compensated for each holiday as approved by the Board of Curry County Commissioners.
7. In order to receive pay for a designated legal holiday, employees shall be in a work or paid leave status on their scheduled work day immediately preceding and following the holiday, or must have worked on the stated holiday. An employee absent without leave on their scheduled work day before or after a holiday is not eligible to receive pay for that holiday.

8. When an employee, other than an employee of the Sheriff's Department or the Detention Facility, is required to work on a County designated holiday, that employee will be paid time and a half for the hours worked.

E. PERSONAL HOLIDAY. In addition to designated holidays, each employee who has completed six (6) months of employment is entitled to eight (8) hours personal holiday per year. The personal holiday may be taken at any time with the approval of the immediate Department Head or his/her designee. This holiday must be used during the calendar year and may not be carried forward to the next calendar year.

F. SICK LEAVE.

1. Accrued leave may be granted to an employee when personal illness keeps the employee from performing the duties of his position. Sick leave shall be accrued at the rate of eight (8) hours per month or a total of ninety-six (96) hours per year. Unused sick leave shall accumulate from year to year to a maximum of nine hundred sixty (960) hours. There shall be no pay compensation for sick leave upon termination.
2. Sick leave should be used only as needed for sickness or illness of the employee. Abuse of sick leave is considered just cause for disciplinary action. Abuse of sick leave includes, but is not limited to, the use of sick leave for purposes other than those stated in this policy and patterns of sick leave usage on the day before and after the employee's days off; and before and after a holiday. If an employee has used all accrued sick leave, he may be allowed to use his accrued annual leave (vacation) as sick leave.
3. For each and every day that an employee is unable to come to work as a result of sickness or illness, said sick leave shall be reported to the employee's Department Head by the employee or immediate family member prior to that employees' scheduled time to appear at work.

For all Detention Center and Sheriff's Office employees that are unable to come to work as a result of sickness or illness must call in and provide at least two (2) hours advance notice of their inability to come to work.

The employee's failure to notify his/her Supervisor or Department Head of their inability to work as a result of illness or sickness as required herein, unless an emergency, may result in disciplinary action against said employee.

4. Sick leave of three (3) days or more in duration shall not be approved unless the employee's Department Head or Supervisor, or the County Personnel Coordinator, is provided with a certification by a physician stating the nature of the illness and also stating the time of the employee's ability to return to work. Any doctor's certification received by the employee's Department Head or Supervisor shall be sent to the County Personnel Coordinator within 24 hours of receipt and a copy of the medical certification will be filed in the employee's medical file.

5. A doctor's certification may be required at any time the Department Head suspects the abuse of sick leave and may be made a condition of future requests until the Department Head is convinced that the abuse has stopped. It is also the responsibility and obligation of management to ensure that sick leave is not abused. Therefore, the County shall investigate any suspected abuse of sick leave and any failure to cooperate with any such investigation by the employee or the employee's health provider shall result in the denial of pay for the leave requested and the possibility of disciplinary action against the employee. All medical records and information shall remain confidential.
6. An employee may use accrued sick leave to care for their own health, dependent children, or spouse. A doctor's certificate shall be required stating the family member's condition when the employee returns, if more than three (3) work days are taken.
7. Part-time employees who work twenty (20) hours or more per week accrue sick leave on a pro-rata basis.
8. Temporary employees, student employees and all other part-time employees do not accrue sick leave.

G. EXHAUSTION OF SICK LEAVE. When an employee has exhausted all accrued sick leave, vacation leave, and any and all accrued comp time, and still requires additional time off due to a catastrophic illness or disability of the employee or employee's spouse or child, the County Manager, Department Heads, grant employees, appointees and Chief Deputies may, with County Manager approval, donate up to a total of sixteen (16) hours each of their accrued sick leave time during any fiscal year, to that employee.

If an employee requests additional sick leave, the County Personnel Coordinator shall advise all County employees of the request. All donations are to be done on a strictly volunteer basis. All requests for sick leave and all donations must be submitted in writing. Any employee wishing to donate his/her sick leave must contact the County Personnel Director. The County Personnel Director will then notify the County Manager of the employee's request for voluntary donations and seek the Manager's approval or disapproval of the same. The donation of sick leave time is contingent upon County Manager approval and any employee aggravated or aggrieved by the Manager's action may request to take the matter before the Curry County Board of Commissioners at their next scheduled Commission meeting. The requesting employee shall be notified within twenty-four (24) hours of Commission action.

No employee will be eligible for sick leave until the employee has been off work a minimum of ten (10) consecutive working days without pay. An employee requesting to draw additional sick leave must have a reasonable expectation of returning to work for the County in order to be eligible. Maximum time to be transferred to any employee during any one catastrophic illness or disability will not exceed the hours equivalent to three (3) months of that employee's regular annual work schedule.

If approved by the County Manager, the information will be forwarded to the Payroll Office which will convert all hours to dollars based on the contributor's hourly rate and then re-convert all dollars back into hours based on the user's hourly rate. The Payroll Office will provide written notification to each employee of the date said employee's sick leave was deducted. If there remains any contributed unused leave, said unused leave will revert back to each/all of the donating employees on a prorated basis.

All information pertaining to requesting employee's health or medical condition shall remain confidential and all HIPPA rules and regulations shall be complied with unless requesting employee has signed a waiver of his/her HIPPA confidentiality rights. No information regarding the type or nature of the catastrophic illness or disability shall be shared or provided to any third person.

- H. MATERNITY LEAVE.** Maternity leave may be granted to permanent employees. The employee shall be granted maternity leave without pay; however, the employee may elect to utilize any accrued sick leave or vacation leave prior to leave without pay, however, in this situation the employee shall declare the use of such paid leave as FMLA in advance of the utilization of the leave. All privileges and benefits shall apply in the case of maternity leave, without pay, as with any other employee on sick leave or other leave without pay. An employee must submit a physicians' written statement indicating the approximate date of birth and the recommended time to take maternity leave before leave will be considered. An employee will be expected to return to work within twelve (12) weeks following termination of the pregnancy except when complications develop, in which case return to work shall be as soon as permitted by a signed release from the employee's physician. If, after six (6) months, the employee is still unable to return to work, she shall be terminated without prejudice.
- I. BEREAVEMENT LEAVE.** In the event of a death of a member of an employee's immediate family, the employee will be entitled to a bereavement leave which will be deducted from accrued sick leave. This leave will be with pay and may not exceed five (5) working days in length. Immediate family members are defined as the employee's spouse, children, parents, siblings, grandchildren, grandparents and like relations of employee's current spouse. In extenuating circumstances, such as travel out-of-state of the funeral services for an immediate family member, an employee may use his accrued annual leave as additional bereavement leave. An employee shall notify his Department Head prior to taking bereavement leave. Employees are entitled to use their accrued annual leave for extended bereavement beyond the five (5) working days.
- J. ADMINISTRATIVE LEAVE.** Department Heads may authorize the paid leave to allow an employee to attend meetings of Boards and Commissions when the employee's attendance is on behalf of the County and in the best interest of the County. If the employee is paid by the Board or Commission for his travel and attendance, that money shall be turned into the County or its equivalent subtracted from the employee's pay.

