Madison County, Virginia

Personnel Policies

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MADISON COUNTY, VIRGINIA
PERSONNEL POLICIES MANUAL
CHAPTER 1 - ORGANIZATION AND ADMINISTRATION

1.1 PURPOSE OF PERSONNEL POLICIES

It is the policy of Madison County Board of Supervisors:

To establish reasonable rules of employment conduct (i.e., guidelines for management and employees to follow) and to ensure compliance with these rules through a program consistent with the best interests of the County and its employees. THIS MANUAL IS NOT, AND SHALL NOT BE CONSTRUED AS, AN EXPLICIT OR IMPLIED CONTRACT, SHALL NOT MODIFY ANY EXISTING AT-WILL STATUS OF ANY COUNTY EMPLOYEE, AND SHALL NOT CREATE ANY DUE PROCESS REQUIREMENT IN EXCESS OF FEDERAL OR STATE CONSTITUTIONAL OR STATUTORY REQUIREMENTS. THE TERM AT-WILL MEANS EMPLOYEES CAN TERMINATE OR BE TERMINATED AT WILL. EXCEPTIONS ARE EMPLOYEES HAVING WRITTEN CONTRACTS SIGNED BY THE COUNTY ADMINISTRATOR OR BOARD OF SUPERVISORS.

Additionally, it is the policy of the County to strive for safety in all activities and operations and to carry out the commitment of compliance with health and safety laws applicable to the County by enlisting the help of all employees to ensure that public and work areas are free of hazardous conditions.

To provide equitable conditions of employment for County employees;

To establish and maintain uniform standards of employment and compensation;

To aid Department heads and supervisors in their administration of personnel matters.

To provide equal employment opportunity and treatment regardless of race, religion, color, sex, age, marital status, national origin, disability, genetic information, or military status;

To monitor and comply with applicable federal and state laws and regulations concerning employee safety;

To be receptive to constructive suggestions which relate to the job, working conditions, or the personnel policies;

To establish appropriate means for employees to discuss matters of interest or concern with an appropriate party.

1.2 EXPECTATIONS OF COUNTY EMPLOYEES AND EMPLOYER-EMPLOYEE RELATIONS

Madison County expects the following from its employees:

To demonstrate a professional, considerate, friendly, and constructive attitude toward citizens, visitors, elected officials and fellow employees, to perform assigned tasks in an efficient manner; and to adhere to the policies adopted by Madison County

1.3 MADISON COUNTY RETAINS SOLE RIGHT TO EXERCISE ADMINISTRATIVE FUNCTIONS

Madison County and its elected Constitutional Officers retain the sole right to exercise all Administrative functions including, but not limited to, the following:..

The right to dismiss, assign, supervise, and discipline employees;

The right to determine and change the starting and ending times of the work day and shifts, as well as to set, change, or otherwise determine employee compensation and working conditions; and

The right to establish, change, and abolish its policies, practices, rules and regulations at will, and as is necessary to meet changes in law and changing conditions.

It is recognized that Constitutional officers are elected officials having an obligation to manage and conduct the affairs of their offices independently of the Madison County Board of Supervisors. However, they may by separate written agreement consent to adopt some or all of the County's pay and classification or other personnel policies in return for certain benefits and support. It is recognized that, to the extent that any of them elect to adopt any such policies, they do so voluntarily and that they have the right to revert to the traditional system as may be outlined in any such agreement.

Any agreements made and entered into between the County and the individual officers shall require the approval of the officer and the Madison County Board of Supervisors. The County Administrator shall have only such authority as is provided by Board policy or delineated by other Board actions.

1.4 ADOPTION OF PERSONNEL POLICIES

The personnel policies set forth in this Manual supersede all previous personnel policies and serve as the official personnel policies of Madison County, Virginia.

1.5 SCOPE

These policies apply to all regular full-time, part-time and probationary employees appointed by the Board of Supervisors or the County Administrator, or, as otherwise indicated. Employees of Constitutional Officers may be covered by these policies if there is a written mutual agreement between a Constitutional Officer and the Board of Supervisors.

1.6 ADMINISTRATION

The County Administrator shall retain and be fully responsible for the administration of the County personnel program. However, the County Administrator may delegate his authority for administering the County personnel program to other full-time County employee(s) under his or her supervision. Decisions made by those designated to administer these policies may be appealed by the affected employee to the County Administrator or his/her designee. At any place within these policies where the County Administrator is named as responsible for performing some role, it shall mean that he has ultimate responsibility as the Board's appointed administrator, but that he may unless otherwise stated, and at his sole discretion, delegate that authority as outlined above.

This Manual is intended to address most personnel situations and actions for which the County Administrator is ultimately responsible. However, those situations not specifically covered shall be

interpreted and acted upon by the County Administrator in keeping with the intent of these policies and procedures.

It is recognized that some departments may need or desire to adopt separate policies affecting only their department. In all cases, those policies shall, whenever possible, be in writing and approved by the County Administrator prior to their use and adoption. However, this policy shall supersede any other personnel-related departmental rules or policies unless exempted by the County Administrator.

1.7 SCOPE

These policies and procedures shall apply to all departments, positions and employees of Madison County except for employees specifically exempted by actions of Madison County Board of Supervisors. Employees of the Madison County Department of Social Services and the Madison County School Board covered by appropriate similar policies by their respective agencies are exempt from this policy.

1.8 COMPLIANCE

Department heads shall take necessary and prompt action to ensure compliance with these policies within their respective departments.

1.9 LIMITATIONS

The policies set forth herein are not intended to create a contract, nor are they to be construed to suggest any express or implied contractual obligations of any kind with the County. Any non-mandated benefits outlined within this policy are subject to approved annual appropriation by Madison County Board of Supervisors. The County retains the right to amend, cancel or otherwise change any of these policies and procedures at any time as circumstances may warrant with the approval of the Board of Supervisors. In any instance where adopted policy differs from the distributed policy, the most recent adopted policy shall prevail.

Employment with the County is voluntarily entered into and the employee is free to resign at any time. Similarly, the County may terminate the employment relationship and such termination, or any other form of discipline, shall be a judgment reserved to the County at its sole discretion.

1.10 AVAILABILITY AND ACKNOWLEDGEMENT OF PERSONNEL POLICIES

The County Administrator shall be responsible for overseeing the maintenance of a complete and current set of personnel policies and for ensuring that these policies and any amendments are brought to the attention of County employees. In addition, an updated copy shall be maintained on the Madison County web site. Each Employee shall be notified of the changes to personnel policies as adopted by the Madison County Board of Supervisors as of the first payroll immediately following the approval of the change(s). In addition, the County may provide a shorter handbook containing certain key portions of its personnel policies. In the event the County does provide other forms of personnel information, the official version as approved by the Madison County Board and as displayed in its official records, shall prevail in case of any discrepancy between language contained

therein. Future employees shall be notified of the availability of the then-current personnel policies when they begin their employment service with the County. All employees will acknowledge these policies via a signed and dated statement, which will be maintained within the employee's personnel file. The statement shall include the employee's confirmation that these policies have been read and are understood by the employee.

1.11 PERSONNEL DEFINITIONS

Where used within these personnel policies, the following words and terms shall have the meaning indicated below:

Administrative Leave – Leave approved with pay by the County Administrator and not covered by any other leave provision.

Allocation – The assignment of a position to its appropriate class in relation to duties performed.

Anniversary Date – The date that an employee commenced work in his/her position.

Applicant – An individual who indicates a specific interest in a current job vacancy for which the County is hiring, and, provides all required information on an application form.

Appointment – The offer to and acceptance of by a person of a position.

Authorized Absence – An absence approved by the employee's supervisor after proper notification (reason for absence and estimated length of absence) is given to the supervisor.

Absent Without Leave (AWOL) – The term used for any unauthorized absence during a scheduled work period.

Break in Service – Any separation from service to Madison County whether by resignation, retirement, layoff, dismissal, disability, retirement or absent without leave when the employee is subsequently re-employed. An authorized leave without pay shall not be considered as constituting a "break in service."

Class – A position or group of positions which are sufficiently alike in job evaluation factors (such as duties performed, degree of supervision, required minimum requirements of education, experience or skill and other such characteristics) to be equitably assigned the same class title, same or similar qualification requirements, the same skill level, the same test of fitness and the same salary range.

Class Description – A formal written description of the class that defines the general character and scope of the duties and responsibilities of positions in the class.

Compensation Plan – The official schedule of pay approved by the Board of Supervisors assigning one or more rates of pay to each class title, arranged schematically by classification series.

Continuous Service – The total length of time an employee has been employed with the County. Continuous service is defined as beginning with the date of employment and continues until the employee's retirement or other separation from the County.

Demotion – Movement from one class of position to another of a lower salary range in which the employee meets the minimum qualification requirements.

Dependent – A family member who is claimed as a dependent on the employee's Federal Income Tax Return.

Discipline – Action taken against an employee ranging from verbal reprimand to dismissal, depending on the severity of the employee's unsatisfactory work performance or misconduct.

Dismissal – An involuntary separation of an individual's employment initiated by the County.

Employee – An individual who, in consideration of wages or salary works for the benefit of the County and is compensated through the County payroll. "Employee" shall not include:

Members of Board of Supervisors;

Members of boards, commissions and authorities;

Volunteers,

Independent contractors.

Essential Personnel – Employees who hold certain positions, which provide necessary health, safety and emergency County services regardless of adverse conditions. The designation of essential personnel does not preclude making assignments to other, typically non-essential, personnel during extreme emergencies.

Exempt and Non-Exempt Employees – "Exempt" employees are those employees not covered by overtime pay provisions of the Fair Labor Standards Act (FLSA), while "Non-Exempt" employees are those covered under the overtime pay requirements of the FLSA.

Full-Time Permanent Appointment – Appointment to a full-time permanent position indicates that the employee is to work for the County on a full-time continuous basis, without time limitation and requiring a regularly scheduled work period.

Full-Time Temporary Appointment – Appointment to a full-time temporary position indicates that the employee is scheduled to work for a maximum of one year.

Immediate Family – Family members including son, daughter, father, mother, brother, sister, grandmother, grandfather, grandson, granddaughter, and dependent live-in in-laws, step-brother and step-sister, step-son and step-daughter, or half-brother and half-sister.

Incumbent – An employee occupying a position in the County service.

Layoff – A temporary or indefinite reduction in the workforce due to economic conditions, technological changes, lack of work or other appropriate reasons, initiated by the County and usually through no fault of the employee.

Maternity Leave – Pregnancy, childbirth or related medical conditions associated with birth shall be treated as any other temporary disability with respect to sick leave, annual leave, compensatory time and leave without pay.

Merit Salary Increase – An increase in compensation established in the Compensation Plan, which may be granted to eligible employees after completion of the appropriate length of service and a performance evaluation rating which satisfies the requirements for advancement.

Non-essential Employee – An employee who is not typically required to work during adverse conditions. Adverse conditions are declared and defined by the County Administrator.

Part-Time Permanent Appointment – An appointment to a part-time position that is routinely scheduled to work for the County on a continuous basis. Permanent part-time employees work, on

average, less than 30 hours per week or less than 130 hours per month. Employees occupying part-time permanent positions shall not receive fringe benefits as specified in these policies.

Part-Time Temporary Appointment – An employee that is routinely scheduled to work for a period of less than one year. Part-time temporary employees work, on average, less than 30 hours per week or less than 130 hours per month. Temporary employees shall not receive fringe benefits.

Pay Grade – A level within a pay scale in which job classes with similar job evaluation factors are assigned.

Performance Evaluation – A systematic review of employees in the effective accomplishment of their assigned duties and responsibilities. A recommendation for a salary increase may or may not be included in the evaluation.

Personnel File – Official file of information pertaining to each employee.

Political Activity – Political activity includes, but is not limited to, voting; registering to vote; soliciting votes or endorsements on behalf of a political candidate or political campaign; expressing opinions, privately or publicly, on political subjects and candidates; displaying a political picture, sign, sticker, badge, or button; participating in the activities of, or contributing financially to, a political party, candidate, or campaign or an organization that supports a political candidate or campaign; attending or participating in a political convention, caucus, rally, or other political gathering; initiating, circulating, or signing a political petition; engaging in fund-raising activities for any political party, candidate, or campaign; acting as a recorder, watcher, challenger, or similar officer at the polls on behalf of a political party, candidate, or campaign; or becoming a political candidate. To the extent necessary, words contained in this definition shall be understood to have the same meanings as in §15.2-1512.2 of the Code of Virginia, as amended.

Position Classification Plan – The official system of grouping of similar positions into appropriate classes based upon the respective duties, typical tasks and qualifications.

Probationary Period – The working test or trial period of employment beginning on the first day of work and extending, as provided herein.

Promotion – Movement from one class of position to another of a higher salary range in which the employee meets the minimum qualification requirements.

Qualifications – The minimum education, experience and any special job-related requirements, which must be fulfilled by a person preliminary to appointment or promotion.

Reclassification – A change in the classification of a position or group of positions.

Re-Employment – When an employee's services are terminated and that employee is subsequently employed again with the County.

Regular Employee – The status of a classified employee who has successfully completed the initial probationary period. Regular employees work 40 hours per week for not less than 52 weeks per year. Annual leave sick leave and holidays shall count as time worked for the purpose of this definition.

Reinstatement – The time an employee returns to work from an authorized leave of absence or goes from a non-pay status into a paid status. Reinstatement means that the employee is treated as if on leave without pay for the time s/he was away from the County.

Resignation – Voluntary separation initiated by an employee who chooses to leave the County service.

Safety-Sensitive Position – Positions that require possession of a CDL as a condition of employment are considered safety-sensitive.

Secondary (Outside) Employment – Employment in any capacity other than the employee's primary County job.

Supervisor – An employee who has the responsibility for directing and evaluating the work of other employees.

Suspension – A forced leave of absence without pay for disciplinary purposes.

Transfer – Movement of an employee from one position to another position. Transfers can take place within a department, between departments, between positions of the same pay grade or between positions of the same class.

Unauthorized Absence – Any absence from the job during a scheduled work period, without approval from the employee's immediate supervisor or when an employee does not follow the proper request or verification procedure for an absence.

Vacancy – A position which has been newly established or which has been rendered vacant by resignation, retirement or other removal of the previous incumbent.

Volunteers – Volunteers are those who perform certain functions without pay, but only if the individual a) works toward public service or humanitarian objectives; b) does not expect or receive compensation for services; and c) does not displace any genuine employees.

Workday – Scheduled number of hours an employee is required to work per day.

Workplace – Any County owned or leased property (including parking lots), and/or any site where official duties (including business-related activities for or on behalf of the County) are being performed by a County employee during regular work hours or while operating a motor vehicle or machine leased or owned by the County.

Workweek – The County's regular workweek shall be 40 hours. Work hours shall be scheduled between the period of 12:01 a.m. Monday and ending the following Sunday at 12:00 midnight. Work hours for public safety employees covered by this policy may be altered to reflect working conditions for those positions for so long as the FLSA requirements are met.

CHAPTER 2 - EMPLOYMENT

2.1 EQUAL EMPLOYMENT OPPORTUNITY

A. The County shall provide equal opportunity in employment and career development. Employment decisions shall be based on merit, qualifications and competence. The County administers its policies without regard to an applicant's or employee's race, color, sex, sexual orientation, gender identity, national origin, marital status, age, religion, political affiliation, disability which is unrelated to a person's occupational qualifications or any other non-merit factor. The County shall provide qualified applicants and employees with disabilities, as defined in Title I of the Americans with Disabilities Act, with reasonable accommodations that do not impose an undue hardship.

B. The County shall provide an environment that is free of unlawful harassment of any kind, including that which is sexual, age-related, or ethnic.

C. The policy of equal opportunity requires that all hiring, interview and personnel recordkeeping procedures comply with the County's approved process.

D. The policy of equal opportunity governs all aspects of employment including, but not limited to, the following:

1. Personnel Selection – Advertisement, recruitment, referral, testing, hiring, transfer and promotion in all job classifications shall be without regard to race, color, sex, national origin, marital status, age, religion, political affiliation, or disability, which is unrelated to a person's occupational qualifications or other non-merit factor that is not a bona fide occupational qualification.

2. Other Personnel Actions – All other aspects of employment with the County such as compensation, benefits, assignment, demotion, dismissal, layoffs, return from layoffs, training, tuition reimbursement, and social and recreational programs are administered without discrimination.