A Department Head may initiate administrative leave pending a disciplinary action.

K. OPTIONAL BENEFITS. For Elected Officials and employees that separate from service through retirement, resignation or termination, who have worked less than 80 hours but more than 40 hours during the two week period during their last two week period, insurance benefits will not be prorated. If the Elected Official or employee worked less than 40 hours, the insurance benefits will be canceled the last pay period prior to the Elected Official or employee's termination.

L. LEAVE FOR UNFORESEEN CIRCUMSTANCES. The County Manager, after consulting with Elected Officials, may send employees home from work, with pay, due to unforeseen conditions beyond the County's control that prevents the employee(s) from performing his/her duties.

M. INCLEMENT WEATHER CLOSURE.

1. For the safety of County employees and the public, when conditions dictate, the Curry County Manager is authorized to make a determination by 6:30 a.m. regarding any closures or delays, and at anytime thereafter regarding any early departure due to inclement weather. The County Manager will send a text to the County Department Heads at that time for them to notify their department or office employees. The County Department Head is responsible to make sure that any notices of statutory required functions (voting, payment of taxes, recordings, etc.) are handled and the public is accommodated if there is a delay as a result of inclement weather.

Upon notification by the County Manager, the County IT Director shall post the closure, delays or early departure on the County Website and Facebook page.

The County Facilities Maintenance Supervisor or designee will be responsible to make sure proper notice is posted on the County Administrative Building, County Courthouse doors informing the public of any closure, delayed openings and/or early departures.

Any employee who does not show up for work on a day where there is authorized/approved leave for a weather delay, will need to take a full eight (8) hours of personal or sick leave. Any such leave shall not be prorated regardless of whether the County is opened or not. All employees are still required to complete a timesheet regardless of inclement weather on days when timesheets are due.

Any employee, as a result of inclement weather, who does not feel safe in going to work at the County as a result of inclement weather, shall be authorized to use his or her vacation for that period. Said employee(s) shall contact their supervisor and/or Department Head within thirty (30) minutes of the time that the County opens after the time that County employees are required to report to work on said day.

Those employees that do come in at the regular time, or prior to the delayed time, will not receive any additional compensation or benefit from doing so. If an employee is already scheduled for vacation on the day of any inclement weather delay, closure or early departure, said employee(s) will not receive

the benefits of inclement weather pay, but rather their time off will be charged to vacation.

2. The provisions of this Section only apply to non-essential Curry County personnel, and do not apply automatically to the Sheriff's Office, the Detention Facilities and/or the Road Department. Should Curry County be under an automatic delay based upon the school closure or delay or, if Curry County has been closed or delayed as a result of County Manager's decision, then the Sheriff, Detention Administrator or Road Maintenance Superintendent and Facilities Maintenance Superintendent shall determine which personnel, if any, in their respective departments are authorized to arrive late or depart early from work.

N. OCCUPATIONAL INJURY LEAVE/WORKERS COMPENSATION. Employees injured on the job or suffering from occupational diseases as defined in the New Mexico Workers Compensation Statute, NMSA 1978, 51-1-1 et. seq., shall receive workers compensation benefits as prescribed by law.

1. Reporting procedure: All work-related injuries requiring medical attention must be reported to the employee's Department Head immediately, but in no event later than twenty-four (24) hours following the incident/accident. For every work-related injury reported, the Department Head will be responsible for having the employee complete a Notice of Accident and First Report of Injury Form, which is to be filed with the Safety Officer within twenty-four (24) hours of the injury. The incident/accident report should be signed by the employee. In addition, the Department Head's incident/accident investigation report, if any, must be filed on the following work day. All accidents, however minor, shall be reported.

Each and every written notification received, shall be promptly delivered to the Safety Officer, or in the absence of the Safety Officer, then directly to the Personnel Coordinator, who will ensure that the County's workman's compensation carrier is notified and the Safety Officer shall contact the employee to ensure that all necessary/proper forms are completed

An employee injured on the job may use accrued leave for the first seven (7) scheduled working days after the injury occurs. If the employee is off of work because of a work-related injury for more than seven (7) days and receives Workers Compensation benefits for the first seven (7) days, the employee will reimburse the County for that amount which he received in Workers Compensation benefits for the first seven (7) days. Upon payment, County will reinstate employees leave days.

An employee will receive the Workers Compensation benefits as provided by law. The employee will not draw any pay from the County until he is able to return to work. Accrued leave may not be used to supplement Workers Compensation benefits. County employees will not accrue benefits while on Workers Compensation.

2. If an employee is unable to work because of an on the job injury, Curry

County will pay the County's portion of the employee's hospitalization insurance for a period not to exceed three (3) months. It will be the responsibility of the employee to furnish the employee's portion of the medical insurance premium to the Finance Department on or before regularly scheduled paydays. After a concurrent disability period of three (3) months, if an employee is still unable to return to work, the County will then require the employee to pay both County and employee portions of medical insurance if the employee wishes to keep the insurance in force. That status will remain for a period of time not to exceed six (6) months. Refer to Section 5-H of this manual.

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

- 1. Jury Duty.** Employees will be granted Civic Duty Leave with pay for the purpose of serving as a juror in Federal Court or the State Court of a political subdivision. Pay while serving as a juror shall be authorized only for those days that the employee was scheduled to work. If excused by the Court during a working day, the employee is expected to return to duty if at least one (1) hour of County duty can be served in the work day. If the employee does not return to work, the balance of the day will be charged to annual leave or leave without pay. Employees receiving Court leave with pay shall turn any fees received for such Court service to the County.
- 2. Court Appearances.** If an employee is required to testify in court, at a personnel hearing, public body or commission hearing as a requirement of his employment, the employee will receive pay. If an employee is called to testify on behalf of the County on his scheduled day off, the employee will be paid overtime or will be given compensatory time off upon proof of said Court appearance, and at the discretion of the Department Head.
- 3. Summons, Subpoenas Court Order, Etc...** A summons, subpoena, or court order, or any other document that is being served on a County employee, shall only be received and/or accepted by the named employee. Regarding subpoenas issued by the Curry County Sheriff's Department, Sheriff's Department may make arrangements with other departments, including but not limited to the Detention Center, to serve subpoenas on designated County employees within that department. Each department shall ensure that any subpoena that is served or delivered to a designated individual will only be accepted if the employee named on the subpoena is at work or will be at work on the day that the subpoena is delivered. If there are any payments made with the subpoena, to the employee, and they are being compensated by the County for the time they are ordered to appear on the subpoena, the employee shall deliver the check for his/her appearance to his/her immediate Department Head, who shall deliver the same to the County Finance Director. The employee will only be able to receive and accept the payment with any subpoena if the employee is on his/her own private time. No exempt employee shall accept any payment and shall be required to turn over the same to the County Finance Director.