E. The successful achievement of equal opportunity throughout the County can only be achieved with the maximum support and cooperation of all employees. Specific responsibilities are as follows:

3. The County Administrator is designated as the Equal Employment Opportunity Officer and is primarily responsible for ensuring that the County Department heads are aware of this policy and pertinent laws, guidelines, executive orders and regulations controlling equal employment opportunity and other anti-discrimination policies.

4. Department heads have a responsibility for the observance of this policy. This responsibility includes supporting programs and practices designed to develop understanding, acceptance, commitment and compliance within the intents and purposes of this policy.

F. The County provides equal employment opportunities to qualified individuals with disabilities. Reasonable accommodations will be provided to a qualified employee or applicant with a disability when that employee or applicant requests an accommodation. A qualified employee or applicant is one who is able to perform the essential functions of the job with or without

accommodation. A request for an accommodation will be denied if the accommodation is not shown to be effective, places an undue burden on the County or if the employee poses a direct threat to the health and safety of him/herself or others. The County Administrator shall serve as the ADA Coordinator per 28 CFR § 35.107.

2.2 **ADA**

A. Purpose. The Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA) are federal laws that require employers with 15 or more employees to not discriminate against applicants and individuals with disabilities and, when needed, to provide reasonable accommodations to applicants and employees who are qualified for a job, with or without reasonable accommodations, so that they may perform the essential job duties of the position.

B. It is the policy of Madison County to comply with all federal and state laws concerning the employment of persons with disabilities and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC). Furthermore, it is the company policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment.

C. Procedures

1. When an individual with a disability requests accommodation and can be reasonably accommodated without creating an undue hardship or causing a direct threat to workplace safety, he or she will be given the same consideration for employment as any other applicant. Applicants who pose a direct threat to the health, safety and well-being of themselves or others in the workplace when the threat cannot be eliminated by reasonable accommodation will not be hired.
2. Madison County will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job unless doing so causes a direct threat to these individuals or others in the workplace and the threat cannot be eliminated by reasonable accommodation or if the accommodation creates an undue hardship to Madison County. Contact the County Administrator's Office with any questions or requests for accommodation.
3. All employees are required to comply with the company's safety standards. Current employees who pose a direct threat to the health or safety of themselves or other individuals in the workplace will be placed on leave until an organizational decision has been made in regard to the employee's immediate employment situation.
4. Individuals who are currently using illegal drugs are excluded from coverage under the company ADA policy.
5. The County Administrator is responsible for implementing this policy, including the resolution of reasonable accommodation, safety/direct threat and undue hardship issues.

D. Terms Used in This Policy

As used in this ADA policy, the following terms have the indicated meaning:

1. Disability: A physical or mental impairment that substantially limits one or more major life activities of the individual, a record of such an impairment, or being regarded as having such an impairment.
2. Major life activities: Term includes caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.
3. Major bodily functions: Term includes physical or mental impairment such as any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin and endocrine. Also covered are any mental or psychological disorders, such as intellectual disability (formerly termed "mental retardation"), organic brain syndrome, emotional or mental illness and specific learning disabilities.
4. Substantially limiting: In accordance with the ADAAA final regulations, the determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder and schizophrenia. An impairment, such as cancer that is in remission but that may possibly return in a substantially limiting form, is also considered a disability under EEOC final ADAAA regulations.
5. Direct threat: A significant risk to the health, safety or well-being of individuals with disabilities or others when this risk cannot be eliminated by reasonable accommodation.
6. Qualified individual: An individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.
7. Reasonable accommodation: Includes any changes to the work environment and may include making existing facilities readily accessible to and usable by individuals with disabilities, job restructuring, part-time or modified work schedules, telecommuting, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.
8. Undue hardship: An action requiring significant difficulty or expense by the employer. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:

    a) The nature and cost of the accommodation.

b) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact of such accommodation on the operation of the facility.

c) The overall financial resources of the employer; the size, number, type and location of facilities.

d) The type of operations of the company, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular facility involved in making the accommodation to the employer.

e) Essential functions of the job: Term refers to those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified.

The examples provided in the above terms are not meant to be all-inclusive and should not be construed as such. They are not the only conditions that are considered to be disabilities, impairments or reasonable accommodations covered by the ADA/ADAAA policy.

2.3 EMPLOYMENT

A. Each Constitutional Officer agreeing to utilize this section of the policy has the authority to advertise and hire positions in his or her department provided funding has been approved, subject to these policies or Section 15.2-1604 of the Virginia Code, as amended. If following section 15.2-1604, they shall certify their conformity with the law prior to the position being placed on the payroll.

B. The Board of Supervisors makes appointments for all other positions covered by these policies; however, the Board hereby delegates this authority and responsibility to the County Administrator for all positions other than as required by law. The County Administrator, accordingly, may delegate hiring authority to Department heads for available positions within their respective departments.

C. Authorization from the County Administrator, or his/her designee, is required prior to initiating any recruitment or appointment, except for any positions exempted pursuant to Section 1.6 herein. The Administrator is responsible to ensure that funding is available for any vacancy prior to authorizing the recruitment.

D. Procedures may be modified by the County Administrator when deemed necessary to best serve the interests of the County.

E. All records relating to employment, recruitment, or appointment, will be maintained in one central file location as designated by the County Administrator and maintained in conformance with the Code of Virginia and regulations of the Virginia State Library.

F. Employment Notice

1. The County Administrator or his designee shall determine the advertising requirements necessary to attract qualified applicants to fill each vacancy. The County Administrator

shall maintain an advertising distribution list, which shall be used to maximize the application pool.

2. When it is determined by the County Administrator that a sufficient number of qualified applicants are currently on file from which to select, advertisement of a position vacancy is not required.

G. Employment Applications

1. Persons seeking to apply for employment with the County shall be referred to the County Administrator or his designee, except for any positions exempted by Section 1.6 herein.

2. The County relies upon the completeness and accuracy of information contained in the employment application, as well as the accuracy of other data presented throughout the selection process and during County employment. Therefore, applicants and employees are hereby notified:

   a) All employment information shall be current, accurate and complete.

   b) Any misrepresentations, falsifications or material omissions on the County application or any submitted resumes may result in the County's exclusion of the individual from further consideration for employment.

H. Recruitment and Selection

1. The County Administrator or his designee has the primary responsibility for recruitment. All selection methods shall be approved in advance by the County Administrator.

2. Employees in positions which require on-call status or being "generally available" must be able to report to work within 30 minutes of being requested. Failure to do so without a valid (as determined by the County) reason will result in discipline or dismissal.

3. In determining qualified applicants, the County may use, but shall not be limited to, any one or a combination of the following selection methods in the pre- and post-employment processes: evaluation of training and experience, written and skills tests, performance tests, psychological assessments, driving record, reference and background checks, post-offer medical examinations and drug tests, as well as the applicant's ability to meet the physical standards for the position.

4. Prior to finalizing employment arrangements, all offers of employment are contingent upon the selected candidate submitting to a pre-employment drug and alcohol screening. This analysis shall be conducted in accordance with established clinical procedures. A candidate who tests positive for drugs and/or alcohol will not be hired. In such an instance, the candidate will not be considered for any other County position for one (1) year from the date of the positive test.

5. An applicant who refuses to participate in any phase of the selection process shall be considered withdrawn from the recruitment and shall not be eligible for further consideration.

6. After department representatives have completed final interviews and given full consideration to the group of qualified candidates, the Department head shall submit a written recommendation for a selection to the County Administrator.
7. In all cases, the offer of employment and discussion of beginning salary, benefits and starting date shall be approved by the County Administrator.
8. Upon completion of the hiring process, all applications, resumes and any related test materials shall be returned to and maintained by the County Administrator's office.

I. Consistent with the requirements of Va. Code 15.2-1509 a veteran 's military service shall be taken into consideration by the County during the selection process, provided that such veteran otherwise meets all of the knowledge, skill and ability requirements for the available position.

J. Emergency Hiring

There may arise occasions where circumstances necessitate the hiring of personnel outside of the normal procedures for filling vacancies. Authority to hire on an emergency basis, and any commitments on offering the job, beginning salary and starting date, must be approved in advance by the County Administrator. If the position is a Department head position, then the emergency hiring process must be approved in advance by the Board of Supervisors.

K. Part-Time Temporary Positions

A Department head with sufficient funding in his budget may hire employees on a temporary or hourly basis for part-time or seasonal positions. Once employed such employees may remain on the payroll until such time as the seasonal assignment is concluded or the agency no longer desires their services, subject to the limitations found in the definition above.

L. Joint Employees

1. The County Administrator may arrange with another locality for the joint employment of any person.
2. Every joint employee shall exercise in each locality all of the powers and duties imposed on such person by law or by contract.
3. For purposes of salary, retirement and other employee benefits, public liability insurance and bonds, a joint employee shall be considered the employee of one locality.
4. The share of the costs of salary, retirement and other employee benefits and expenses for a joint employee shall be paid to the primary employing locality by the other locality, in the manner and amount agreed upon.
5. Joint employment may be pursuant to a written agreement outlining all details contained herein and executed as between and among the employing localities, containing such terms and conditions as agreed upon.

2.4 HIRING OF RELATIVES

A. The Virginia State and Local Government Conflict of Interests Act provides that members of an officer's or an employee's immediate family may be employed in the employee's division, department or agency only under the following conditions:

1. The employee does not participate in the decision to hire the employee's immediate family member;
2. The employee exercises no control over the employment or the employment activities of his/her immediate family member; or,
3. The employee is not in a position to influence the employment activities of his/her immediate family member.

B. Based on the above criteria, the County shall not hire an employee's spouse or immediate family member, as defined in Section 1.10 of this policy, in a supervisor-subordinate relationship.

C. If the relative relationship that violates this policy is established after employment, the two employees involved shall decide who will seek a position change, if a position is available for which that individual qualifies or who is to terminate County employment. If a decision is not made within 30 calendar days, the County Administrator shall make the decision.

D. Department heads shall ensure that this policy is enforced when making recommendations for employment, promotions, transfers or demotions. Any concerns or questions regarding an applicant's or an employee's eligibility under this policy shall be directed to the County Administrator or his designee.

2.5 IMMIGRATION LAW COMPLIANCE

The County complies with the Immigration Reform and Control Act of 1986 and is committed to employing only United States citizens and aliens who are authorized to work in the United States.

2.6 CONFLICTS OF INTEREST

Virginia state law prohibits certain conduct regarding conflicts of interest. This law, popularly known as the 'State and Local Government Conflict of Interests Act', is intended to sustain public trust in the conduct of public business by those entrusted to carry out that business. It is the policy of Madison County that County employees understand and follow that law and these guidelines. Madison County employees have an obligation to be fully compliant with the Virginia State and Local Government Conflict of Interests Act and to conduct business within guidelines that prohibit actual or potential conflicts of interest.

The purpose of these guidelines is to provide general direction so that employees can seek further clarification on issues related to the subject of acceptable standards of operation.

A. State conflict of interest law applies to all employees of a local government (see: Virginia Code § 2.2-3101. Definitions.) To the extent required by state law, the County Administrator shall ensure that a copy of the State Chapter on Conflicts of Interest is provided to any new employee required by law to file a disclosure statement of personal interest.

B. Employees are hereby placed on constructive notice of the existence of certain other state laws prohibiting certain conduct or the acceptance of certain gifts. These laws apply to all employees and are not limited to only those who are required to file disclosure statements or to whom the state chapter on conflicts law is to be provided. Under the laws of the Commonwealth of Virginia, violations of these laws may be considered criminal offenses.

C. An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative as a result of the County's business dealings. For the purposes of this policy, a relative is any person who is related by blood, marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.

D. No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if an employee has any influence on transactions involving purchases, contracts or leases, it is imperative that he or she disclose such relationship to the County Administrator as soon as possible the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties.

E. Personal gain may result not only in cases where an employee or relative has a significant ownership in a firm with which the County does business but also when an employee or relative receives any kickback, bribe, substantial gift, or special consideration as a result of any transaction or business dealings involving the County.

2.7 EMPLOYMENT REFERENCE AND CRIMINAL BACKGROUND INVESTIGATIONS

To ensure that individuals who are employed by the County are well qualified and have a strong potential to be productive and successful, reference checks may be conducted for those applicants being seriously considered for employment. If authorized by an ordinance duly adopted by the Board of Supervisors pursuant to Virginia Code §19.2-389 and 15.2-1505.1, upon conditional offer of employment, applicants for County employment may be required to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining a criminal history record information regarding the applicant.

If authorized, criminal background checks will be managed by, and records will be maintained, by personnel designated by the County Administrator to manage and oversee the collection of sensitive Human Resource oriented materials. It shall be the policy to keep these records under guidelines for document retention that follow state and federal law.

2.8 OTHER PRE-EMPLOYMENT MATTERS

A. Deputy sheriffs shall be required to undergo a criminal history investigation, as set forth in Va. Code 15.2-1705, whether or not the Board of Supervisors has enacted an ordinance.

B. Federal Law prohibits anyone who has been convicted of a misdemeanor crime of domestic violence from possessing any firearm or ammunition. A Department head shall ascertain information about applicants' convictions for domestic violence before they are employed in any position that requires or authorizes the carrying of a firearm.

C. Medical exams. Pre-employment medical inquiries and examinations may be conducted only in accordance with the federal Americans with Disabilities Act ("ADA"). Under the ADA such medical inquiries and examinations may be required only after all other factors have been evaluated and a conditional offer of employment has been made.

D. Deputy sheriffs are required by Va. Code 15.2-1705 to undergo a physical examination, subsequent to a conditional offer of employment.

2.9 EMPLOYEE ORIENTATION

A. Completion of Required Personnel Forms

1. Employees who are eligible for fringe benefits must complete enrollment forms relating to certain mandatory and elective benefit programs.
2. Employees shall be provided a reference link to the County's personnel policies and acknowledge receipt by completing an acknowledgement form.
3. Each department shall be responsible for conducting an on-the-job training program for each new employee, which shall cover the employee's work environment, position responsibilities and duties, work schedule, safety requirements and application of the County's personnel policies and departmental policies to the position involved.

2.10 PROBATIONARY PERIOD

The probationary period is intended to give employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. This period is considered a trial period or extension of the selection process, which is used to evaluate employee capabilities, work habits and overall performance.

A. Initial Probationary Period

1. A probationary period of 180 days is established for all new or re-employed employees appointed to full and part-time permanent positions.
2. Personnel action may be taken against any employee whose performance does not meet the required standards. During the initial probationary period, all employees are subject to personnel action without prior notice or access to the Grievance Procedure.
3. Either the employee or the County may end the employment relationship at any time during or after the probationary period.

B. Secondary Probationary Period

1. An employee who is appointed to another County position (through promotion, transfer or demotion) must complete a secondary probationary period of 180 days.
2. Each probationary employee who is transferred from one position to a similar position of an equal salary range shall retain the months successfully served in the former position towards earning regular status, as well as for the annual merit salary review.
3. Should an employee serve an unsatisfactory probationary period in the newly assigned position, the employee may, with the approval of the County Administrator, be allowed to return to his/her former position or to a comparable position for which the employee is qualified, prior to the end of the probationary period, without prejudice. Such an action is dependent upon the availability of such position and the County's needs. Where no appropriate vacancy exists, the employee's position with the County shall be severed.

4. The employee's status as a regular employee is not changed during the secondary probationary period that results from a change in position (promotion, transfer or demotion) within the County.

C. Extension of Probationary Period

1. When it is deemed to be in the best interest of the County, the initial probationary period may be extended an additional period of time, up to a maximum of 180 additional days.

D. Separation During Probationary Period

1. The Department head shall provide a probationary employee the opportunity to discuss problems involving his/her position at any time during a probationary period, or extension thereof, if it is determined that a probationary employee's work performance, work attitude or other related work activities are not at an acceptable level of competence expected for the position.
2. Should the employee's performance fail to improve, the County may elect to terminate employment.
3. If the employee decides that the particular job is not what s/he desires, the employee may resign without harm to his/her employment record.

2.11 REEMPLOYMENT

A. When an employee has separated from employment and is subsequently employed again with the County in the same position, that constitutes "reemployment." Should a former employee be reemployed within 6 months from the effective date of his separation, the reemployment may be treated as a reinstatement. If the employee has been gone longer than 6 months from the effective date of his separation before being employed again, the reemployment process (and the employee's status) is the same as for a new employee.

2.12 SECONDARY EMPLOYMENT

A. County employees shall notify the Department head or County Administrator in writing prior to accepting employment outside of their regular County employment. The request shall be sent to the County Administrator for written approval.