4. Voting Time. For purposes of a national, state, or local election, an employee who is registered to vote will be granted up to two (2) hours paid leave for voting between the time of opening and the time of closing the polls. The employee's Department Head may specify the hours for the leave. This leave will not be granted to any employee whose work day begins more than two (2) hours subsequent to the time of the opening of the polls or ends more than three (3) hours before the closing of the polls. This leave shall be used for no other purpose than to vote and the County may verify if the time was used appropriately. The misuse of the leave will be subject to disciplinary action including possible dismissal.

P. MILITARY LEAVE. Military leave is granted for authorized reserve or National Guard activities for a maximum of fifteen (15) working days during a one (1) year period. Military leave must be provided twenty (20) days in advance or within twenty-four (24) hours of being notified of receipt of the order(s). The employee must furnish proof of duty orders and other documentation prior to leave being granted unless the leave is for emergency purposes.

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

1. The returning employee will be deemed to have accrued seniority and length of service rights as though his/her employment with the County had been continuous since the date of initial employment.
2. The employee taking military leave shall not be required to exhaust annual or sick leave. The returning employee shall have all annual and sick leave accrued at the time of his/her departure for military service restored.

R. LEAVE WITHOUT PAY. County Manager may grant classified/unclassified employees leave without pay for a period not to exceed six (6) months, upon recommendation by the Department Head or Personnel Coordinator when deemed that such leave without pay is in the best interest of the County. Reasons for such a leave may include, but are not limited to: sabbatical; education; medical disability; pregnancy; or birth or adoption of a child; and the need to care for a family member, including a new-born. Leave without pay is subject to the following conditions:

1. **Position Upon Return.** If an employee returns to work within twelve (12) weeks, the employee will be returned to the same position. If the employee is on leave without pay for more than twelve (12) weeks, the County will attempt to return an employee to the same or similar position for which the employee

is qualified. The position of an employee on leave without pay, for more than twelve (12) weeks, shall not be guaranteed.

2. **Use of All Leave.** Prior to going on leave without pay, an employee requesting leave without pay shall use all available annual leave and sick leave if the employee is seeking leave without pay for medical or post-natal care purposes. If taken in conjunction with an FMLA covered situation all paid and unpaid leave shall apply to the FMLA coverage requirement.
3. **Physicians' Certificate.** Leave without pay requested because of medical reasons or pregnancy related purposes must be accompanied by a physician's written statement indicating the estimated time of disability or recommended time for postnatal leave. Employees returning to work from leave without pay due to medical or pregnancy related reasons must be released by their physician to return to work without restrictions or limitations. All such restrictions and/or limitations must be clearly stated. Proof of release must be presented to the County Personnel Coordinator.
4. **Vacancies May be Filled by Temporary Employees.** Temporary personnel may be hired throughout the County to fill vacancies created by an employee who is on leave without pay.
5. **Benefits of Employee's Expense.** Employees on leave without pay do not accrue leave, nor do they receive County benefits. Employees wishing to continue their insurance benefits may do so at their own expense by submitting the employee's and the County's share of the premium to the Administration Department on each regular pay day.

S. FAMILY AND MEDICAL LEAVE.

1. Curry County will provide under the Family and Medical Leave Act up to twelve (12) weeks of leave during any twelve (12) month period for eligible employees. The eligible employee will be returned to the same or similar position to the one held prior to the leave. Curry County will maintain group health insurance coverage during the leave period. The employee must reimburse the County for the employee's portion of the insurance premium. The leave may be taken for one or more of the following reasons:
 - a. the birth of a child, the adoption of a child;
 - b. the placement of a foster child;
 - c. the care of a sick spouse, child or parent if that individual has a serious health condition;
 - d. due to the employee's own serious health condition; or
 - e. Any qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty".

- 2. A serious health condition means an illness, injury, impairment or physical or mental condition that involved in-patient care in a hospital, hospice, or residential care facility or continuing treatment by a health care provider. The employee must provide written documentation, by a licensed qualified health care provider, of the serious health condition.**
- 3. To be eligible for family or medical leave under the Act, the employee must have been employed by Curry County for at least twelve (12) months and for at least 1,250 hours during that twelve (12) month period. Additional leave does not become available under FMLA until a date twelve (12) months after the leave period begins.**
- 4. Curry County requires that any of the employee's available leave be used prior to any leave under this provision being granted. Once the authorized leave is used, the employee shall be eligible for the twelve (12) weeks leave under the family and medical leave.**
- 5. Where leave is to be taken for the birth or placement of a child for adoption or foster care, the leave may not be taken intermittently or on a reduced leave schedule.**
- 6. When the leave to be taken is to care for a sick family member with a serious health condition or due to the employee's own serious health condition, the leave may be taken intermittently or on a reduced schedule when medically necessary.**
- 7. When the necessity for the leave is foreseeable, the employee must provide at least thirty (30) days notice of the employee's intention to take leave. If the date of leave is not foreseeable, the employee must provide notice as soon as practicable.**
- 8. Curry County requires that a leave request based on a family member's illness or the employee's own serious health condition be supported by a certification of a health care provider. The certification must contain:**
 - a. The date the serious health condition began, the probable duration of the condition, and the appropriate medical facts regarding the condition.**
 - b. If the leave is based on care of a spouse, child or parent, a statement that the employee is needed to care for the individual and the estimated amount of time needed for that care.**
 - c. If leave is based on the employee's own serious health condition, a statement that the employee is unable to perform the functions of his/her job.**
 - d. In the case of intermittent leave on a reduced schedule for planned medical treatment, the dates the treatment is expected to be given and the duration of the treatment.**

- e. Curry County requires each employee taking leave due to the employee's serious health condition to obtain certification that the employee is able to resume work without limitations and/or restrictions.
9. An employee who is the spouse, son, daughter, parent, or next of kin of a current service member with a serious injury or illness incurred in the line of duty on active duty may take up to twenty-six (26) workweeks of FMLA leave during a single twelve-month period to care for the service member.
 10. Any employee who takes leave under this section is entitled to be restored to his/her old position or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment. No employee benefits accrued before the date leave began will be lost. An employee is not entitled to an accrual of seniority or benefits for the leave period. The term benefits means all benefits provided or made available by the County including group life, health, disability insurance and retirement, and educational benefits.
 11. Curry County may deny job restoration to certain highly compensated employees who are among the highest paid 10% of the employees of the County who work within seventy-five (75) miles of the facility where the employee works.

This exception only applies if:

- a. The denial of job restoration is necessary to prevent substantial and grievous economic injury to Curry County's operation.
 - b. Curry County notifies the employee of the County's intent to deny restoration when the County first determines such economic injury would occur.
 - c. The employee has begun leave and, after receiving such notice elects not to return to work.
12. Curry County will maintain coverage under any group health plan for any employee who is taking family leave or medical leave under the Act. Coverage must continue for the duration of the leave at the same level and under the same conditions coverage would have been provided if no leave had been taken.
 13. If an employee fails to return to work after the leave expires, Curry County will recover the premium the County paid for coverage during the leave period. If the employee does not return due to a continuation, recurrence, or onset of a serious health condition to a family member of the employee that would otherwise entitle the employee to take leave, or due to other circumstances beyond the control of the employee, Curry County will not recover the premium.
 14. Curry County requires that an employee claiming an inability to return to work due to a continuation, recurrence or onset of a serious health condition, provide certification from a health care provider to that effect.

SECTION 11. INFORMATION TECHNOLOGY USER AND SECURITY POLICY

A. PURPOSE.

1. The purpose of the *Information Technology User and Security Policy* is to help protect Curry County, its employees, and any authorized user of Curry County's Information Technology from liabilities and service interruptions due to inappropriate use of Curry County's desktop computers/terminals and/or information technology services and breaches of information technology security.
2. Information technology means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. Information technology systems/tools are to be defined as all hardware, software and any automation services or tools owned or licensed to Curry County and available for official use by Curry County employees and all authorized personnel including, but not limited to, desktop computers/terminals and related peripheral equipment and software, telephones and voicemail, internet connectivity and access to internet services and email.

B. POLICY

1. This policy documents the authorized user's responsibility to safeguard the desktop computer/terminal equipment and information from accidental or deliberate unauthorized access, tampering, snooping, distribution, or destruction. It provides guidance for the use of Curry County's Information Technology through a responsible, efficient, ethic and legal manner of County business purposes only, in accordance with the mission, policies and operating procedures of the Board of Curry County Commissioners. Users may be disciplined for noncompliance with this policy. This policy does not purport to address every information technology operating and security issue. It is the user's responsibility to use sound judgment. Should a user identify an issue or situation that they are not certain how to deal with, they should consult with their supervisor, Department Head, or the Information Technology Department.
2. Curry County may change the policy at any time. Awareness Training will be conducted by the IT Administrator, as required, and must be attended by all users of Curry County's information systems. The Information Technology User and Security Policy should be distributed to all current and newly-hired Curry County employees. The employee should carefully read and sign the "Information Technology User/Access Release" form attached. The signed form should be given to the County Personnel Coordinator upon execution and become part of the permanent personnel file.

C. USE OF EQUIPMENT.

1. **Use for Authorized Purposes Only.** The use of all Curry County Technology systems/tools is restricted to authorized purposes only. Under no circumstances shall Curry County Information Technology systems/tools be used for any commercial purpose, or to publish, disseminate or communicate to the public, any material of a religious, obscene or derogatory nature. Curry County Information Technology systems/tools may not be used for the following:
 - a. Violation of any public laws;
 - b. Distributing or accessing profane or obscene language or graphics;
 - c. Copying commercial software in violation of copyright law;
 - d. Using the network resources for personal financial gain or any commercial or illegal activity; or
 - e. Permitting any users/persons access to tools, network systems and applications that have not been authorized or established as a valid user by Curry County and the Department of Information Technology (IT).

Use of Curry County Information Technology systems/tools for any of the above may be grounds for dismissal, disciplinary measures for future use of equipment, and any or all of the above or other personnel measures as deemed appropriate by the County Manager, and that may be described in the Curry County Personnel Policy.

The County's computer systems, all electronic and telephonic communication information transmitted by, received from, stored in, or stored by the County's systems are the property of the County.

The Internet has sites containing offensive material and employees who access these sites at work may expose the County to liability for sexual harassment or other unlawful discrimination if other employees are offended by the display. In addition, access of such information is not for business purposes and is not necessary for the performance of legitimate job duties and responsibilities.

2. **Personal Uses.** Curry County information systems are intended for use for County business and job related duties, and will not be used for personal purposes.
3. **Protect Your Equipment.** All authorized users share in the responsibility to protect Curry County's information systems from physical and environmental damage/loss. Users are responsible for the current operation and physical security of Curry County's systems. Destruction, theft, alteration, or any other form of sabotage of Curry County's Information Technology systems/tools is prohibited and will be investigated and prosecuted to the fullest extent of law.

4. **Hardware Configuration Changes.** Only the IT Department Administrator can authorize configuration changes to any information systems. No one other than IT personnel can install, replace or repair attached equipment, without prior authorization. Employees shall not attach any devices to the County's systems without prior authorization by the IT Department or the County Manager.
5. **Moving Equipment.** In order to ensure the necessary connections exist in the new location and to maintain the integrity of the systems; any equipment that is to be moved requires prior approval from, and coordination with, the IT Department.
6. **Purchase of New or Replacement Equipment.** All equipment purchases that are intended to be attached, or otherwise integrated, into the existing Information Technology infrastructure require prior, written, review and/or approval of the IT Department Administrator.
7. **Care of Equipment.** Every effort should be made to keep all equipment free of dust, spills, and other pollutants. If you are unsure how to clean something, or lack the proper materials; please contact the IT Department and training/supplies will be provided.

D. USE OF SOFTWARE.

1. **Use Only Approved Software.** Software installed on and/or used by Curry County's desktop computers must have prior, written, approval by the IT Department. Only approved programs and systems may be used by Curry County employees or authorized users on Curry County equipment.
2. **Additional or New Software.** In order to comply with this policy, and allow Curry County to maintain its electronic system in a controlled manner, no new software, electronic programs, or any changes or modifications thereto can be installed or added to the Curry County systems and must first be presented to the IT Director for review. This includes but is not limited to any modification or upgrade of an existing system, as well as any and all operating software for new or additional programs. Proposed software or changes impacting multiple departments shall go before the IT Committee.
3. **Use Only Licensed Software.** Curry County does not own all of the software used, but rather licenses the right to use software. Accordingly, County licensed software may only be reproduced by IT personnel in accordance with the terms of the software licensing agreements. Unauthorized copying, redistributing, and republishing of copyrighted or proprietary material are strictly prohibited. This includes photocopying of the user and operational manuals. Copyright laws apply on Internet content.
4. **Storage of Software.** The IT Department will maintain a copy of all Curry County approved software media, its licenses and documentation.

E. ELECTRONIC DOCUMENTS.

1. **Files and Documents.** Individual files must not be password protected without prior authorization. Once authorization is obtained, a copy of the protected password will be provided to the IT Department in a sealed envelope, in case of emergencies.
2. **Data.** Users are responsible for the protection of essential data files and the security of important, confidential, or private information. All important information must be stored on Curry County Network (CCN). Storing essential information on the desktop computer is prohibited without prior authorization. CCN is equipped with electronic and physical security, and activity on CCN is monitored for tampering and other security breaches. Maintenance and back up are performed on CCN daily, and programs and other information are updated on CCN as required.
3. **Data Archiving.** Any, and all, electronic documents created in the execution of County business may be subject to Public Record, and must be archived in accordance with State Law. This archive will be maintained in accordance with the County's Document Retention Policy.
4. **Authorization.** No secure County data can be transferred, downloaded or stored on any portable device without the prior written approval of the County IT Director.