B. Madison County considers it to be the primary employer for its full-time employees. As such, conflicts with other workplaces will not be given priority consideration in scheduling work hours or leave time requests.

C. County employees shall not engage in secondary (outside) employment during regularly scheduled work hours, while at the County's facilities or when using the County's supplies, equipment, materials or personnel. This employment must not in any way, shape or form interfere with the performance of one's job or one's conduct or responsibilities to the County.

D. County employees shall not engage in any employment, activity or enterprise, which has been or may be determined to be inconsistent, incompatible, in conflict of interest with or have the appearance of conflict of interest with the duties, functions or responsibilities of County employment nor for a period greater than 30 hours per week, regardless.

E. Employees found in violation of this policy may be subject to disciplinary action up to and including dismissal.

2.13 ACCESS AND CHANGES TO PERSONNEL FILES

A. The County Administrator shall maintain the official County personnel files for all employees.

B. The official personnel file shall be defined as the employment file containing personal and job-related information relevant to the individual's employment with the County.

C. Personnel files are the property of the County, and the information they contain shall not be disclosed or disseminated except as required by law.

D. Only officials and representatives of the County who have a legitimate reason to review information in a file are allowed to do so.

E. Employees are required to provide adequate notice to their Department heads of their desire to be released from work to review their personnel file (the employee does not have to disclose the reason for the request). The employee shall make an appointment with the officer designated the County Administrator to maintain the file to review his/her personnel file.

F. With reasonable advance notice, employees may review material in their personnel file but only in the presence of the individual designated by the County Administrator to maintain the file.

G. It is incumbent upon employees to notify the person in charge of maintaining personnel files of any changes in personnel data. Personal mailing addresses, telephone numbers, and names and telephone numbers of dependent individuals to be contacted in event of an emergency, education, accomplishments and other such status reports should be accurate and current at all times.

CHAPTER 3 - POSITION CLASSIFICATION PLAN

3.1 PREPARATION AND PLAN ADMINISTRATION

The Position Classification Plan for the authorized positions in the service of the County provides for the grouping of similar positions in classes based upon the respective duties, typical tasks and qualifications. The Plan class descriptions are used to assist with recruitment, training, career planning, assignment to a salary range and communication of job requirements to employees.

A. Amendments to the Classification Plan

Periodic amendments shall be made to maintain plan accuracy.

B. Official Copy of the Classification Plan

The County Administrator's Office shall have overall responsibility, which s/he may delegate to the appropriate department, to maintain and publish a set of descriptions for all classes.

3.2 PERSONNEL COMPLEMENT

A. The Personnel Complement is a listing of all authorized positions. An "authorized position" is a permanent job position that has been approved by the Board of Supervisors and for which funding has been provided in the County's budget. There are three categories of permanent positions, based upon funding sources:

Category I: County funded

Category II: funded by a mix of County and non-County sources

Category III: non-County funded

B. The County Administrator shall maintain the official historical and current Personnel Complement.

C. Each Department head shall similarly maintain a record of established positions for their respective departments.

D. Additional authorized positions funded in whole or in part by the County may be established only with the approval of the Board of Supervisors. However, the County Administrator may reallocate and redistribute existing positions within and between departmental complements in her sole discretion.

E. The County Administrator shall maintain the County's official record, both current and historical, of all authorized positions contained in the personnel complement and established under the provisions of these Policies and Procedures. Agency heads shall also maintain a record of authorized positions for their respective agencies.

3.3 ESTABLISHMENT OF POSITIONS

A. When requesting a new full time permanent position, the agency head shall submit a completed Position Analysis Questionnaire and request to the County Administrator's office. No person shall be hired, promoted, demoted, transferred, or paid in any position until the position has been approved by the County Administrator and funded by the Board. New authorized positions funded in whole or in part by the County may be established only with

the approval of the Board of Supervisors and may be reallocated and redistributed within and among departmental complements.

B. New authorized position requests for positions with 100% non-County funding may be established with approval from the County Administrator. These positions are complement Category III positions and shall be abolished automatically when non-County funding is no longer available. It is the department's responsibility to notify the County Administrator when funding is no longer available. Allowing employees to report to work beyond the position's funding authorization may result in liability and/or disciplinary action, up to and including dismissal.

C. It is the responsibility of the agency head to notify the County Administrator, through the the budget process, whenever a position is no longer needed. The position shall be removed from the department's authorized complement.

3.4 CLASSIFICATION OF POSITIONS

A. Each position shall be classified by the County Administrator or his designee and allocated within the Plan according to the appropriate class title, general definition of work, the required knowledge, skills and abilities, desirable training and experience, special licensing or other unique requirements and additional requirements deemed necessary by the County Administrator person performing the classification. Positions shall be allocated to the same class when their duties are sufficiently similar that:

1. The same descriptive title may be used to designate each position in the class;
2. The same level of education, experience, knowledge, skill, ability and other qualifications may be required of incumbents;
3. Similar tests of fitness may be used to select incumbents; and,
4. The same pay range shall apply.

B. All classes involving the same character of work, but different as to level of difficulty and responsibility, shall be assembled into the same series. All series of classes within the same broad occupational field shall be assembled together.

3.5 INTERPRETATION OF CLASS DESCRIPTIONS

A. Class Title. The term "class title" or "title" shall refer to the official title of the class as stated in the class descriptions and shall apply to all positions allocated to the class and shall be used in all personnel and administrative processes.

B. Class Descriptions. The class descriptions shall be considered descriptive rather than restrictive. They shall not be construed as declaring what the duties and responsibilities shall be or as limiting the power of any Department head to assign duties to and to direct and control the work of employees under his/her supervision, including but not limited to special assignments under emergency conditions as may be required. The use of a particular expression or illustration as to duties shall not be held to exclude others not mentioned that are of a similar kind or quality. Job duties and responsibilities may be further defined by the employee's Department head or supervisor.

C. The official class title shall be assigned by the County Administrator. Department heads may assign "informal" titles to such positions as they deem appropriate and necessary.

D. The term “Deputy" means a person who is appointed to act as a substitute for his supervisor, in the name of the supervisor and in his behalf, in matters in which the supervisor himself may act; such person shall be a public officer.

E. "Assistant" means a person who is not a public officer or deputy but who aids or helps a public officer.

F. Subject to the limitations and requirements of the preceding subsections, the County Administrator may designate his powers and duties unless it is some power or duty the exercise of which by another person is expressly forbidden by law or requires the exercise of judgment for the public welfare. However, such delegation shall not act to relieve the officer making such delegation of his legal obligations for the exercise of powers and performance of duties of his office.

3.6 MAINTENANCE OF THE CLASSIFICATION PLAN

A. The Plan shall be kept current by ongoing investigation and review. Position classification studies of individual positions or groups of positions shall be conducted whenever the County Administrator deems it necessary; whenever, the duties or responsibilities of existing positions have undergone significant changes; or, whenever the County Administrator is notified by a Department head that new positions need to be created.

B. It shall be the responsibility of each Department head to promptly notify the County Administrator of each change of duties, responsibilities or work requirements and furnish detailed information relative to such changes.

C. When a new class title is established, a class description shall be written and incorporated into the existing Plan and the class title added to the schematic list of titles.

D. All class allocations are subject to the final approval of the County Administrator.

3.7 RECLASSIFICATION PROCEDURE

A. When significant changes in position content or prevailing economic conditions warrant a review of a class or classes, the Department head may submit a written request (outlining all facts supporting the request) to the County Administrator.

B. If a Department head has facts, which indicate that a position or group of positions is improperly classified, a request for a review may be made to the County Administrator. All pertinent information relative to the request shall be submitted in writing.

3.8 SALARY ADJUSTMENTS FOR RECLASSIFICATIONS

A. Merit Salary Increase Date

If merit increases are funded and available, the County shall designate the anniversary date for all employees covered by this policy. Reclassification shall not change the employee’s date of merit salary increase.

B. Downward Reclassification/Reallocation

Upon downward reclassification/reallocation of a position, an employee shall be placed in the lower pay grade at a point equal or closest to their current rate of pay. When the employee's rate of pay prior to reclassification exceeds the maximum of the new, lower range, the employee's rate of pay shall be frozen at that existing rate of pay until the pay of the lower pay grade matches or exceeds the employee's rate of pay at the time of reclassification/reallocation.

C. Upward Reclassification/Reallocation

Upon upward reclassification/reallocation of a position, an employee shall receive the greater amount of either the minimum rate for the new pay grade or the next higher rate of pay in the new pay grade as compared to the rate of pay in the lower pay grade.

D. When, in the opinion of the Department head, following this policy results in an inequity, the County Administrator may authorize an adjustment in pay to correct the inequity based on the circumstances involved.

E. In no event shall a reclassification result in expenditures of funds beyond those contained in the departmental budget containing the position under consideration.

CHAPTER 4 - COMPENSATION

4.1 COMPENSATION PLAN

A. The County's Compensation Plan shall be designed to achieve the following objectives:

1. Establish and maintain a salary structure which attracts and retains qualified employees;
2. Maintain the salary structure in proper relation to competitive pay practices in the local labor market; and,
3. Provide a consistent and effective means of recognizing and rewarding valuable employee contributions made through improved and satisfactory or better work performance.

B. When following this policy results in an inequity or problem, the County Administrator may authorize an adjustment in pay to correct the inequity based on the individual circumstances involved.

C. Except as provided in this policy, anniversary dates shall not be affected by the adoption of any revisions to the Compensation Plan.

D. It shall be the responsibility of the County Administrator to review the compensation plan annually and to submit updates and recommended changes to the Board of Supervisors during the budget process.

E. The County Administrator shall approve the pay scale to which position classes and types are assigned and may, from time to time, recommend periodic cost-of-living adjustment to reflect current market conditions to the Board of Supervisors.

4.2 STARTING RATE OF PAY

A. The normal entry-level salary for appointment shall be the minimum rate of pay for the job classification assigned.

B. Rate of starting pay for employees of Constitutional officers participating in the Unified Personnel plan shall be the greater of the approved state pay scale (if applicable) or the local pay scale, whichever is greater.

C. Compensation may be established beyond the minimum step of the salary range, upon approval of the County Administrator if any of the following conditions exist:

1. The qualifications of the applicant exceed the requirements for the class and those qualifications are relevant to the class duties;
2. The applicant possesses qualifying experience gained in previous employment; or,
3. Difficulty in recruitment requires payment of a higher rate.

4.3 LEAVE ADVANCES AUTHORIZED

When the County is attempting to fill a position that is deemed critical to the County's mission and ongoing operations, and if finding that position difficult to fill, the County Administrator may authorize the provision of up to 30 days (240 hours) of leave in addition to the normal accrual, or may advance up to 30 days (240) hours of leave to a new employee as an incentive to accept employment in that position.

4.4 RATES OF PAY FOR TEMPORARY, SEASONAL AND PART-TIME EMPLOYMENT

All rates prescribed in the scales of pay are the standard rates of pay authorized for full-time employment for the hours specified for each class of positions. When employment is on a part-time basis, pay rates shall be determined on a department-by-department basis by the County Administrator who shall take into account pay rates for similar full-time position classes, if they exist.

4.5 PERFORMANCE EVALUATION

A. The County's performance evaluation program is designed to help ensure quality services through improving skills and performance. Assigned duties and responsibilities of an employee shall be evaluated annually by the employee's immediate supervisor. Recordkeeping for employee reviews (including probationary evaluations) will include all written documentation and remain on file at least five years.

B. Uses of the Performance Evaluation Program

The formal performance evaluation program shall be used to:

1. Provide both supervisors and employees with the opportunity to discuss job tasks, identify and correct areas of identified weaknesses or opportunities for skills improvement, encourage and recognize strengths and discuss positive, purposeful approaches for meeting goals;
2. Motivate employees to improve work performance;
3. Increase employee morale through management recognition;
4. Serve as the basis for salary increase recommendations;
5. Improve communications between supervisors and employees; and,
6. Serve as part of the justification for recommendations pertaining to personnel actions (promotion, demotion or dismissal).

C. Confidentiality

The performance evaluation process is strictly confidential. Every effort shall be made by all parties involved to maintain employee confidentiality. Any employee, other than the employee being evaluated, who is found in breach of this confidentiality, shall be subject to disciplinary action.

D. Timing of Performance Evaluations

1. Performance evaluations are conducted at the end of an employee's probationary period in a regular full-time or part-time position where the incumbent regularly works a minimum of 20 hours per week.
2. Performance evaluations for non-probationary employees are scheduled to be completed annually prior to July 1.
3. Additional evaluations or discussions may be scheduled as required by the employee's supervisor or as required by the performance program guidelines.
4. A non-probationary employee who receives a less than satisfactory performance rating may receive additional time to improve work performance when it is deemed to be in the best interest of the County and the employee. The reviewer shall submit a written justification and recommendation for extending the review period to the County Administrator for approval. The maximum period for an extension shall be 60 days.
5. A performance evaluation shall accompany the reviewer's status recommendation to the County Administrator at the conclusion of the extended performance review period.

E. Review Process for Performance Evaluations

1. Performance evaluations will be prepared by an employee's immediate supervisor using the County's standard format.
2. After writing the performance evaluation, the supervisor may give the performance evaluation to the County Administrator for review prior to presenting it to the employee.
3. The supervisor will then meet with the employee to discuss performance. The employee will provide comments as the employee deems appropriate and employee and supervisor will sign the appropriate form. A copy will then be given to the employee and a copy retained for the County's records.
4. If the employee is in disagreement with the supervisor's evaluation of their performance, the employee can request a review of their evaluation with the County Administrator. The County Administrator has final review and approval authority for performance evaluations.

4.6 MERIT SALARY INCREASE

When budgeted by the Board, merit-based pay adjustments may be determined by the County Administrator based on the performance system referenced above, in an on-going effort to recognize truly superior employee performance. The decision to award such an adjustment is dependent upon numerous factors including the information documented by the formal performance evaluation process. These salary increases should not be confused with length of service increases and thus awarded sparingly.

A. It is County policy to provide eligible employees with opportunities for annual merit salary increases based upon receiving a satisfactory or better performance evaluation ***provided sufficient County funds are available***. A merit increase is not an

entitlement, nor a right of employment, nor an integral part of the pay system to be awarded automatically. Rather, it is an expression of management recognition of the ability, the performance and the potential worth of the employee to the County.

B. Annual merit salary increases are based upon an eligible employee receiving a satisfactory or better performance evaluation, positive recommendation by the supervisor and approval by the County Administrator.

C. Each eligible employee may be advanced through the pay grade on the basis of performance until the maximum of the pay grade is reached.

D. All submissions for merit salary increases shall be accompanied by the completed performance evaluation.

E. Eligibility:

1. The following employees are eligible to be considered for annual merit salary increases based on satisfactory or better performance in accordance with this policy:

   a) Regular full-time employees; and,

   b) Regular part-time employees who work a minimum of 20 hours per week.

2. Eligibility for merit salary increases shall not be affected by:

   a) Salary adjustments due to change in hours of work;

   b) Revisions made to the Compensation Plan;

   c) Promotion, transfer and demotion; and,

   d) Satisfactory completion of active military service in accordance with the Military Leave Policy.

4.7 LONGEVITY INCREASE

Employees who reach the maximum pay rate of their class are to receive a performance evaluation every year. After an employee reaches the maximum rate for his class, s/he is eligible for a lump sum payment not to exceed two and one-half percent (2.5%) of his present salary based on the performance evaluation.

4.8 PROMOTION

A promotion is the movement of an employee from one class of position to another of a higher pay grade in which the employee meets the minimum qualification requirements.

A. When an employee is promoted, the employee's salary shall be increased to the minimum salary of the new, higher pay grade.

B. In the case of overlapping ranges, and upon the successful completion of the 6-month probationary period in the new position, the promoted employee may be increased based on recommendations of the Department head.

C. A promotion shall change the employee's anniversary date.

D. All promoted employees are required to serve a probationary period in accordance with Section 2.8.

E. Exceptions may be granted by the County Administrator.

4.9 DEMOTION

A demotion is the movement of an employee from one class of position to another of a lower pay grade in which the employee meets the minimum qualification requirements.

A. An employee may be demoted to a position for which s/he qualifies for any of the following reasons, subject to approval of the County Administrator:

1. When an employee would otherwise be laid off because the position is being abolished, lack of work, lack of funds or other organizational changes;
2. When an employee is unable to meet the satisfactory performance standards over a period of time or when removed during probation following a promotion;
3. When an employee voluntarily requests such demotion; or,
4. For the good of County services.

B. When an employee is demoted from a class in which s/he was originally appointed, the salary shall be reduced to the place in the new pay grade that is immediately below his/her salary prior to demotion.

C. A demotion shall change the employee's anniversary date.

D. All demoted employees are required to serve a probationary period in accordance with Section 2.8.

4.10 TRANSFER

A. There shall be no change in salary as the result of a lateral transfer.

B. When an employee is transferred into any position, other than moving within the same classification and pay grade level, the employee shall be paid at a point within the pay grade based on his/her qualifications for the new position and the employee's anniversary date shall change.

C. All transferred employees are required to serve a probationary period in accordance with Section 2.8.

4.11 RECLASSIFICATION

A. Upon an upward reclassification/reallocation of a position, an employee shall receive the greater amount of either the minimum rate for the new pay grade or the next higher rate of pay in the new pay grade as compared to the rate of pay in the lower pay grade.

B. Upon a downward reclassification/reallocation of a position, an employee shall be placed in the new pay grade at a point equal to or closest to his/her current rate of pay, so that the employee is not penalized by a reduction in pay. When the employee's rate of pay prior to reclassification exceeds the maximum of the new, lower pay grade, the employee's rate of pay shall be frozen at the existing rate of pay until the pay of the lower pay grade matches or exceeds the employee's rate of pay at the date of reclassification/reallocation.

C. Reclassifications shall not change the employee's anniversary date.

4.12 ACTING CAPACITY

A. When an employee is required to work in the capacity of a higher-level supervisory position due to an anticipated absence over a prolonged period of time, such employee may be paid additionally for assuming the higher-level duties.

B. Requests for "acting pay" shall be made in writing by the Department head and submitted to the County Administrator for approval.

C. The temporary salary adjustment for the period of assignment to the higher-level position shall be determined by the County Administrator.

D. Retroactive requests shall not be considered except where, in the opinion of the County Administrator, justice requires it.

4.13 OVERTIME AND COMPENSATORY TIME

Non-exempt employees will be provided overtime compensation as described in this policy. Overtime hours shall not be worked unless the Department Administrator has given prior approval. The County may provide compensatory time ("comp time") off in lieu of monetary compensation for overtime work.

Comp time received by an employee in lieu of cash shall be awarded at a rate of 1.5 hours of comp time for each hour worked in excess of 40 hours in one work week.

Non-exempt law enforcement employees shall receive overtime compensation only when the number of hours worked exceeds 86 in the applicable 14-day work period. Employees holding these law enforcement positions shall receive compensation for all hours worked up to 86 and leave time may not be substituted. In computing overtime wages, only actual hours actually worked will be counted.

Hours worked on holidays. Nonexempt employees who work on a holiday, if they do not receive another day off for the holiday, will receive full pay for the day or hours worked, but will not receive overtime pay unless hours actually worked in the applicable work period exceeds 40 (or, for law enforcement officers, unless the hours worked in the applicable 28-day work period exceed 171).

Individual work hours shall be altered to avoid exceeding overtime limits during a work week.

Any employee working overtime which is not approved in advance, failing to work overtime or outside their scheduled shift when requested may be disciplined, up to and including discharge.

A. Policy

1. It is the policy of the County to adopt and implement the provisions of the Fair Labor Standards Act (FLSA), as amended, as the fundamental wage and hour policy of the County. Further, it is the policy of the County that any overtime work necessary for the continued effective operation of the County shall be managed in the most efficient and economical manner possible. The County reserves the right to compensate employees in the form of compensatory time in lieu of cash payment, in accordance with FLSA standards.

2. Authorization for Overtime

   a) Overtime work shall be authorized to cover emergencies, inclement weather conditions and unusual working requirements, and may be authorized only by the employees' Department head prior to such work being performed.

   b) Non-exempt employees who have been granted permission to accrue compensatory time, may accrue up to 240 hours.

   c) Non-exempt personnel performing public safety activities, emergency response activities, and seasonal activities may accrue up to 480 hours.

   d) Once an employee has reached the above-referenced limits, he shall receive monetary compensation for any overtime work until his accumulated comp-time balance falls below the applicable limit.

   e) Any employee who has accrued comp time shall be permitted to use the time within a reasonable period after making a request, if use of the comp time will not unduly disrupt the operations of the department in which he is employed.

   f) Comp time shall be used within one year of its accrual, or an employee shall be paid for it. At no time shall any employee be allowed to accumulate comp time in excess of the limits specified provided above.

   g) Employees who are engaged in "public safety," "emergency response," or "seasonal" activities shall not be required to use accumulated comp time within l year of accrual but shall be allowed to utilize such time within a reasonable time after accrual, not to exceed 2 years. If such time has not been used within 2 years of accrual, the employee shall be paid for it.

   h) Department heads and Constitutional Officers are responsible for scheduling compensatory leave time so that it will be used within the

applicable 1-year or 2-year period or assuring that adequate funds are available within their budgets for payment of the time at the end of the applicable period. The County Administrator shall report the balance of compensatory leave time, if any, for every County employee during the budget process.

3. Regular rate of pay. For purposes of the overtime pay requirements of the FLSA, an employee's "regular rate of pay" shall be calculated by the County Administrator.
4. Charging leave accounts. When an employee is absent while on paid leave status, the hours of such leave shall always be charged first to any balance of accumulated comp time. Thereafter, leave time shall be charged to accumulated balances in the following order of priority: 1st) Accrued holiday leave, 2nd) Accrued annual leave.
5. Exempt employees are ineligible for overtime pay; however, they may receive compensatory time, subject to the following conditions:
    i. A supervisor (or the County Administrator, if the employee is a Department head) may choose to grant compensatory time off to exempt employees who are required to work more than 40 hours per week for special projects or during weekends or any normally scheduled time off. This shall not be construed or interpreted to mean that exempt employees have a right to compensatory time. Compensatory time is discretionary and must be requested based on these criteria.
    ii. The work involved must be required by the supervisor or County Administrator, or be related to special assignments or projects outside the normal day-to-day activities of running the department.
    iii. Compensatory time will be granted on an hour-for-hour basis.
    iv. The exempt employee may not accumulate more than 40 hours of comp time.
    v. The comp time must be used within a reasonable time following its authorization, but within one month of earning the time off.
6. It is the responsibility of each Department head to determine that overtime pay is administered in the best interest of the County. Department heads shall ensure that, whenever possible, overtime assignments are distributed as equitably as practical to all employees qualified to perform the required work. In addition, it is equally important for the Department head to eliminate unauthorized overtime. Failure by a Department head to eliminate unauthorized overtime will result in disciplinary action, up to and including dismissal.
7. No employee shall start work before the authorized starting time, work through the meal period or work past the authorized ending time without prior authorization from the County Administrator or Department head.
8. Failure by an employee to work scheduled overtime or overtime worked without prior authorization from the County Administrator may result in disciplinary action, up to and including dismissal.

B. Categories of Jobs

1. Under the FLSA, there are two (2) basic categories of jobs:

   a) Exempt (E) – Those employees not covered by the overtime provisions of the FLSA; or,

   b) Non-exempt (N) – Those employees covered by the overtime provisions of the FLSA.

2. FLSA requirements apply to positions and employees not to classes. The County's class designations serve as a general guide in determining whether individual positions are exempt or non-exempt from the overtime provisions of the FLSA. All County positions, under the direction of the County Administrator, shall be identified as follows:

   a) E – Exempt; or,

   b) N – Non-exempt.

3. In determining which positions shall be exempted from the provisions of FLSA, the guidelines established by the FLSA shall be followed.

4. For all purposes required herein, the County Administrator shall cause a list of FLSA designations to be created and maintained. Said list shall note the exempt/non-exempt status by job title and may be amended from time to time as required.

C. Record Keeping

1. Each department must keep a daily and weekly time and attendance record of hours worked, sick leave, annual leave, holidays, leave without pay, and other categories of leave and overtime hours for each work period. Records must be submitted to the County Administrator's Office at the end of each pay period. All employees' time cards, time and attendance records, leave slips, on-call records, overtime records and payroll records shall be kept for a minimum of five years.

D. Questions on Applicability

1. All questions about the application of this policy or the FLSA should be directed to the County Administrator. Additionally, copies of all policies, practices or procedures issued by a Department head, as it relates to any provisions of this policy, must be approved by the County Administrator prior to implementation.

4.14 HOLIDAY PAY

A. Certain employees may be designated as essential safety sensitive operations that cannot close for holidays. As such, all non-exempt employees of these departments will accrue holiday hours as stated below.

B. Full time employees are paid their regular rate of pay for days designated as County holidays in the Personnel Rules. Number of hours paid for each holiday is dependent on their normal work shift.

C. Those employees required to work may receive credit for time worked on the day of the designated holiday and may accumulate a balance of holiday leave during the course of a fiscal year (July 1 of each year through June 30 of the following year). Full-time employees in public safety positions (law enforcement officers, animal control officers, emergency medical service personnel, and dispatchers) and other employees designated by a department head with the approval of the County Administrator will be eligible to receive straight-time credit for holiday time to be used on a subsequent date.

D. Any accumulated holiday leave balances must be used on or before June 30 each year or it shall be lost. On July 1 of each year, every employee's holiday leave balance will be reset to "0".

E. All part-time and temporary employees required to work on County holidays will be paid at their regular hourly wage for each hour worked on the holiday.

F. When a holiday falls on a full time employee's scheduled day off, one of his scheduled working days within the same work period in which the holiday occurs may be designated by the Department head as the official holiday.

G. All full-time employees required to work on County holidays and taking another day off in the work period will use holiday day time off before annual leave or compensatory time off.

4.15 CALL-BACK PAY

A. Non-exempt employees called in to work outside their normally scheduled work hours shall be entitled to receive a minimum of two hour's pay at the appropriate overtime provisions for their class, or overtime pay for the actual hours worked, whichever is greater. Employees shall be paid from the time they receive the call to report to work until the time they are released. Employees are not paid for the time spent traveling to their home.

B. Exempt personnel required to return to work under this policy shall be reimbursed for the mileage on their personal vehicle as established in Section 11.1 of the Personnel Rules. Regularly scheduled meeting of the Board and its committees meeting after hours are not a return to work for Department heads for mileage reimbursement.

4.16 ON-CALL PAY

Certain employees while off work, may from time to time be requested to be available in case they are needed to return to work. This condition is considered as being in “on call” status, the circumstances of which may vary from situation to situation as conditions and situations require. Typically, on-call simply means that the employee must return to work if requested and employees are free to use their personal time otherwise as they may choose.

It is the policy of the County to limit or avoid situations where its employees cannot use their off-duty time effectively for personal purposes, even if they are on call and being in on-call

status does not, of itself, require that an employee be compensated for the time spent on-call since the primary issue determining pay requirements for on-call status is the degree to which an employee can be on-call and still use their time effectively for personal purposes.

Department heads shall establish on call practices that include required minimum response times and compensation based on the needs of the department and limitations of the departmental budget.

4.17 PERSONNEL DATA CHANGES AND PAYROLL DEDUCTIONS

A. Personnel Data Changes

It is the responsibility of each employee to promptly notify the County Administrator's Office of any changes in personnel data. Personal mailing addresses, telephone numbers, dependent information, changes in marital status, individuals to be contacted in the event of emergency, educational accomplishments and other such status reports should be accurate and current at all times.

B. Pay Deductions

The County is required by law to make certain deductions from every employee's compensation. These mandated deductions include Federal and Commonwealth of Virginia income taxes and Social Security taxes. The chapter pertaining to employee benefits provides additional information regarding payroll deductions. Additionally, pay may be affected by disciplinary actions as described in Chapter 13 in this Manual.

C. Garnishment

1. Garnishment is the legal permission of creditors to collect part of an employee's pay from the County. The County cannot refuse to honor such levies, as they represent an order from the Court to withhold and pay to the Court a specific amount of an employee's earnings.
2. Upon receipt of an order of garnishment, a written notification of the garnishment shall be sent to the employee. A copy of the garnishment shall be placed in the employee's personnel file.

D. Administrative Pay Corrections

1. The County takes all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on scheduled paydays.
2. In the event that an error in pay is detected, the employee shall promptly notify the Department head or County Administrator's Office of the discrepancy. Payroll errors shall be corrected as soon as possible.
3. Both underpayments and overpayments shall be corrected as soon as possible. If an overpayment results in the employee owing a substantial amount, a schedule of repayments may be arranged with the employee to minimize the inconvenience.

E. Recording Time

1. Accurately recording time worked is the responsibility of every employee. Time sheets are used to meet Federal and Commonwealth of Virginia record keeping requirements and serve as the basis for calculating employee pay and benefits.
2. Tampering, altering, or falsifying time sheets or recording time on another employee's time sheet may result in disciplinary action, up to and including dismissal.
3. Corrections to time sheets require that the employee and their supervisor initial the correction.

CHAPTER 5 - HOURS OF WORK

5.1 ATTENDANCE AND PUNCTUALITY

A. To maintain a safe and productive work environment, the County expects employees to be reliable and to be punctual in reporting for scheduled work. Employees are responsible for learning the specific reporting requirements for their department and work unit from their Department head or County Administrator.

B. Poor attendance and excessive tardiness may lead to disciplinary action up to and including dismissal.

5.2 WORK SCHEDULES

A. The County Administrator shall establish the hours of work for County employees, while participating Constitutional officers shall set the hours of their office. The regular workweek is a seven day period (12:01 a.m. Monday through 12:00 midnight Sunday). Employees work a 40-hour work week (excluding meal periods). When individual work schedules differ from this, compensation shall be made on a proportionate basis.

B. Should any Constitutional officer participating in the Unified Pay Plan utilize a shorter work week, their employees will be paid a proportionately smaller salary.

C. Non-exempt law enforcement officers may have an established work period of 84 hours in every 14 day cycle.

D. When a department's normal services necessitate work schedules other than that listed above, work schedules shall be proposed by the Department head by submitting such request, in writing, to the County Administrator for approval.

E. Other workweeks and hours may exist for specific classes of employees as a condition of employment, including on call status.

F. With the advance approval of the County Administrator, a department may establish an alternative workweek under the following guidelines:

1. Individual and office productivity levels must be maintained. Deadlines must be met and phones must be covered at all times.
2. All offices must be adequately staffed and supervised to ensure prompt response to client needs during designated business hours. It may not be possible for all supervisors to take advantage of the alternative work schedule since adequate supervision of employees is expected. One person clerical offices may not use an alternate work schedule.
3. Alternative work schedules normally cannot start before 7:00 a.m. and all employees are to begin work no later than 9:00 a.m. Alternative work schedule employees working out in the field may begin work before 7:00 a.m. as long as the actual field work does not begin before 7:00 a.m. (arrive to work early to load equipment and materials so as to be at job site at 7:00 a.m.).

4. Employees may be required to temporarily adjust their alternative work schedule in order to attend mandatory meetings (staff, Board, work sessions, planning commission, etc.) or assist with exceptional work-loads.
5. In order to administer alternative work schedules simply and efficiently, once an alternative work schedule is determined, employees must commit to the schedule for the agreed time period (90 days). There shall be no indiscriminate changes.
6. Alternative work schedules are to be cost neutral -- no overtime will be permitted which is the sole result of an employee working on an alternative work schedule.
7. Lunch hours cannot be adjusted to offset arrival and departure times.
8. Employees working an alternative schedule are to schedule routine doctor and dentist appointments on their time off, if possible.
9. Employees working an alternative schedule must charge their accrued paid time off for the amount of hours they would have worked if less than 40 hours per workweek. For example, if an employee is sick on a 10-hour workday, 10 hours must be charged to paid time off. If an employee takes off on a 10-hour workday, 10 hours must be charged to paid time off.
10. Holidays are counted as 8-hour workdays. An employee working a 9 or 10-hour workday schedule will not need to take annual leave to make up the difference.
11. Alternative Work Schedule Options:

    a) Working a 10-hour workday for 4 days, resulting in one day off every week.

    b) Working a 9-hour workday for 4 days then one 4-hour workday, resulting in one half day off each week.
12. Exempt employees may not use a 10 hour, 4-day work week.
13. The County Administrator may not approve a workday that goes beyond 8 hours for any public-facing department unless public access and public service is expected to be enhanced by doing so.
14. Department heads shall advise employees of their individual work schedules.
15. During inclement weather, essential-services employees shall report to work.
16. Daily hours of work for employees covered by this policy may be adjusted by the Department head, with prior approval of the County Administrator. All departments shall demonstrate that they are adequately staffed during the designated County business hours prior to approval of adjusted hours by the County Administrator.