F. ELECTRONIC COMMUNICATIONS.

1. **Curry County's Email is Public Record.** There is no "right to privacy" in email communications. Email messages (both internal and via the Internet) constitute a public record and may be subject to public disclosure in accordance with applicable law.
2. **Email Best Practices.**
 - a. **Unique IDs:** The naming convention for email user IDs ensures that each user ID is unique system-wide.
 - b. **Archiving:** Archiving is a means to move messages (mail, tasks, appointments, notes and phone messages) to a specified directory on a network server, reducing the burden of messages which the email system must manage.
 - c. **Subject Title:** Make it easy for the reader to quickly locate messages by including an appropriate subject title for the message. Messages should be concise and to the point.
 - d. **Chain Letters, Spam and Hoaxes:** Do not forward email chain letters. If a hoax is received, forward to IT only, so that IT can validate the hoax and then take appropriate action.
 - e. **Training:** Curry County provides basic email training for end-users.

- f. Do not change the backgrounds, font sizes, or other formatting on email messages. If you require assistance to make your emails more accessible, please contact the IT Department.

3. Curry County Email Usage. Email can be productive and time-saving tool when properly used.

- a. Acceptable Use. The following are guidelines for acceptable use of email and communication systems.

- (1) Communications associated with conducting Curry County business.
- (2) Communications for professional development of Curry County staff;
- (3) Communications to discuss issues in support of Curry County;
- (4) Any other administrative communications in direct support of Curry County.

The email system and the use of the Internet are not to be used to create, send, receive or otherwise access any offensive or disruptive information. Discrimination, harassment, or gossip utilizing computerized communication systems will not be tolerated. This prohibition includes information which includes sexual implications, racial slurs, gender-specific comments or any other comment that offensively addresses someone's age, sexual orientation, religious or political beliefs, national origin or disability. Violation involving prohibited information will also be considered a violation of the County's policy against workplace harassment.

The use of email and other electronic communication systems and the Internet is intended for County Business only and is not to be used for personal business. Under no circumstances should an employee's County email address be used for personal purposes such as; personal shopping sites, personal social network sites, etc.

4. Third-Party Email Usage. The use of third-party email (Yahoo, MSN, etc.) is prohibited on County systems without prior written approval of the County Manager or specific exemptions detailed in Section O (6).

5. Email Archiving. All email sent, or received, by the County's email server will be archived in accordance with the County's Document Retention Policy. This archive will not be accessible to County employees or the public. Access to the County archive will be in accordance with written approval from the County Manager or County Attorney.

This archive will be maintained in accordance with state law and the various County retention policies for any specific County office or department i.e. County Clerk, County Assessor, County Treasurer, Detention Center, Sheriff's Department, etc.

6. **Instant Messaging.** In some instances, the County utilizes an optional instant messaging program as part of its communication systems. This program follows all rules and guidelines as email and is both logged and archived.
7. **Phone System.** All calls into the County's phone system are logged, as well as all calls from within the phone system. These calls may be recorded.

G. INTERNET AND NETWORK USAGE.

1. **Internet Use/Access.** Internet use/access will be only used for official Curry County business.
2. **Removal of Access.** Internet access is monitored. Employees who have consistently shown internet use that is not related to their position duties will have their internet access removed after prior notification has been given to their supervisor. The restriction will remain in place until their Department Head, or Elected Official, provides a written request to have it reinstated.
3. **List Server Subscriptions.** Employees and authorized users will not subscribe to any non-work related list servers, nor access any chargeable site without prior Department Head authorization, and written notification to the Information Technology department.
4. **Posting of Public Information.** Before any information is placed on the World Wide Web, it must first be approved by the appropriate Department Head or Elected Official, in order to determine if it should be released to the public. The cornerstone of screening information is for the originating Department to have a complete understanding of the information, the information's value, and whether it can be released for public viewing. No privacy act or sensitive information is to be made available on the Web. Any postings to official Curry County websites will be performed by the IT Department or designated employees.
5. **Posting to Public Website.** Posting is defined as an employee submitting information to any publicly accessible forum, or website which displays, or otherwise presents, the information. This includes, but is not limited to; blogs, social networks, discussion boards/forums, mailing lists, and website comment sections. Posting to public websites is prohibited on County computer systems without prior written approval from the County Manager, and written notification to the Information Technology Department.

H. COMPUTER VIRUSES.

1. **Guard Against Computer Viruses.** Employees will not load software programs or download files to their computers either directly from the Internet or from discs or other devices without prior authorization from the Information Technology Department. If you believe that your computer has contracted a virus, or other malicious software, inform the IT Helpdesk immediately as to limit the impact on the rest of the County's network.

2. **Viruses and Network Access.** Any computer that has been reported as being infected with a 'moderate' or higher infection will have its network access removed until the IT Department can verify and remove the risk.

I. ADDITION AND REMOVAL OF COUNTY STAFF.

1. **New Hires.** The Personnel Coordinator is responsible for notifying the IT Department when an employee has been hired that requires an email, computer account or any other access to Curry County systems at least two days prior to the starting date of the employee.
2. **Position Changes.** The Personnel Coordinator is responsible for notifying the IT Department if an employee changes position, within the county, that requires their permissions and access to be modified. This notification shall be done within two days of the position change.
3. **Terminations.** The Personnel Coordinator is responsible for immediately notifying the IT Department if an employee is terminated so that their access can be removed.

J. VIOLATIONS.

1. Misuse of Curry County's desktop computers/terminals, information technology services, and branches of information technology security are violations of this policy and may result in disciplinary action, up to and including termination of employment.

K. GUEST USE OF COUNTY EQUIPMENT.

1. **Guest Definitions.** For the purpose of this policy, a guest is defined as; contractors, vendors, visitors and other system users that are not employees of Curry County.
2. **Guest Authorization.** In order to protect Curry County from potential liability from misuse; all guests, as defined above, are required to fill out an IT Information and Release Form prior to connecting to the County's network. All guests are expected to adhere to the guidelines set forth in this policy while using the County's network and equipment.

L. PUBLIC TERMINALS.

1. All public terminals will have a clearly displayed notice informing users that their activities are monitored. Departments and officers will also maintain a sign-in log for all public terminals.

M. GENERAL PROVISIONS.

1. **Protect Your Password.** Passwords are to be kept private and not shared or written down. Users will be held accountable for activity performed under their password and user account. If a County employee writes down his/her password, that document shall be stored/maintained in a locked drawer.

2. **Hosting and Maintenance of Curry County Websites.** Due to the assumed liability of the County for information posted to its public website(s); all County-owned, or operated, websites must be hosted on equipment or services under the direct control of the County's Information Technology Department. Said documentation can be hosted on outside entities, but only with prior approval from the County Manager or County IT Director.
3. **Protect Your Computer When Logged On.** Desktop computers or terminals shall not be left unattended whereby inappropriate access to Curry County owned/held information may be gained by unauthorized persons. If you leave your computer/terminal, the screen shall/will be locked.