CHAPTER 6 - WORK ENVIRONMENT

6.1 PROTECTION OF EMPLOYEE LIABILITY

A. It is the policy of the County to protect its employees against lawsuits arising out of the performance of their duties. All public employees and officers of the County, when acting within the scope of their employment, are protected from financial loss resulting from a lawsuit or action brought against them.

B. This policy requires that certain "conditions for protection" must be met to provide an effective defense, namely:

1. The employee must deliver to the County Administrator the original or a copy of any summons, complaint, process, notice, demand or pleading as soon as possible after being served with such document;
2. The employee must provide the County full cooperation in the defense of such action or proceeding; and,
3. The acts complained of against the employee must not have been malicious or a result of gross negligence, fraud, other willful acts or where an employee has been found to have violated County policy.

6.2 SEXUAL AND OTHER UNLAWFUL HARASSMENT

A. Policy

1. It is the County policy that sexual and other unlawful harassment of its employees in any form is prohibited and that all employees shall be treated with respect. Actions, words, jokes or comments based on an individual's sex, race, ethnicity, age, disability, religion or any other legally protected characteristic shall not be tolerated.
2. Any employee who engages in, perpetuates, or condones sexual and other unlawful harassment shall be subject to disciplinary action, including dismissal.
3. A non-employee who subjects an employee to harassment in the workplace will be informed of the County's policy and appropriate actions will be taken to protect the employee from future harassing conduct.

B. Definition

1. Sexual Harassment – Behavior that constitutes sexual harassment, as currently defined in guidelines published by the U.S. Equal Employment Opportunity Commission (EEOC), includes sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

    a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

b) Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; and,

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.

2. Sexual Discrimination – The EEOC has determined that sexual harassment is a form of sexual discrimination.

3. Harassment - Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where:

a) Enduring the offensive conduct becomes a condition of continued employment, or

b) The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

4. Employee – An individual employed by the County on a full-time, part-time, regular, grant, term or temporary basis is considered to be an employee for the purposes of this policy.

C. Persons Covered

Employees, as defined in Section 6.2.B-4 of this policy, are covered by the provisions of this policy.

D. Prohibited Conduct

The following types of conduct are examples of sexual or other unlawful harassment and are prohibited. These examples do not necessarily represent all the ways in which sexual harassment may occur and are not intended to limit the definition of sexual harassment.

1. *Verbal comments and gestures of a sexual nature*. This includes any type of sexually suggestive remarks, pictures, jokes and catcalls.

2. *Explicit or implicit promises of career advancement or preferential treatment in return for sexual favors*. Such promises or preferential treatment may include, but are not limited to, hiring, promotion, training opportunities, work scheduling and leave approval, acceptance of a lower standard of performance, providing higher performance evaluations and lax timekeeping.

3. *Explicit or implicit threats that an employee shall be adversely affected if sexual demands are rejected*. Such threats include, but are not limited to, lower performance evaluations, denial of promotions, punitive transfers, terminations and altered or increased work assignments.

4. *Unsolicited and repeated touching of any kind*. This includes the touching, patting or pinching of another person and repeated brushing against another person's body.

E. Investigation of Complaints

1. Employees who believe that they have experienced sexual or other inappropriate or unlawful harassment or who have been affected by such offensive conduct, shall notify the County Administrator, in writing, within two working days of the incident.
2. In the event that the offensive behavior was instigated by the County Administrator, the notification referenced above shall be made directly to the County Attorney. In the event of receipt of such a complaint, the Attorney shall follow the steps outlined herein for the County Administrator to take.
3. Upon receipt of the written complaint, the County Administrator shall order an investigation into the matter.

F. Confidentiality

1. Any complaint shall be handled in a confidential manner. Every effort shall be made, by all parties involved, to protect the confidentiality and privacy of all information and documents pertaining to a claim.
2. Persons designated by the County Administrator to conduct investigations shall not communicate the fact that an investigation is pending; nor, shall they communicate the contents and findings of such investigation except to the appropriate parties.
3. Breach of confidentiality may result in disciplinary action, including dismissal.

G. Frivolous and Groundless Complaints

1. The County's commitment to eliminate sexual harassment and other forms of unlawful harassment from the workplace does not grant license for employees to engage in unfounded, frivolous or vindictive actions in violation of the intent of this policy.
2. Where the results of an investigation reveal that a written complaint of sexual or other unlawful harassment is wholly frivolous or groundless, the employee having made such complaint may be subject to disciplinary action, including dismissal.

H. Policy Against Retaliation

Reprisal or retaliation is strictly prohibited. This includes both direct retaliation or reprisal, or the encouragement of others to engage in retaliation or reprisal against any person whom:

1. Opposes any conduct prohibited by this policy;
2. Complies or encourages others to comply with any provision of this policy;
3. Files a complaint concerning any violation of this policy;
4. Testifies, assists or participates in any investigation or hearing resulting from a complaint under this policy; or;
5. Exercises or attempts to exercise any right conferred under this policy.

I. Discipline

Any employee found to have engaged in sexual or other unlawful harassment, who is found to have knowingly condoned, encouraged or perpetuated an act or acts of sexual or other

unlawful harassment; or, who is found to have in some way participated in retaliation or reprisal, shall be subject to disciplinary action, including dismissal.

6.3 WORKPLACE VIOLENCE

Madison County provides a safe workplace for all employees. To ensure a safe workplace and to reduce the risk of violence, all employees should review and understand all provisions of this workplace violence policy.

A. Prohibited Conduct

Madison County does not tolerate any type of workplace violence committed by or against employees. Employees are prohibited from making threats or engaging in violent activities. This list of behaviors provides examples of conduct that is prohibited:

1. Causing physical injury to another person.
2. Making threatening remarks.
3. Displaying aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress.
4. Intentionally damaging employer property or property of another employee.
5. Possessing a concealed weapon while on county property or while on county business. Weapons kept in personal vehicles on county property shall not be considered a violation of this policy.
6. Committing acts motivated by, or related to, sexual harassment or domestic violence.

B. Reporting Procedures

Any potentially dangerous situations must be immediately reported to a supervisor or the County Administrator. Reports can be made anonymously, and all reported incidents will be investigated. Reports or incidents warranting confidentiality will be handled appropriately, and information will be disclosed to others only on a need-to-know basis. All parties involved in a situation will be counseled, and the results of investigations will be discussed with them. Madison County will actively intervene at any indication of a possibly hostile or violent situation.

C. Risk Reduction Measures

1. Hiring

   The County Administrator takes reasonable measures to conduct background investigations to review candidates' backgrounds and to reduce the risk of hiring individuals with a history of violent behavior.

2. Safety

   Department heads shall conduct annual inspections of the premises to evaluate and determine any vulnerabilities to workplace violence or hazards. Any necessary corrective action will be taken to reduce all risks.

D. Individual situations

Although Madison County does not expect employees to be skilled at identifying potentially dangerous persons, employees are expected to exercise good judgment and to inform the County Administrator if any employee exhibits behavior that could be a sign of a potentially dangerous situation. Such behavior includes:

1. Threatening others with weapons or bringing them into the workplace;
2. Displaying overt signs of extreme stress, resentment, hostility or anger;
3. Making threatening remarks;
4. Showing sudden or significant deterioration of performance; and/or
5. Displaying irrational or inappropriate behavior.

E. Employees at risk

The County Administrator will identify and maintain a list of employees who have been determined to be at risk for becoming victims of violence because of the nature of their job or because they are subject to harassment, violence or threats from a nonemployee. The County Administrator will design a plan with at-risk employees to prepare for any possible emergency situations.

F. Dangerous/Emergency Situations

Employees who confront or encounter an armed or dangerous person should not attempt to challenge or disarm the individual. Employees should remain calm, make constant eye contact and talk to the individual. If a supervisor can be safely notified of the need for assistance without endangering the safety of the employee or others, such notice should be given. Otherwise, employees should cooperate and follow the instructions given.

G. Enforcement

Threats, threatening conduct, or any other acts of aggression or violence in the workplace will not be tolerated. Any employee determined to have committed such acts will be subject to disciplinary action, up to and including termination. Nonemployees engaged in violent acts on the employer's premises will be reported to the proper authorities and fully prosecuted.

6.4 ALCOHOL AND DRUG FREE WORKPLACE

A. Purpose

Madison County recognizes that alcohol and drug abuse is a serious problem across America. It is, therefore, the goal of the County to establish and maintain a safe and healthy workplace for its employees, free from alcohol and illegal drug use and to protect the safety of its citizens by providing the highest quality of service.

B. Employee Responsibilities

1. No employee shall unlawfully manufacture, dispense, possess, use or distribute any controlled substance, medication or alcohol.

2. Any employee convicted under a Federal or State statute regulating controlled substances shall notify their supervisor and the County Administrator within five (5) days after the conviction.
3. No employee shall consume alcoholic beverages within eight (8) hours of their scheduled start time, during work hours or while at work during breaks or lunches.
4. No employee shall be impaired by alcoholic beverages less than eight (8) hours before work, during work hours or while at work during breaks or lunches.
5. No employee shall represent the County in an official capacity while impaired by alcohol, illegal drugs or medication.
6. No employee using medication that may impair performance shall operate a motor vehicle or engage in safety-sensitive functions while on duty for the County.
7. Employees are responsible for understanding the effects of prescription or non-prescription medication they are using that may impair performance of duties.
8. An employee who has reason to believe that the performance of another employee is impaired by alcohol, illegal drugs and/or medication shall immediately notify his Supervisor, Department Head or County Administrator.
9. Department heads, and in the absence of a department head their deputy, shall be responsible for maintaining a drug and alcohol-free workplace in their area of operations and implementing the following drug and alcohol testing program.

C. Drug and Alcohol Testing

In order to achieve a drug-free workplace, all candidates offered employment with Madison County, shall be required to participate in all of the following alcohol and controlled substances testing:

1. When an applicant for any position has been extended a conditional offer of employment, but before beginning work;
2. When there is a reasonable suspicion to believe that the employee is in an impaired state. Reasonable suspicion is a belief based on objective and articulated facts sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol such that the employee's ability to perform the functions of the job is impaired or such that the employee's ability to perform his/her job safely is reduced.
3. Employees in public safety positions are subject to random drug testing. These tests are unannounced and unexpected by employees. Random selection software shall be employed to eliminate human errors and bias and otherwise ensure accuracy and fairness of selecting employees for testing such that there is an equal chance for individual employees to be picked for testing.
4. After any accident or incident;
5. As a condition for return for duty after testing positive for controlled substances or alcohol; or,
6. As part of follow-up procedures for return-to-duty related drug or alcohol violations.

D. Definitions

For purposes of this policy, the following terms shall mean:

1. Commercial Motor Vehicles - Vehicles which have a manufacturer's gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 26,001 pounds or more; or

    c) Vehicles made to carry sixteen (16) or more passengers, including the driver; or

    d) Vehicles that transport hazardous materials that have to be placarded by federal law.

2. Controlled substances - Any drug or substance assigned a DEA controlled substance code number in the following groups: Opiates, Opium derivatives, Hallucinogenic substances, Depressants, and Stimulants. The mere possession of a valid prescription or over-the-counter drug for medical reasons does not constitute a policy violation. In addition, the use of such a drug also will not constitute a policy violation, as long as the drug does not affect the driver's ability to function on the job.

3. Director - The Director of a County department.

4. Driver or Employee - Any Madison County employee who operates a commercial motor vehicle on behalf of the County and on County business or activity or who is employed in a safety sensitive position.

5. Drug - Any substance that is unlawful to possess under either the Federal Controlled Substances Act or state law, or any substance that could affect one's ability to function on the job.

6. EAP - Employee Assistance Program.

7. DEA - Drug Enforcement Agency.

8. MRO - Medical Review Officer.

9. BAC - (Breath Alcohol Concentration). The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test or as a percentage of blood in the body as expressed by a qualifying blood alcohol test.

10. Public safety position – Any position in the following County departments: Emergency Medical Services, Emergency Management/Public Safety, and Emergency Communications Center.

11. Reasonable Suspicion - A belief based on objective and articulated facts sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol such that the employee's ability to perform the functions of the job is impaired or such that the employee's ability to perform his/her job safely is reduced.

    Behaviors that include, but are not limited to, any one of the following, or in combination, may constitute reasonable suspicion:

    a) Slurred speech

b) Dilated pupils

c) Odor of alcoholic beverage on breath

d) Inability to walk a straight line

e) Lack of coordination

f) Incoherence

g) Tremors

h) Convulsions

i) Paranoia

j) Verbal altercation

k) Physical altercation

l) Possession of drugs or alcohol

m) On-duty accident or incident involving County property

n) When the employee has endangered others in the workplace

12. An "accident" or "incident" - Defined as any occurrence in which a driver is behind the wheel of a County vehicle and death, personal injury and/or property damage occurs or when a vehicle has left the roadway under other than normal causes or any individual is injured and requires medical care as a result of an action or inaction by a County employee. "Accident" or "Incident" shall also include abnormal occurrences when a driver is not behind the wheel, such as an abnormal departure from the roadway or when other facts or circumstances suggest reasonable cause to suspect drug use. Post-accident testing will be conducted regardless of who was injured, what property was damaged or who was responsible. An occurrence may qualify as an "accident" or "incident" regardless of whether the vehicle was in motion, temporarily stopped, parked or being loaded or unloaded, or on either public or private property.

13. Randomly select means to select by a method that features an equal probability that any employee from a group of employees will be tested.

E. Guidelines for Screening

1. Reasonable suspicion

Drivers will be tested for drugs and alcohol whenever the County has "reasonable suspicion" that the driver may have used drugs or alcohol. Whenever possible, the conduct or event giving rise to the "reasonable suspicion" should be witnessed by at least two persons, and a supervisor or department head should be called to the scene.

2. Post-accident Testing

Following an accident or incident involving a County vehicle, the County shall require the driver to submit to a blood, urine and/or breath analyzer test if:

a) The driver receives a citation for a moving traffic violation arising from the accident;

b) The accident results in the death of a human being or a bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident;

c) The accident results in total damage to any one property amounting to $500.00 or more based upon actual costs or reliable estimates;

d) Any condition that meets the definition of "accident" or "incident" under this policy.

Post-accident testing should be completed as soon as possible after the accident. Every effort will be made to ensure that the test is conducted within four (4) hours after the accident.

Following the accident, the driver will be taken to a medical facility or certified lab in order to have the blood, urine, breath analyzer and/or other appropriate tests. If the employee requires hospital care, the County will make arrangements to assure that the appropriate tests are performed at the hospital.

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

If a driver does not need hospital care but is required to have a post-accident test under this policy, he or she shall not use alcohol until eight (8) hours after the accident or until the test is performed, whichever occurs first.

3. Random Drug Screening

Madison County will randomly select two public safety employees for drug testing and compliance with its drug-free workplace policy on a quarterly basis.

Each quarter a Drug Screening Coordinator designated by the County Administrator shall randomly select two (2) employee names from the full pool of public safety employees on a day selected by a computer-based random-date and random name generator. The Drug Screen Coordinator shall inform the appropriate department head of the employees selected for testing and the testing date. In the event a department head is selected for testing, the County Administrator shall be notified.

The department head, or County Administrator in the event a department head is selected, is responsible for ensuring that the testing is completed on the next scheduled workday of the selected employee(s). The department head shall keep appropriate records concerning selection, notification, scheduling, and results for all testing.

The drug screening coordinator and department head have no discretion to waive the selection of a randomly selected employee. Employees selected for testing shall not be informed of the testing until the day of the test.

Confirmed positive tests will result in appropriate follow-up by the department head.

4. Return-to-duty Testing

   Any driver found to have engaged in conduct prohibited by this regulation shall undergo a test before returning to duty. If the prohibited conduct involved alcohol, the driver shall take an alcohol test and shall not be allowed to return to work unless the result is less than 0.02 BAC. If the prohibited conduct involved controlled substances, the driver shall take a controlled substances test and shall not be allowed to return to work unless the result is verified negative for controlled substance use.

5. Follow-up Testing

   Any driver identified as needing assistance in resolving problems associated with controlled substance use or alcohol misuse shall be subject to unannounced follow-up controlled substance and/or alcohol testing as directed by a substance abuse professional.

F. Drugs to be Tested

The purpose of the drug testing policy is to identify the use of any drug which affects an employee's ability to function on the job. An alcohol concentration of 0.04% BAC or greater, and/or detectable amounts any illegal drug, over-the-counter drug, or prescribed medication found in an employee's system shall violate this policy, except when an employee has advised his/her supervisor of their usage of over-the-counter drugs or prescribed medication, and the employee has been permitted to continue driving.

1. Employees will be tested for a broad range of drugs, including marijuana, cocaine, opiates, PCP (phencyclidine), amphetamines, alcohol and any other drug which impairs one's ability to function on the job.
2. Employees taking over-the-counter or prescribed medication are responsible for knowing the effects of that medication on their job duties. Employees may not drive or perform other duties under the influence of any prescription medication or over-the-counter drug that could impair their ability to function on the job. Employees must report to their supervisor the use of any medication that may have such an effect. An employee who is taking medication which adversely affects his/her performance will be removed from driving service and any public safety functions temporarily and will be eligible for sick leave or other appropriate benefits, if any are available.
3. Employees shall not report for work or be on County property while impaired by alcohol. Employees are prohibited from using alcohol within eight (8) hours of being on duty. An employee found to have a blood alcohol concentration (BAC) of 0.04% or more while on duty or on County property will be considered presumptively impaired and in violation of this policy.
4. Because alcohol consumption is legal and socially acceptable, and current technology is so accurate that it may even detect consumption from a previous night, the County will not discipline an employee based solely upon a blood alcohol test result of less than 0.04% BAC. However, an employee whose breath test reveals an alcohol concentration

of 0.02% or greater but less than 0.04% shall be removed from safety-sensitive function for twenty-four (24) hours or until the start of the employee's next regular scheduled period, whichever period of time is greater.

G. Test Procedures

1. The administration of the Drug and Alcohol Testing Program shall be in accordance with the Department of Transportation Regulations, Federal Highway Administration and the Drug-Free Workplace Act of 1986. Detailed provisions are listed in the regulations regarding collecting, labeling and transporting the sample. Specific requirements regarding confidentiality are also included. The testing of the sample shall be performed by a laboratory approved by the National Institute of Drug Abuse (NIDA), including a NIDA panel screening with gas chromatography/mass spectrometry (GC/MS) confirmation on all positive tests. The cost for all drug and/or alcohol tests shall be borne by the County, with the exception of re-testing for any employee who tests positive.

2. Whenever this policy requires that an employee be tested for drugs or alcohol after an accident or incident, or upon reasonable suspicion, or for any reason allowed by the policy, then the employee will be taken to an approved testing facility for the purpose of collecting the sample (except in the case in which the County relies on tests conducted by law enforcement or any other investigative authority). In no case will an employee be given more than twenty-four (24) hours' notice of a test.

3. Once at the testing facility, the employee will be required to provide a urine, blood and/or breath analyzer sample. The employee will not be directly observed while providing the urine sample, but laboratory personnel will take appropriate steps to assure that the sample remains unadulterated. If the technician determines that a first sample was adulterated, then the County may adopt an inference of employee drug or alcohol use. The technician will request that the employee submit a second sample, and appropriate steps, including direct observation, may be taken to assure that a proper sample has been submitted. If it is determined that the employee has altered or substituted the urine specimen provided, the employee is subject to immediate dismissal.

4. After the employee has provided the sample, the laboratory will comply with appropriate chain of custody procedures and will certify that the employee has actually provided the specimen submitted for testing. Results will be reported to a person designated by the County and qualifying as a Medical Review Officer (MRO).

H. Failure To Appear, Refusal To Give Consent Or Refusal To Submit To Testing

Failure to appear for testing without providing proper notice acceptable to the County shall be considered a refusal to participate in the testing and shall subject the employee to disciplinary action up to and including dismissal, or in the case of an applicant, the rescinding of a conditional offer of employment. Likewise, failure to give consent to see results or refusal to submit to testing will also subject the employee to disciplinary action up to and including dismissal.

If the employee refuses to be tested, he/she shall be immediately suspended from duty without pay and transported home. The refusal of an employee to submit to testing shall result in disciplinary action, up to and including dismissal. The supervisor who orders an alcohol and/or drug test shall document, in writing, within twenty-four (24) hours of the

observed behavior the conduct giving rise to the reasonable belief of alcohol or drug use. The documentation shall include any statements made and any actions taken by persons involved. All records shall immediately be forwarded to the County Administrator to be placed in the employee's personnel file.

I. Negative Test Results

In any case of a negative test result, the MRO will contact the department head and the employee to report the negative laboratory findings.

J. Positive Test Results

1. When a confirmed positive test result for drugs has been returned, the employee shall be given the opportunity to provide the Medical Review Officer information to demonstrate the positive test result is a result of utilizing a legally prescribed medication.
2. Evidence to justify a positive test result may include, but is not limited to:
   e) A valid prescription; or
   f) Verification from the individual's physician verifying a valid prescription.
3. If the Medical Review Officer determines that there is a lack of evidence to justify a positive result, the result shall then be considered a verified positive test result. The Medical Review Officer shall immediately notify the County Administrator (or the Chairman of the Board of Supervisors if the County Administrator has been tested) of the test results.
4. All testing information is confidential and shall be treated as such by anyone authorized to review such information.
5. For the purposes of maintaining a workplace free of drugs and alcohol, the County reserves the right to search the lockers, file cabinets, desks, other County-owned or provided fixtures and fixtures owned by employees but used for County business.

K. Disciplinary Action

Because of the serious nature of illegal use or abuse of alcohol, controlled substances and/or non-prescribed use of medication, appropriate disciplinary action shall be taken, up to and including dismissal. Actions shall not be prescribed since individual case situations may feature mitigating factors.

Amended May 12, 2020 and August 11, 2020

6.4 EMPLOYEE RELATIONS (OPEN DOOR POLICY)

Madison County believes that the work conditions, wages and benefits that it offers to its employees are competitive with those offered by other employers in this area and in local government. If employees have concerns about work conditions or compensation, they are strongly encouraged to voice these concerns openly, directly and professionally to their supervisor or the County Administrator.

6.5 PERSONAL APPEARANCE

County employees are expected to present a clean and neat appearance and dress according to the requirements of their positions. Employees who violate this policy will be sent home and directed to return to work with the proper dress. Under these circumstances, employees will not be compensated for the time away.

CHAPTER 7 - WORKER SAFETY

7.1 SAFETY PROGRAM

A. Safety Policy

1. It shall be the policy of Madison County that every employee is entitled to work under the safest conditions possible. To this end, every reasonable effort shall be made to promote accident prevention.
2. Safety is a fundamental responsibility of employees and management. To this end, the primary responsibility for safety in all work activities rests equally between employees and management.

B. Administration and Employee Responsibility

1. Department heads and County Administrator – Department heads and the County Administrator shall:

   a) Assume responsibility for safe work areas for their employees;

   b) Be accountable for preventable injuries, collisions and liabilities caused by their employees. These items shall be taken into consideration during their performance evaluations;

   c) Ensure that each employee is trained for the job assigned and is familiar with all published work procedures;

   d) Take the initiative in recommending correction of deficiencies noted in facilities, work procedures, employee job knowledge or attitudes that adversely affect safety efforts;

   e) Take appropriate disciplinary action against those who fail to follow safety policy and procedures and be prompt to give recognition to those who perform well;

   f) Ensure advance planning for new work activities to anticipate requirements for needed safeguards and controls;

   g) Report all accidents and injuries involving County employees, County vehicles or County property in accordance with County reporting procedures; and,

   h) Provide safety instructions to assigned employees and provide on-the-job supervision to ensure safe working conditions.

2. Employees – Employees shall:

a) Comply with the County's safety program's policies and procedures and directions from their supervisors;

b) Report all accidents and safety hazards to the Department head, as soon as practical, after an accident occurs or a hazard is observed;

c) Keep work areas clean and orderly;

d) Avoid engaging in horseplay and avoid distracting others;

e) Learn to lift and handle materials properly;

f) Be familiar with the Workers' Compensation policy; and,

g) Operate assigned vehicles, equipment and machinery in a safe and responsible manner.

7.2 SAFE OPERATION OF COUNTY VEHICLES

A. Purpose: The purpose of this policy is to provide operational guidelines and procedures to the operations of motor vehicles owned by Madison County for the protection and safety of human life and providing for the protection of private and County property and equipment.

B. Scope: This policy applies to County employees, volunteers, and agents who drive on County business. Supervisors of employees, volunteers and agents are responsible for enforcing this policy and shall ensure all persons who drive are notified of these policies, and the potential consequences of violating them.

C. Eligible Drivers. Supervisors of employees, volunteers and agents shall allow only those drivers who meet the following eligibility criteria to drive on County business. The supervisor is responsible to see these criteria are met before authorization to drive is granted to an individual:

1. Be at least 18 years old.
2. Possesses a valid Virginia driver's license.
3. The license must have the proper classification based upon the type of vehicle the employee is driving and the state requirements (cars, trucks, and other equipment requiring a license to drive).
4. Emergency medical personnel must successfully complete an Emergency Vehicle Operators Course prior to driving County emergency vehicles both emergent and non-emergent.
5. A Department of Motor Vehicles driving record request ("MVR") is required for each prospective driver whose position requires driving. Prospective drivers must cooperate by completing the necessary forms to obtain their driving records. The MVR will be

reviewed prior to the driver performing the required driving duties. The MVR will continue to be monitored throughout the driver's affiliation with the County.

6. Drivers including but not limited to public safety employees such as firefighters, law enforcement officers, and emergency services personnel (career and volunteer), may be subject to alcohol and drug testing in accordance with applicable federal, state, or County regulations.
7. Non Employee Drivers: Officers or agents representing the County, and volunteers or other persons acting on behalf of the County, are only authorized to drive vehicles on County business if they obtain written permission from their supervisor within the area to which they are assigned.

D. Driver Responsibilities. The following responsibilities apply to anyone who drives any County vehicle on County business:

1. Drivers shall report mechanical problems to their supervisors as soon as possible.
2. Drivers shall understand and comply with all applicable federal and state driving laws, parking regulations, and all County and departmental safety policies and rules.
3. Except as may be required for patient care provided by emergency services personnel, all drivers and passengers shall wear safety belts when the vehicle is in motion.
4. Except as may be required for the performance of the official duties of an operator of any emergency vehicle all drivers shall refrain from using devices such as PDAs and cellular phones, either hand-held or hands-free, while operating a motor vehicle.
5. Drivers shall be held personally responsible and liable for any failure to comply with the rules of the road for drivers while driving a vehicle on County business.
6. Driving while impaired or possibly impaired by drugs, medication, alcohol, regardless of whether the substance is prescribed or otherwise consumed is strictly prohibited.
7. Drivers shall notify their supervisor as soon as possible of any accident involving damage to County vehicles or to any other property, injury to any individual, or any violation of moving vehicle laws (citations or arrest).
8. A fleet fuel card is provided with all county vehicles. The card may be utilized for fuel only. The employee utilizing vehicles shall retain receipts and submit them to his supervisor for reconciliation. Misuse of fuel cards may subject an employee to disciplinary action up to and including termination.

E. Passengers. Only authorized passengers are allowed to ride in County vehicles in use for County business. Authorized passengers are:

1. County employees conducting County business;
2. Officers and agents representing the County;
3. Volunteers acting on behalf of the County;
4. Participants in official County business and programs;

5. Representatives of other governmental agencies working with the County;
6. Anyone with prior authorization by the driver's supervisor or with specific authorization by the County Administrator.

F. Incidental Use of County Owned Vehicle for Non-Business Purpose. When operating the County's vehicles, drivers may:

1. Make stops for meals if appropriate to the time of day.
2. Make stops for restroom breaks as needed.

Any stops or other uses of County vehicle equipment is prohibited in all instances if it would expose the County to public perception of misuse or abuse of the driving privilege. County employees or volunteers may not purchase or transport alcoholic beverages at any time, nor transport unauthorized passengers at any time, in a County vehicle.

G. Vehicle Accident Procedures.

1. All accidents and property damage to vehicles must be reported as soon as possible to the driver's supervisor.
2. The appropriate law enforcement authority must be promptly notified and an ambulance requested, as necessary.
3. Except as may be necessary for the preservation of life or property or the prevention or treatment of personal injury, the driver should not make any statements to anyone except the driver's supervisor and any law enforcement or emergency services personnel on the scene.
4. If the vehicle is disabled, the driver must contact his or her supervisor for instructions.
5. Failure to report damage or accident involving County vehicles in accordance with this policy may be subject to disciplinary action up to and including termination.

H. Maintenance of Vehicle Purchase and Title Records

1. The County Administrator shall maintain a current listing of all county-owned vehicles and the County department where each is assigned.
2. All original vehicle titles shall be filed with the County Administrator.

The County Administrator shall serve as the County's primary representative to the Department of Motor Vehicles and shall have the authority to execute title acquisition and disposal records and other Department of Motor Vehicles documents subject to all County procurement and disposal policies, departmental needs and budget constraints.

7.3 UNIFORMS, PROTECTIVE CLOTHING, AND SAFETY EQUIPMENT

Uniforms, protective clothing and safety equipment may be provided to County employees for their safety. Those positions requiring uniforms and safety equipment shall be identified by Department heads. Loss or excessive wear does not relieve the employee of the responsibility to wear uniforms and safety equipment. The loss or destruction of uniforms or safety equipment due to the employee's negligence shall be the responsibility of the employee.

A. Safety Equipment: Uniforms and Protective Clothing

1. Uniforms and protective clothing shall be provided to each employee whose position precludes wearing personal clothing for reasons of safety or prospective damage to normal personal work attire.
2. County uniforms shall never be worn for any jobs other than approved County employment.
3. Uniforms and protective clothing shall be replaced when the employee's Department head determines the uniforms or protective clothing to be non-useable.

B. Safety Equipment: *Shoes*

Safety shoes shall be worn by each County employee whose position requires protective footwear.

C. Safety Equipment: *Hard Hats*

Hard hats shall be provided to and worn by each County employee whose position requires protective headwear.

D. Safety Equipment: *Gloves*

1. Protective gloves shall be provided to and worn by each County employee whose position requires protective gloves.
2. Protective gloves shall be replaced, as they become non-useable. An employee's Department head shall determine when the gloves need to be replaced.

E. Safety Equipment: *Safety Eyeglasses*

Protective eye equipment, e.g., safety eyeglasses, goggles, hoods, etc., shall be provided to and worn by each employee whose position requires protective eye equipment.

CHAPTER 8 - LEAVE

8.1 LEAVE DEFINED

Leave is any approved absence during regularly scheduled work hours that has been authorized by the proper authority. Leave may be authorized with or without pay. Absence without leave is considered unauthorized leave (AWOL) and is subject to disciplinary action.

8.2 TYPES OF LEAVE

A. Holiday Leave

B. Paid Time Off

C. Bereavement Leave

D. Civil Leave

E. Military Leave

F. Leave Without Pay

G. Emergency Closings Policy

H. Administrative Leave

I. Unauthorized Absence (AWOL)

8.3 GENERAL LEAVE PROVISIONS

A. Employees are responsible for obtaining approval from their supervisor before beginning any absence from work. Leave shall be requested by employees in advance and approved by their supervisor before discretionary leave can be taken. When circumstances allow (i.e., scheduling doctor appointments, elective surgery), sick leave shall also be requested and approved in advance. Otherwise, a sick leave request shall be completed and submitted for approval immediately upon the employee's return to work. Forms shall be provided by the County for the employee, the supervisor, and the employee's personnel file. Employees are responsible for maintaining records of all leave identified under this policy.

B. To receive paid annual or sick leave for unscheduled absences, employees must notify their Department head within two hours of their regular starting time. In cases where the Department head is unavailable, employees should contact the County Administrator's Office. All departments are required to advise employees of their notification procedures.

C. The calculation of paid time off accrual is based on the pay period. In order to accumulate paid time off, an eligible employee must be in a paid status for at least 7/8 of their standard hours in that pay period. For example, an employee whose schedule would normally be 80 hours during a pay period must be in a paid status for 70 or more hours to qualify for paid time off for that pay period.

D. No employee shall be credited with annual leave for any overtime hours or compensatory hours worked, or while on a dock or leave without pay status.

E. Charges for authorized leave shall be made on an actual usage basis and rounded to the nearest one-half hour. No leave shall be requested or approved for less than one hour of leave.

F. Department heads will ensure standard leave record maintenance is performed and that current leave records are submitted to the County Administrator's Office weekly.