N. MOBILE DEVICES.

1. **Devices.** Personal and County-assigned mobile devices may be used to access County services and system with prior approval by the Information Technology Department. Such devices will comply with the following guidelines:
 - a. Accounts for County services will be setup by the IT Department and comply with existing password/access policies.
 - b. Connect in such a way as to allow the deactivation of the device by the IT Department.
 - c. Be protected by a password, pattern, or other methods of locking the device from unauthorized use.
2. **Acknowledgement.** All employees wishing to use a personal device to access County services must sign the Mobile Device Acknowledgement form. A copy of the signed form will be placed in the employee's personnel file.
3. **Device Data.** Personal devices accessing hosted services are not subject to Public Record requests, as all data accessed resides and is maintained on County systems. County-issued devices are fully subject to Public Records requests.
4. **Remote Administration.** All Devices accessing County services are subject to remote erasure, location, or locking in the event that they are reported as lost or stolen.

O. POLICY ADMINISTRATION AND REVIEW.

1. **Privacy Rights.** Curry County reserves the right to review all employee messages, internet use and stored data. Data on County equipment is the property of Curry County. This policy allows for the system administrator to access retained data for any of the following purposes:
 - a. To retrieve lost messages and data;
 - b. To recover from system failures or monitor system performance; or
 - c. To investigate possible security or access violations of information systems.

This policy also requires approval from the County Manager or County Attorney before the email administrator can access mailboxes for personnel issues or suspicion and any of the following:

- a. To comply with investigations into suspected criminal acts;
- b. To ensure that Curry County's systems are being used for Curry County business purposes only; or
- c. For any other purpose authorized by the County Manager.

Department Heads and Elected Officials may request logs, messages, and other data for specific employees in their department as it pertains to the execution of the employee's duties and performance.

2. **Audit Rights.** The County, at any time, and without notice, reserves and intends to exercise the right to review, audit, intercept, access and disclose any and all information created, sent, received or otherwise accessed using County equipment and systems. This includes information that has been deleted from an employee's computer which may be retrieved from the computer's backup system or through forensic analysis of the computer. Employees have no expectation of privacy in connection with the use of this equipment or with the transmission, receipt and storage of information in this equipment.
3. **Access Rights.** All IT administrators and any other person accessing information outside the normal bounds of their position must sign a Confidentiality Agreement before being allowed access to said information. Accessing said information without a signed agreement and without prior approval from the County Manager are grounds for termination of employment and/or contract.
4. **Monitoring Usage.** All computer-enabled staff are required to sign a separate acknowledgement regarding usage of County systems prior to activation and attend the mandatory, annual policy refresher course. A copy of the signed acknowledgement will be included in the employee's personnel record. All supervisors within the Curry County's departments are responsible for ensuring that their employees are aware of these policies and procedures and that they adhere to them.
5. **Public Records Compliance.** As stated above, the County maintains archives of electronic data in accordance with the Public Records Act of New Mexico. These archives will be in accordance with the Curry County Document Retention Policy. Past that initial period, the archived data will be removed and destroyed, unless the County Manager or County Attorney request certain records be kept for a longer period of time.
6. **Exceptions.** The County understands that there are certain duties and assignments that require an employee to take actions that result in a violation of this policy. The following are the specific exceptions allowed under this policy.

a. **Sheriff's Department.** Actions taken and duties performed in the course of an ongoing criminal investigation are not subject to this policy.

7. **Requests.** All information technology work orders and request, unless intended for a specific individual, shall be emailed to helpdesk@currycounty.org. Failure to properly submit a ticket may result in your request being delayed or over-looked.

P. **REFERENCES.** Computer crimes defined by New Mexico State Law can be found in the New Mexico Statutes, under Chapter 30, Article 45-1-7 (Computer Crimes Act).

Federal law (18 USC 1030) provides for fines and imprisonment up to 20 years for unauthorized or fraudulent use of computers that are used by or for the federal government (which includes much of the infrastructure of the Internet), and for the unauthorized disclosure of passwords and similar information when this affects internet commerce.

The Electronic Communication Privacy Act (18 USC 2701-2709) and other wiretap laws prohibit unauthorized interception of electronic communications, including electronic mail (email).

Computer users must also obey laws against the private use of government property, divulging confidential records, copyright infringement, fraud, slander, libel, harassment and obscenity. The New Mexico Open Records Act applies to some records stored in computers, as well as on paper.

SECTION 12. MISCELLANEOUS

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

B. **PERSONAL BUSINESS.** Personal business shall not be conducted during work hours or on County premises.

C. **SOLICITATION.** No solicitation will be allowed in a County-owned building or on County property. All legitimate proposals should be directed to the Finance Department within the Curry County Administration. Salesman should not solicit with employees.

D. **SAFETY.** The County has adopted a Risk Control Policy and will enforce such safety standards and rules as are deemed necessary for safe operations. All County employees are to comply with the County Risk Control Policy. Any violation of failure to comply with the County Risk Control Policy will result in disciplinary action.

Occupational Safety and Health Act. Curry County, in its Risk Control Policy addresses regulations under OSHA on reporting accidents and injuries. All Curry County Department Heads/Elected Officials are to ensure that they have current

Occupational Safety and Health Act notices posted conspicuously in their office space(s). The New Mexico Environmental Improvement Division, Occupational Safety and Health Unit, is responsible for enforcing the provisions of the Occupational Safety and Health Act of 1970 (OSHA) upon units of local government. This agency has the power to inspect County operations and assure compliance with the Act and will promulgate such rules and procedures for employees as to establish and maintain compliance.

Unsafe Conditions. Unsafe conditions existing in the work environment shall be reported immediately to the Department Head in order that corrective action can be taken. Machinery and/or equipment which are unsafe to operate as labeled by the Department Head will not be used until necessary repairs have been made.

Personal Protective Equipment. Protective equipment for certain jobs will be prescribed by Department Heads and must be worn by employees during the duration of the job which requires protective equipment. Failure to do so when it has been prescribed will be grounds for disciplinary action. On jobs requiring personal protective equipment, the required equipment shall be issued to the individual employee and he shall be responsible for same until it is returned at the completion of the job.

- E. WEAPONS IN THE WORKPLACE.** All County employees, with the exception of Deputy Sheriffs and Detention Transport Officers, and those employees who possess a New Mexico Concealed Carry Permit, are prohibited from carrying a handgun, firearm, or prohibited weapon into a County building or County vehicles (hereinafter collectively referred to as "County property").

Prohibited weapons. Prohibited weapons include any form of weapon or explosive device restricted under State or Federal regulations (chemical, dispensing devices such as pepper sprays that are sold commercially for personal protection are exempt from this policy).

Searches. The County reserves the right to conduct searches of any County vehicle or employee subject to this section of the policy.

Carry permits. County employees who possess a New Mexico Concealed Carry Permit are allowed to carry concealed weapons in or on County property as long as they do not violate the conditions of the permit, and they notify the County Manager in writing. County reserves the right to refuse or disallow an employee from carrying a concealed weapon in or on County property.