G. Employees are responsible for providing required leave forms to the appropriate staff in a timely manner.

H. No employee shall use leave that has not been earned. If an employee is off and does not have sufficient leave to cover the balance for that pay period, leave without pay shall be reflected on the employee's time sheet as approved absence or as unauthorized absence, if the time off was not approved.

I. All County employees, including temporary employees, are eligible for leave without pay.

J. Leave shall accrue while an employee is on approved paid leave. Leave shall not accrue if an employee is on unauthorized leave, military leave without pay or leave without pay as specified within this policy.

K. False or fraudulent use of leave or failure to follow this policy may be cause for disciplinary action, up to and including dismissal.

8.4 HOLIDAY LEAVE

A. Scheduled Holidays

The County shall follow the schedule of holidays established by the Commonwealth of Virginia, unless otherwise directed by vote of the Board of Supervisors.

If a holiday falls on a Saturday, the preceding Friday shall be observed as a holiday, or if a holiday falls on a Sunday, the following Monday shall be observed as a holiday. The County Administrator may at his/her discretion shift observance of a Holiday to suit the operations of the County and/or individual conflicts. In addition any other day so declared by the Board of Supervisors shall be a legal holiday.

The Board of Supervisors may designate additional holidays.

B. HOLIDAY LEAVE FOR CERTAIN EMPLOYEES

1. Due to the nature of the work performed by certain employees, those employees cannot all be granted leave on the designated holiday. Those employees may receive credit for time worked on the day of the designated holiday and may accumulate a balance of holiday leave during the course of a fiscal year (July 1 of each year through June 30 of the following year). Full-time employees in public safety positions (law enforcement officers, animal control officers, emergency medical service personnel, and dispatchers) and other employees designated by a Department head with the approval of the County Administrator will be eligible to receive straight-time credit for holiday time to be used on a subsequent date.

2. Accrued holiday leave must be taken before paid time off but after accrued compensatory time. Any accumulated holiday leave balances must be used on or before June 30 each year or it shall be lost. On July 1 of each year, every employee's holiday leave balance will be reset to "0".

8.5 PAID TIME OFF

A. Paid Time Off Accrual

1. Paid time off leave will accrue every full pay period in the year for a total of 24 pay periods per year. It will not accrue when the employee is on unpaid leave.
2. Regular full-time employees shall earn annual leave at a rate based upon completed pay period of service as follows:

(Full) Years of Service	Leave Hours Earned
Up to the end of year 5	12 hours per month
Beginning of year 6 – end of year16	16 hours per month
Start of year 17	20 hours per month

3. Temporary full and part-time employees do not earn paid time off leave.
4. Employees may accumulate paid time off leave subject to the following caps at June 30 of each year based on the following:

Employee Category	Maximum Hours Allowed to Accrue
VRS Plan 1	640
VRS Plan 2 and Hired Before January 1, 2020	640
Original Hire Date On or After January 1, 2020	240

The County Administrator may approve employees going over the accrual limit during the year for good cause, provided such is requested by the employee in advance.

5. No paid time off shall be earned for employment of less than one full calendar month (hired after first of the month or terminating employment during the month). Annual leave earned will be applied to the employee's account on the last day of each calendar month.
6. An employee who voluntarily terminates his employment with the County and returns to work with the County within six (6) months from date of separation may earn the same paid time off hours per month that he earned upon separation and be allowed to accrue the higher number of paid time off hours that would have been allowed without the service interruption.

7. Classified employees on PTO leave shall be paid their prevailing wage based on the prevailing scheduled work period. It is not the intent of this policy to allow the employee to receive additional compensation through the use of PTO leave, but to insure the employee's regular salary. Employees retain all benefits and seniority while on approved PTO leave.

B. Granting of Paid Time Off

1. Paid time off may be used as vacation, as time needed to recover from illness or injury, or for any other personal reason(s), subject to approval in advance by a Department head and subject also to the operational needs of the employee's department.

2. So far as possible, paid time off shall be set at a time mutually agreeable to the employee and the County. Paid time off shall normally be granted each calendar year, unless a Department head specifically defers an employee's vacation because of work requirements.

3. The paid time off credits provided may be used, at the option of the employee, to provide for paid absences due to vacation or other personal purposes (including sickness) or for paid absences exceeding credit available for other kinds of leave.

C. Supplement to Short-Term Disability Payment

1. Accrued PTO may be used by full-time employees wishing to increase STD payments up to 100% or full pay.

D. Payment of PTO Upon Separation

1. If an employee voluntarily resigns his employment with the County, provides two (2) weeks' written notice of the resignation to the his supervisor or the County Administrator , and returns all County property to the County on his or her last day of employment, the employee will be eligible to receive a payout after termination of his or her accrued, but unused paid time off time, limited to no greater than 240 hours. Such payment would be made by the next regular cycle after the employee's resignation and would be paid in one lump sum subject to all applicable withholdings, up to the limits described above at the employee's regular rate of pay, providing the employee has not been advanced any other type of leave. Payment shall be calculated using the employee's base hourly rate of pay at the time of separation.

2. In the case of the death of an employee, the unused paid time off credit shall be paid to the employee's estate.

8.6 SICK LEAVE BANK

A. Eligibility for Membership (1) All classified employees in regular full-time positions who are members of VRS Plan 1 or 2, and employees in regular part-time positions who were hired into those positions prior to July 1, 2014 and have completed their initial probationary period will be eligible to participate in the Sick Leave Bank.

B. Those employees defined above are eligible for participation in the bank. The bank is frozen to Hybrid employees who are provided Short and Long-term Disability.

Membership in the bank is voluntary and will be maintained by occasional requests for donations from an employee of accumulated sick leave or county provided contributions from unused leave that cannot be claimed. An employee may donate more than eight (8) hours but must donate in 8-hour increments and may not donate more than 40 hours per year.

C. The sick leave bank may not be drawn upon until after all sick, annual and compensatory leave has been exhausted by the employee. Credit toward annual and sick leave will be earned during the time an employee is using the sick leave bank.

D. Days drawn from the Pool for any one period of eligibility must be consecutive, except additional periods of disability resulting from recurrence or relapse of the original illness which will be covered fully on a continuing basis up to the annual maximum of 45 days. Once a member has used all 45 days of Extended Leave Pool time, he must return to work and meet the requirements of section 3-20.8.3.1, above, before becoming re-eligible to utilize the Pool.

E. Employees will be eligible to draw days from the sick leave bank only after verification through the County Administrator's Office of a non-work related serious health condition, which includes illness, injury, impairment, or physical or mental disorder requiring inpatient care in a hospital, hospice, or residential medical care facility or continuing treatment by a health care provider. Employees must submit a doctor's statement verifying the employee's incapacity and an estimated length of time that the employee may be fully incapacitated. Each application to the sick leave bank will be adjudicated on a case-by-case basis. The County Administrator may require a second physician's certification from a physician of the County Administrator's choice. Such certification will be at the County's expense. However, if the two physicians disagree whether a medical condition exists, it is within the sole discretion of the County to determine whose opinion prevails.

F. Members utilizing sick leave from the bank will have to replace these days as set out below:

1. 0-5 years of service: 6 hours per month
2. 6-15 years of service: 12 hours per month
3. Over 15 years of service: 15 hours per month

G. Employees may be will be asked to contribute if the bank is depleted.

H. Participating employees will not be permitted to withdraw their contributed days at any time, including separation from employment, but are eligible for the bank if needed.

I. Any employee, upon termination of employment, may donate their unused sick leave to the sick leave bank.

J. No benefits will be paid from the bank for a work-related injury or for a sickness for which an employee is entitled to Worker's Compensation or leave for illness or injury in line of duty.

K. DONATION OF ANNUAL LEAVE TO ANOTHER EMPLOYEE

As a general policy, annual leave or compensatory time shall not be donated or transferred from one employee to another employee. However, in cases of extreme hardship and based on individual circumstances and merit of each validated situation, the County Administrator may approve the donation of annual leave by one employee to another employee to be used as sick leave.

The donation and transfer of annual leave or compensatory time by one employee to another employee to be used as sick leave shall be subject to the following provisions:

1. Prior to submission of a formal request for transfer of annual leave, the responsible Department head and the County Administrator shall review the donating and the receiving employee's leave records to ascertain appropriateness of the request. If such review indicates a formal request is not warranted, no further action will be taken.
2. If deemed warranted, a formal request shall be submitted by the donating employee through his Department head to the County Administrator for approval and certification. A copy of the completed request will be maintained by the County Administrator and a copy will be furnished the donor.
3. Mandatory limits shall not be established for this voluntary donation of annual leave or compensatory time, however, individual circumstances such as the amount of leave accrued by the donor, the probability of forfeiture, the nature of the hardship, etc. shall be considered in determining the appropriate amount to be approved for transfer.
4. To be eligible to receive donations of annual leave or compensatory time to be used as sick leave, would be recipients must have used all personal accruals of annual, sick, compensatory leave (if applicable) and authorized sick leave bank balances, if a contributing member of the sick leave bank.
5. Department heads shall not be eligible to donate or receive annual leave or compensatory time from their subordinate employees for use as sick leave, except that they may donate annual leave to or receive annual leave from other Department heads and employees of other departments.
6. Employees shall not be eligible to donate annual leave or compensatory time to their Department heads and supervisors.
7. The donation of annual leave from one employee to another employee for use as sick leave shall be a voluntary act on the part of the donor and is to be neither encouraged or discouraged by management. It is, however, recognized as a viable means of alleviating extreme hardships that may be incurred by County employees and is to be given management's support when justified.

8.7 RESCUE SQUAD AND FIRE DEPARTMENT LEAVE

Any employee who is a member of the Madison County Rescue Squad or the Madison County Volunteer Fire Department shall be allowed civil leave with pay for any absence necessary for responding to a call during the employee 's scheduled work hours. This leave shall not apply to

employees within the County Sheriff's Office or in the County's Emergency Communications or EMS Departments.

8.8 EXCLUSIONS

A. Medical conditions resulting from the following will be excluded from eligibility for leave sharing benefits:

1. Any occupationally-related accident or illness for the period for which Workers' Compensation benefits have been awarded;
2. Intentionally self-inflicted injuries other than self-harm done by those suffering from mental illness; or
3. Injuries occurring in the course of committing a felony or assault.

B. Employees are ineligible to use donated leave during the period of any disciplinary suspensions .

8.9 BEREAVEMENT LEAVE

Four (4) consecutive calendar days after the date of loss for any one incident may be used for bereavement in the employee's immediate family without being charged to any other leave. Immediate family is defined for purposes of this policy only as the employee's spouse, children, step children, legal dependent(s), parents, grandparents, grandchildren, brothers or sisters, or in addition, any other relative living in the same household of the employee.

8.10 CIVIL LEAVE

A. Eligibility

1. Regular full-time employees who have satisfactorily completed their probationary period of 180 days may request up to five days of leave with pay (without charge against other leave accruals) for any absence necessary when they are required to serve as a juror, or are subpoenaed as a witness to appear before a court or duly authorized public body or commission.
2. If an employee is summoned to court to appear as a witness for County-related business or to appear as a witness in a case in which the employee is not a party, civil leave is applicable. If, however, the case is one in which the employee is a party and the court decision affects the employee (positively or negatively), the time off from the job is of a personal nature and the employee shall request other leave as appropriate. Civil leave shall not be granted when a court appearance is of a personal nature.
3. An employee will be allowed civil leave with pay for an absence necessary to fulfill responsibilities to the Department of Homeland Security in connection with responding to a natural disaster or other emergency, consistent with the County's operational needs and with the requirements of federal law or regulations pertaining to such service.

B. Requesting Civil Leave

1. The employee shall provide a copy of the court summons or subpoena or Homeland Security directive, along with a leave request form to his/her Department head as soon as possible to allow arrangements to be made to accommodate the employee’s absence.
2. Civil leave shall not extend beyond the actual time required. Any additional time off on the same day shall be requested as annual or compensatory leave or leave without pay, as appropriate.

8.11 MILITARY LEAVE

A. Eligibility

Regular full-time employees, including those serving a probationary period, are eligible for military leave with or without pay. Temporary and part-time employees are not eligible for military leave.

B. Military Leave with Pay

1. All employees who are former members of the armed services or members of the organized reserve forces of any of the armed services of the United States, National Guard, or naval militia shall be entitled to a military leave of absence, with pay, for the purpose of federally funded military duty to include training duty. This leave with pay shall not exceed 15 consecutive calendar days for training duty and 15 working days for emergency active duty each Federal fiscal year, October 1 – September 30.
2. Employees who are called forth by the Governor pursuant to the Code of Virginia shall also be entitled to leave with pay as authorized above.

C. Military Leave Without Pay

1. Any eligible employee who leaves County service as a result of volunteering for active duty or being drafted into the armed services of the United States during time of war or other national emergency, as determined by the Board of Supervisors, or when reservists and National Guard members are voluntarily or involuntarily called to active duty shall be placed on military leave without pay commencing on the first business day following the last day of active employment with the County.
2. Leave shall only be granted for active military service for those dates stated on the employee's military orders and are subject to the provisions herein.
3. Status of Benefits for Employees on Leave Without Pay for Active Military Service

    a) *Service Credit* – An employee on extended leave without pay due to active military service shall be treated as though s/he was continuously employed for purposes of determining benefits based on length of service, such as the annual leave accrual.

    b) *Compensatory Leave* – Any compensatory leave balance shall be paid in accordance with Section 4.10 at the time the employee is placed on military leave without pay.

4. Reinstatement from Active Military Service

    a) *Conditions* – Upon satisfactory completion of active military service, the employee is entitled to reinstatement to his/her former position or to a position of like status and pay, provided that:

        i. The employer had applicable advance notice of the employee's service, when practicable.

        ii. The employee had five years or less cumulative military service during the employment relationship with a particular employer.

iii. The employee returns to work or applies for reemployment in a timely manner depending on length of service:

a. 1-30 days of service - Report next scheduled work day following 8 hours rest and reasonable travel time from training site to place of employment.

b. 31-80 days of service - Apply for reinstatement within 14 days following completion of service

c. 181+ days of service - Apply for reinstatement within 90 days following completion of service.

iv. The employee has not been separated from service with a disqualifying discharge or under other than honorable conditions.

v. The employee presents a certificate showing satisfactory completion of military service.

vi. The employee is still physically and mentally qualified to perform the duties of his/her position.

vii. Employee returning from military leave with pay are required to return to work within the following time frames:

b) Conditions stated in above shall not apply when County circumstances have changed making it impossible or unreasonable to reinstate the employee. Reinstatement may not be possible when:

i. The employee's former position has been abolished at the time of reinstatement: The employee may be placed in a position of comparable status and pay to the one previously held. Employees selected to fill vacancies created by persons on military leave may be employed on a temporary basis.

ii. Such a position is not available: The employee shall be considered affected by a reduction in force and the provisions of the County's Layoff Policy shall apply.

5. Employee Notification Requirements

a) Requests for military leave should be made in writing and submitted with copies of the employee's official military orders to the Department head. The employee shall notify his/her Department head of the military obligation as far in advance as possible.

b) The leave request and supporting military orders shall be forwarded to the County Administrator.

8.12 LEAVE WITHOUT PAY

A. The County Administrator may grant leave without pay for an excused absence when the employee does not have sufficient leave credit to cover an absence during a given pay period. The County Administrator shall be notified of all occasions when an employee is in a non-pay status in excess of five workdays. The County Administrator may grant leave without pay to employees for periods beyond five consecutive workdays, subject to the following conditions:

1. Leave without pay shall be granted only when it is in the interests of the County to do so.
2. All annual, sick and compensatory leave balances must be exhausted before leave without pay can be approved.
3. Leave without pay shall not extend beyond 6 months.
4. Such leave does not constitute a break in service but changes the anniversary date if the employee is absent for more than twelve (12) weeks.

B. At the expiration of leave without pay, the employee shall be reinstated in the position vacated or in any other vacant position in the same class, if possible.

C. Annual and sick leave credit shall not accrue during leave without pay.

D. An employee who anticipates being on approved leave without pay for five consecutive days or more shall consult the County Administrator, in advance of the absence when possible.

E. Failure on the part of the employee to report to work at the expiration of leave without pay may be cause for disciplinary action, up to and including dismissal.

F. While in a leave without pay status, in order to maintain access to these benefits, the employee must pay the full premium for health insurance, life insurance, and retirement that is ordinarily paid for by the County or benefits will be forfeited. When the employee is once again in a pay status, the County will resume payment of the premiums.