- F. SOCIAL MEDIA POLICY.** County respects the desire of employees to participate in social media during their personal time and not during work hours. In general, employees who participate in social media are free to publish their own personal information without restrictions by Curry County. Employees must avoid, however, posting information that could place the County at a competitive disadvantage or a legal compliance risk. If an employee chooses to identify himself or herself as an employee of Curry County on a personal website or blog, he or she must adhere to the following guidelines:

Employee must make it clear to the readers that the views expressed are the employees alone and they do not necessarily reflect the views of Curry County. Employees are prohibited from acting as a spokesperson for Curry County or posting comments as a representative of the County.

Employee may not use the County's logo on any personal social media network without permission from the County Manager or his designee in writing.

Employee may not disclose any information that is confidential or proprietary to Curry County or to any third party that has disclosed information to the County. Consult with the County Manager for guidance to what constitutes as confidential information.

Employees are responsible for maintaining the County's positive reputation and presenting the County in a manner that safeguards the positive reputation of themselves, as well as, the County's employees, managers, etc. Accessing social media for non work related activities is prohibited during working hours.

If social media activity is seen as compromising, Curry County may request a cessation of such commentary and the employee may be subject to disciplinary action up to and including termination.

G. COUNTY PROPERTY. The responsibility for County equipment or property used by an employee in the discharge of one's duties is the employees. The employee entrusted with equipment by a Department Head assumes the complete responsibility for the condition and proper use of such property or equipment from the time of assuming use or control until acknowledgment of its return by the Department Head. Monetary costs of damages to County property or equipment caused by careless, negligent or deliberate acts of omissions by the using employee shall be paid by said employee.

H. EMPLOYEE OPERATION AND USE OF COUNTY-OWNED VEHICLES. Curry County only has insurance coverage that is available to County employees traveling in County vehicles. Non-County employees, as passengers in any County owned vehicle other than individuals directly involved in County business, are also not covered under County's insurance policy. County's insurance **does not apply to County employees in non-County vehicles. County employees, upon hiring, and thereafter annually, shall be required to sign a waiver of claim form acknowledging that they understand that Curry County's insurance policy only covers County employees in County owned vehicles, and that they understand that they are responsible for and required under New Mexico law to obtain their own policy of insurance coverage regarding all non-County owned vehicles.**

1. Section 5.8 of the Curry County Vehicle Accident Prevention Program Policy is hereby deleted in its entirety and a new Section 5.8, Use of Personal Vehicles, is adopted as follows:

5.8 USE OF PERSONAL VEHICLES. The use of personal vehicles for County business is prohibited unless the individual employee can produce and provide County Manager with proof showing that the

insurance coverage on said vehicle provides liability coverage in the event of an accident in the amount of \$250,000.00.

2. The County Manager shall be responsible for establishing a pool of vehicles that are in good working condition which County employees can use if they are required to travel by motor vehicle in the course and scope of their duties as County employees.
3. All Curry County employees who are required to travel in a motor vehicle in performing their duties and responsibilities as County employees shall travel in a County insured vehicle.

Operation of County Vehicle. No employee or other individual shall operate or drive County vehicles or equipment unless the individual has proof of a current and valid license of the type necessary and has passed all appropriate tests. All County employees must also comply with and satisfy any and all requests of the Curry County Vehicle Accident Prevention Program Policy, as may be adopted from time to time, which is incorporated herein which apply to or may apply to the type of vehicle or type of driving that is being done.

Passengers in County vehicles who are not employees of the County or are covered under another governmental entity must execute a waiver of liability prior to riding in the vehicle. Waivers of liability may be obtained through the County Manager's office.

- I. **DRESS AND APPEARANCE.** County employees are constantly in the public eye. Consequently, it is important that the employees should present the best possible image to the public and should always be clean and as neatly dressed as work assignments allow.

1. **Uniforms.** If a uniform is prescribed for an employee's function, it shall be worn at all times while on duty and at no other time unless authorized by the Department Head. Failure to wear designated uniforms while on duty will be considered insubordination, unless otherwise authorized by the Department Head. Uniforms will be issued at the time of employment for positions that require them.

While attending trainings, seminars or work outside of the normal County office, uniforms may not be necessary to wear. However, all County employees are still in the public eye and are to dress appropriate. While long pants are preferred, dress shorts can be worn if it is a casual setting. Tank tops, t-shirts and other shirts with logos, pictures, wording and other similar types of tops are inappropriate.

J. CONTENTS OF PERSONNEL FILE.

1. Subsequent to hiring, a separate record file will be prepared and maintained for each employee. These records shall be kept in the County Personnel Coordinator's office. It is the responsibility of each Department Head to ensure that the records of the employees are complete and up to date.

2. It is the duty and responsibility of the Department Head/Elected Official to ensure that all documents pertaining to employees and their office or who work for/under them, are submitted to County Personnel to be included in said employee's file(s). Department Heads/Elected Officials are responsible to ensure that any and all evaluations, disciplinary documents, leave requests, training, medical records, and similar documents are to be promptly delivered to the County Personnel Coordinator.
3. Employment records, except confidential records, are subject to inspection by the general public. Confidential records may be inspected with the written permission of the employee or pursuant to a lawful court order.
4. For the purpose of inspection of public records under **Subsection B of 1.7.1.12 NMAC**, the following material shall be regarded as confidential and exempted from public inspection: records and documentation pertaining to physical or mental illness, injury or examinations, sick leave and medical treatment of persons; records and documentation maintained for purposes of the Americans with Disabilities Act [42 U.S.C. Section 12010 et seq]; letters of reference concerning employment, licensing, or permits; records and documentation containing matters of opinion; documents concerning infractions and disciplinary actions; performance appraisals; opinions as to whether a person should be re-employed; college transcripts; military discharge; information on the race, color, religion, sex, national origin, political affiliation, age, and disability of employees; home address and personal telephone number unless related to public business; social security number; laboratory reports or test results generated according to the provisions of **1.7.8 NMAC**; and as otherwise provided by state or federal law.

K. OFFICE HOURS. Curry County offices are expected to be open to the public between the hours of 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m. Monday through Friday unless it is a County approved holiday. Some offices may choose to open during the period of 12:00 p.m. to 1:00 p.m. to accommodate the public. The normal working hours for County offices may be changed with the prior written approval of the County Manager.

L. CHILD CARE AND/OR THE PRESENCE OF CHILDREN OF COUNTY EMPLOYEES DURING WORKING HOURS.

1. The County does not and cannot provide day care services for its employee's children. This service is not available and is not a benefit available to County employees.
2. Children of County employees shall not accompany their parent(s) to work under any circumstance. If an employee cannot arrange for care of his or her children, he or she must contact their Department Head and arrange for their absence from work.
3. This policy should not be considered as forbidding the occasional visit of family members or the children of County employees as long as the visit is not disruptive to the work environment, is not for an extended period of time, and the child is not left in the care of the County employee while on duty.

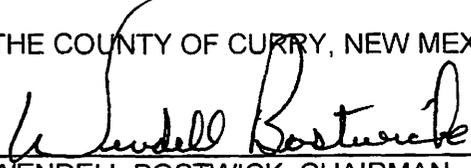
4. Any violation of this policy will result in disciplinary action up to and including termination.
5. Except for employees in safety sensitive positions, the only exception to this provision are those dates throughout the year which are designated and set aside as days to bring your child to work. During these limited times, children shall not be in the County Administrative Building or County Courthouse during times of work for extended period of time.
6. Any employee who is also a nursing mother shall be allowed flexible breaks in order to allow the use of a breast pump. The County shall provide appropriate, clean and private space (not a bathroom) near the employee's work place, but shall not be responsible for storage of the breast milk or for additional compensation beyond established break times.

M. ADULT FAMILY MEMBERS OF CURRY COUNTY EMPLOYEES. Adult family members of County employees are prohibited from accompanying the employee to work. This does not include special events and/or the occasional visit of family members as long as the visit is not disruptive to the work environment and is not an extended amount of time.

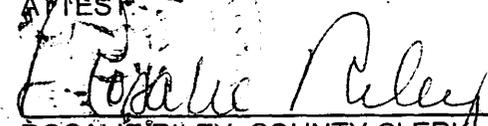
N. ON-CALL AVAILABILITY. All positions designated to be on-call, whether during scheduled times or an on-going basis, are required to maintain availability during those times they are considered to be on-call. This includes, but is not limited to, communications involving telephones, email, pagers, or any other appropriate methods of communication. Text messaging is not appropriate and shall not be used for purposes of any on-call communication. All such designated employees may request from the County Manager that they be provided a stipend to off-set the costs of their chosen means of communication. Regardless of whether they receive a stipend or not, the employee has the responsibility to maintain an operating and available means of communicating while on-call. Failure to properly respond while on-call can result in disciplinary action up to, and including, termination.

ADOPTED by the governing body of the County of Curry this 5th day of April, 2016.

THE COUNTY OF CURRY, NEW MEXICO



WENDELL BOSTWICK, CHAIRMAN


ATTEST


ROSALIE RILEY, COUNTY CLERK

**CURRY COUNTY
RESOLUTION 2016-60**

**MODIFYING THE CURRY COUNTY
PERSONNEL POLICY ORDINANCE NUMBER 16-02**

WHEREAS, the Board of County Commissioners of Curry County have previously adopted a Personnel Policy on the 5th day of April, 2016 by means of Ordinance 16-02; and,

WHEREAS, it has been brought to the attention of the Board of County Commissioners of Curry County that there are several changes that need to be made to Ordinance 16-02 to clarify and/or alleviate issues that have been discovered.

NOW, THEREFORE, Curry County Personnel Policy, Ordinance No. 16-02 be and in the same hereby is modified as follows:

1. A new definition for "grant employee" will be added to the Personnel Policy in Section 2 Definitions on page 6 of Ordinance 16-02. Said definition shall be as follows:

GRANT EMPLOYEE. An unclassified, terminable at-will employee who is paid from available grant funds pursuant to a grant agreement(s).

2. The existing definition of **UNCLASSIFIED POSITIONS** in Section 3A (2) of Ordinance 16-02 is cancelled and deleted in its entirety and a new definition of **UNCLASSIFIED POSITIONS** shall be adopted and shall read as follows:

2 UNCLASSIFIED POSITIONS. The county manager, department heads, grant employees, appointees, chief deputies, student employees, temporary employees, probationary employees, the executive secretary to the Sheriff and the Under-Sheriff are unclassified positions. Unclassified employees are terminable-at-will, are not entitled to the rights and benefits of Section 8 of this Policy and cannot grieve disciplinary actions. Unclassified employees are entitled to the benefits under Sections 9 and 10 of this Policy, only to the extent of available funding within the grant agreements and line item budgets. Sections 9 and 10 of this Policy are specifically limited by the terms of the grant agreement and the amount of grant funds allocated for

said employee expenditures. Unclassified employees are subject to all other provisions contained herein, unless specifically excluded or unless the employee has a contract with the County.

3. Current **SECTION 8D PROCEDURE FOR GRIEVING WORKING CONDITIONS AND OTHER WORK RELATED PROBLEMS** shall be deleted from **SECTION 8 GRIEVANCE PROCEDURES** and shall be transferred to **SECTION 7** and will be inserted as a new **SECTION 7 EMPLOYEE DISCIPLINE (a)(2)**.

Thereafter, **SECTION 8 GRIEVANCE PROCEDURES** will then be relettered so Section A. will remain **INITIAL STEPS AND FORMAL GRIEVANCE PROCEDURE**, Section B. will be **POST-DISCIPLINARY HEARINGS** and Section C. will be **POST-DISCIPLINARY HEARING PROCEDURES**.

SECTION 7 EMPLOYEE DISCIPLINE will then be relettered so that Section A. will be **BASIS FOR EMPLOYEE DISCIPLINE** with subsections 1 through 6, and Section B. **PROGRESSIVE DISCIPLINE** with subsections 1 through 7.

4. A new Section 9H **PERSONAL CELLPHONES AND ELECTRONIC DEVICES** is added to the Policy which will read as follows:

PERSONAL CELLPHONES AND ELECTRONIC DEVICES.

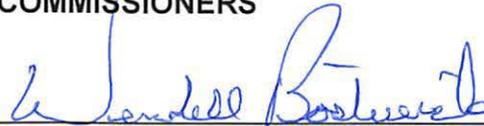
Employees who have County e-mail accounts tied to their personal cell phones or other electronic devices and/or whom access their County e-mail accounts after hours are not to check e-mails or respond to County related electronic notifications after normal business hours unless an emergency or an emergency situation requires otherwise. All County Employees recognize and acknowledge that they will not be compensated for reviewing or responding to e-mails or other electronic notifications on their personal cell phones or electronic devices outside of their normal work schedule unless it is authorized in writing by the County Manager. The County understands that with technology and communications the way it is, that e-mails and other electronic communications are being received 24 hours a day, 7 days a week. Unless any said communication is authorized in writing by the County Manager or is an emergency, the employee shall respond, if a response is necessary, to any such communication, during normal established work hours.

4. Existing Sections 9H, I, J, K, and L are re-lettered and will become Sections 9I, J, K, L, and M.

All other provisions within Curry County Personnel Policy Ordinance 16-02, unless otherwise specifically changed, altered or modified herein, shall remain in full force and effect.

DONE THIS 21st DAY OF DECEMBER, 2016.

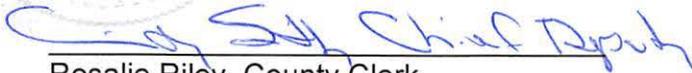
**CURRY COUNTY BOARD OF
COMMISSIONERS**



Wendell Bostwick, Chairman

ATTEST:

(SEAL)



Rosalie Riley, County Clerk