8.13 EMERGENCY CLOSINGS POLICY

It is the intent of the County to provide maximum services to the public by maintaining normal business hours at all County facilities. Under normal and safe conditions, employees are expected to arrive at work on time.

Adverse weather conditions (generally the result of snow or icy conditions, or other emergency conditions beyond the control of the County) and conditions which make it unsafe or unsanitary for employees to remain at work are recognized as conditions which could jeopardize the safety of employees and could therefore warrant the closing of County facilities. The County Administrator shall determine when to announce the closing or delayed opening of County facilities. Employees shall report to their workstation unless otherwise advised by the County Administrator, under this policy.

In the event of inclement weather or any extreme situation, the County Administrator may authorize liberal leave or order office closures. Essential employees are expected to report for

duty during inclement weather, regardless of the County Administrator's decision to close County offices.

A. Liberal leave.

Inclement weather can cause difficulty for an employee getting to or from work. "Liberal leave" permits non-essential employees to use paid time off or compensatory leave (if available) to cover their absence should they not report to work, not report to work on time, or leave work early. Such absences, as is the case for all absences, require the approval of the employee's supervisor.

B. Office closings.

If the County Administrator closes County offices due to inclement weather, non-essential employees scheduled to work will be treated as having worked as per their schedule. Essential employees will be required to work whether or not County offices are closed and will not be eligible for overtime pay or compensatory leave earnings due to County offices being closed. For any employees on scheduled leave, the day of closing will be treated as a normal workday and appropriate leave will be charged.

C. Employee Responsibility

Employees shall be responsible for checking with their supervisors to determine, for the purposes of this policy, whether or not they would be considered non-essential.

D. Public Service Announcements

Public service announcements shall be announced over appropriate local radio and/or television stations when the County Administrator changes the normal business hours of County facilities (delayed openings, closing of facilities partially or all day).

E. Guidelines and Procedures

To ensure compliance with this regulation, the County Administrator will develop guidelines and procedures which are consistent with fair employment practices and will provide information and guidance to Department heads.

8.14 ADMINISTRATIVE LEAVE

A. Administrative leave shall be other paid leave as authorized by the County Administrator. Any paid leave specifically authorized by the Board of Supervisors, not otherwise classified by these rules, shall be classified as administrative leave.

B. Examples of administrative leave include leave authorized by the County Administrator due to severe weather conditions, conditions which make it unsanitary or unsafe for employees to remain at work, suspension of an employee due to the investigation of a complaint, the breakdown of equipment making it impossible to perform assigned duties, or attendance at meetings.

C. Administrative leave shall not be substituted for any other prior approved leave.

8.15 UNAUTHORIZED ABSENCE (AWOL)

A. An employee who is absent from duty without approval shall:

1. Receive no pay for the duration of the absence; and,
2. Be subject to disciplinary action up to and including dismissal.

B. It is recognized that there may be extenuating circumstances for unauthorized absences and due consideration shall be given to each case.

C. An employee who fails to report to work at the expiration of an authorized leave of absence or who has not requested and received approval for an extension of such leave, shall be considered and charged with unauthorized absence or absent without leave (AWOL).

8.16 FAMILY AND MEDICAL LEAVE

A. Purpose and Types of Leave

The County grants unpaid leave for periods of absence in accordance with the terms of this policy and in accordance with the Family Medical Leave Act of 1933 ("FMLA"). While on leave under this Policy, an employee may not engage in any other work or employment unless he or she has written approval from the County.

The purpose of this policy is solely to outline and summarize the conditions under which an employee may be granted job protected time off from work, without pay, for a limited period for the following reasons in accordance with the FMLA:

1. Family Leave

   Leave needed for the care of the employee's child within one year following birth or placement for adoption or foster care or, when necessary, before the birth or placement of the child for adoption.

2. Medical Leave

   a) Family medical leave - Leave needed to care for the employee's spouse, child or parent who has a serious health condition.

   b) Employee medical leave - Leave needed for the employee's own serious health condition, which renders the employee unable to perform his or her job.

3. Military Servicemember Family Leave

   a) Caregiver Leave – Leave needed to care for a covered servicemember who is undergoing medical treatment, recuperation or therapy resulting from an injury or illness incurred by the member in the line of duty when the employee is the spouse, son, daughter, parent, or next of kin of the covered servicemember.

b) Leave for Any Qualifying Exigency – Leave arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces. A non-exclusive list of reasons for such leave include the following: (A) short-notice deployment; (B) military events and related activities; (C) childcare and school activities; (D) financial and legal arrangements; (E) counseling; (F) rest and recuperation; (G) post-deployment activities; and (H) additional activities, provided that the County and employee agree that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave.

B. Definitions

All terms of this Policy shall be defined in a manner consistent with the FMLA and regulations thereunder. The following terms have the following meanings for FMLA leave purposes:

1. **Child** - A biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in the place of a parent, so long as the child is under the age of 18 or is incapable of self-care because of a mental or physical disability.
2. **Covered Servicemember** – The term "covered servicemember" means a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.
3. **FMLA** - The Family and Medical Leave Act of 1993, as amended from time to time, and the regulations thereunder.
4. **Serious health condition** - An illness, injury, impairment or physical or mental condition that involves either:

a) Inpatient care, which is defined as an overnight stay in a hospital, hospice or residential medical facility, including any period of incapacity (e.g., the inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefrom), or any subsequent treatment in connection with such inpatient care; or

b) Continuing treatment by a healthcare provider, which includes any one or more of the following:

i. Incapacity and treatment – A period of incapacity of more than three consecutive, full calendar days, and any

subsequent treatment or period of incapacity relating to the same condition, that also involves: (A) treatment two or more times within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a healthcare provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by, a health care provider; or (B) at least one treatment by a healthcare provider, which results in a continuing regimen of treatment under the supervision of the health care provider. The requirements set forth in this paragraph for treatment by a health care provider means an in-person visit to a health care provider. The first (or only) in-person treatment visit must take place within seven days of the first day of incapacity. Also, whether additional treatment visits or a regimen of continuing treatment is necessary within the 30-day period shall be determined by the health care provider.

ii. Pregnancy or prenatal care - Any period of incapacity due to pregnancy, or for prenatal care. Absences under this paragraph qualify for FMLA leave even though the employee or the covered family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three consecutive full calendar days.

iii. Chronic conditions – Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which: (A) requires periodic visits (defined as at least twice a year) for treatment by a health care provider or by a nurse under direct supervision of a health care provider; (B) continues over an extended period of time (including recurring episodes of a single underlying condition); and (C) may cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy, etc.). Absences under this paragraph qualify for FMLA leave even though the employee or the covered family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three consecutive full calendar days.

iv. Permanent or long-term conditions. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g. Alzheimer's, a severe stroke, or the terminal stages of a disease). The employee or family member must be under the continuing supervision

of, but need not be receiving active treatment by, a health care provider.

v. Conditions requiring multiple treatments. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for: (A) restorative surgery after an accident or other injury; or (B) a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

vi. Serious Injury or Illness – The term "serious injury or illness" (A) in the case of a member of the Armed Forces (including a member of the National Guard or Reserves) means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and (B) in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy, means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

C. Eligibility

For purposes of this policy, a covered employee is an employee who (1) has been employed by the County for at least 12 months, and (2), has completed at least 1,250 hours of service during the 12 month period immediately preceding the beginning of his or her leave.

The 12 months that an employee must have been employed by the County need not be consecutive months, however, employment periods prior to a break in service of seven years or more will not be counted in determining whether the employee has been employed for at least 12 months unless such break in service was (1) the result of

fulfillment of his or her National Guard or Reserve military service obligation or (2) pursuant to a written agreement with the County.

D. Duration and Limitations

1. Except in cases of leave to care for a covered service member with a serious injury or illness, the aggregate FMLA leave available to any employee for any 12-month period is 12 weeks. This includes the FMLA leave available for any qualifying exigency. The applicable 12-month period is a rolling one measured backward from the date the employee uses any FMLA leave. The FMLA leave provided for in this Section III(A) is subject to the following limitations:

    a) If a husband and wife are both employees with the County, their leave is limited to an aggregate of 12 weeks together (rather than 12 weeks each) in any 12-month period if the leave is taken to care for one of the employee's parents or for the birth of the employees' child or to care for the child after the birth, or for placement of a child with the employees for adoption or foster care or to care for the child after placement.

    b) FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances. Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday.

    c) Medical necessity. For intermittent leave or leave on a reduced leave schedule taken because of one's own serious health condition, to care for a parent, son, or daughter with a serious health condition, or to care for a covered service member with a serious injury or illness, there must be a medical need for leave and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule.

    d) Birth or Placement. When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the County agrees.

    e) Any qualifying exigency leave. Leave due to any qualifying exigency may be taken on an intermittent or reduced leave schedule basis. If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on the reasons set forth in this Section, the County may require the employee to transfer temporarily, during the period that the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the

employee's regular position. Such decision shall be at the County's discretion.

f) If an employee has accumulated paid sick or vacation time, the County requires the employee to use all paid time first and take the remainder of the leave period as unpaid FMLA leave. Such paid time off shall be used concurrently with FMLA leave. Accrual of additional paid time off is suspended while on FMLA leave.

2. In cases of leave to care for a covered servicemember with a serious injury or illness, any eligible employee may take up to 26 weeks of leave during a single 12-month period. The "single 12-month period" referred to in this paragraph shall commence on the date an eligible employee's first FMLA leave to care for the covered servicemember begins. Thus, the "single 12-month period" referenced herein may be separate from the 12-month period set forth in Section III(A).

3. The FMLA leave provided for in this subsection B is subject to the following limitations:

a) An eligible employee's FMLA leave entitlement is limited to a total of 26 workweeks of leave during the "single 12-month period" referenced in Section III(B). This includes FMLA leave for an employee's own serious health condition or the serious health condition of a covered family member.

b) If a husband and wife are both employees of the County, and the need for leave to care for an injured servicemember arises, their leave is limited to an aggregate of 26 weeks together (rather than 26 weeks each) in any "single 12-month period" if the leave is taken to care for the same servicemember.

E. Notifications and Certifications

1. Notice by employee of need for leave

a) Where the need for leave is foreseeable (including when it is possible to predict accurately when the leave will be needed) and it is practicable to do so, the employee must provide 30 days' prior notice to the County and must make reasonable efforts to schedule leave so as not to disrupt operations. If 30 days is not practicable, such as because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. For example, where an employee becomes aware of a need for FMLA leave less than 30 days in advance, it should be practicable for the employee to provide notice of the need for leave either the same day or the next business day. If an employee fails to provide the required notice with no reasonable excuse, and the FMLA leave is foreseeable at least 30 days in advance, the taking of leave may be delayed until 30 days after the date the employee provides notice.

b) Where the need for leave is not foreseeable (including when it is impossible to predict accurately when the leave will be needed), the employee must provide as much notice to the County as is practicable. "As is practicable," for purposes of this paragraph only, means within the time prescribed by the County's usual and customary notice requirements applicable to such leave. If the employee fails to provide the required notice set forth in the above paragraph, the extent to which the County may delay FMLA coverage for leave may be determined by the length of time between when the employee could reasonably have provided such notice and when the employee actually provided such notice. For example, if the employee could have provided notice on the day of an accident, but did not provide notice until one week later, the taking of leave may be delayed until one week after the employee provides notice.

c) Manner of giving notice.

i. Verbal notice may be given initially, followed by notice in writing.

ii. Notice must be sufficient to make the County aware that the employee needs FMLA-qualifying leave and must include (1) the reason for the leave; (2) the expected timing and duration of the leave; (3) if intermittent or reduced schedule leave is requested in the case of medical leave, the reason why the intermittent or reduced scheduled leave is necessary and the schedule for treatment if applicable; (4) if applicable, a statement regarding the need of employee to care for a family member; and (5) other pertinent information. Under certain circumstances, an employee may also be asked to provide information sufficient to notify the County (1) that the employee is unable to perform the functions of the job; (2) that the employee is pregnant or has been hospitalized overnight; (3) whether the employee or the employee's family member is under the continuing care of a health care provider; (4) if the leave is due to a qualifying exigency, that a covered military member is on active duty or called to active duty status and that the requested leave is for a qualifying reason; (5) if the leave is for a family member, that the condition renders the family member unable to perform daily activities; or (6) that the family member is a covered servicemember with a serious injury or illness.

iii. Notice must be provided to the County Administrator unless otherwise specified.

2. Designation by the County of FMLA leave.

a) When an employee requests FMLA leave, or when the County becomes aware that an employee's leave may be for an FMLA-qualifying reason, the County will notify the employee of the employee's eligibility to take FMLA leave within 5 business days, absent extenuating circumstances.

b) Regardless of whether the employee provides notice of the need for FMLA leave, the County may designate leave as FMLA leave where the reason for leave is FMLA-qualifying. In such case, the County will provide notice of the designation to the employee within 5 business days once it has acquired enough information to determine whether the leave is being taken for a FMLA-qualifying reason, absent extenuating circumstances. Also, if the County intends to require the employee to complete a fitness-for-duty examination prior to returning to work, the County will provide the employee with a list of the essential functions of his or her position with the designation notice.

c) The County may designate leave as FMLA leave after it acquires the requisite knowledge to make a determination that the leave qualifies as FMLA leave and such designation may be retroactive to the beginning of the leave to the extent permitted by the FMLA.

3. Certification for medical leave.

a) In the case of medical leave for the employee's own serious health condition, the serious health condition of an employee's family member, or leave to care for a covered servicemember suffering from a serious illness or injury, the employee must provide the County with a certification in the form of a Certification of Healthcare Provider from the healthcare provider treating the person or servicemember with the serious health condition. In addition, in case of leave for any qualifying exigency, the employee must provide a Certification of Qualifying Exigency for Military Family Leave. Copies of the following certification forms are available from the County Administrator (available online at https://www.dol.gov/whd/fmla/forms.htm):

i. Form WH-380E is for use when the employee's need for leave is due to the employee's own serious health condition.

ii. Form WH-380F is for use when the employee's need for leave is to care for a family member with a serious health condition.

iii. Form WH-384 is for use when the employee's need for leave is for a qualifying exigency.

iv. Form WH-385 is for use when the employee's need for leave is to care for a covered servicemember.

b) The first time an employee requests leave because of a qualifying exigency, the County may require the employee to provide a copy of the covered military member's covered active duty orders or other documentation issued by the military which indicates that the covered military member is on covered active duty or call to covered active duty status, and the dates of the covered military member's service.

c) When leave is taken to care for a covered servicemember (i.e. caregiver leave), the County may require the employee to obtain a certification completed by an authorized health care provider of the covered servicemember, including:

   i. a United States Department of Defense ("DOD") health care provider

   ii. a United States Department of Veterans Affairs health care provider;

   iii. a DOD TRICARE network authorized private health care provider; or

   iv. a DOD non-network TRICARE authorized private health care provider.

d) When the need for leave is foreseeable, the County will request that the employee furnish certification at the time the employee gives notice of the need for FMLA leave or within 5 business days thereafter, or, in the case of unforeseen leave, within 5 business days after the leave commences. The employee must provide the certification no later than 15 calendar days after the County's request, unless it is not practicable to do so despite the employee's diligent efforts.

e) In the event the certification is incomplete or insufficient, the employee shall be given 7 calendar days, unless not practicable, to cure any such deficiency. If the requested certification is not provided when requested, or if the employee fails to provide a complete and sufficient certification after being given 7 days to cure any deficiencies, the County may deny the taking of FMLA leave.

f) If the County has reason to doubt the authenticity of the certification, or if the County requires clarification of information contained in the certification, the County may contact the health care provider for purposes of clarification and authentication after the County has given the employee the opportunity to cure any deficiencies.

g) The County may require the employee to obtain a second opinion (at the County's own expense) from a healthcare provider selected or approved by it (other than a person regularly employed by the County, unless

access to healthcare providers is extremely limited). If the second opinion differs from that in the employee's certification, a third opinion (at the County's expense) may be obtained from a healthcare provider selected or approved jointly by the County and the employee. The third opinion will be final and binding.

h) The County may request recertification (at the employee's expense) by a healthcare provider in connection with an absence upon expiration of any certification or recertification previously provided. However, the County may request a recertification sooner if (i) the employee requests an extension of leave; (ii) the circumstances described by the previous certification have changed significantly; or (iii) the County receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.

i) The employee must provide the recertification no later than 15 calendar days after the request, unless it is not practicable to do so despite the employee's diligent efforts.

j) Certifications must be provided to the County Administrator, unless otherwise specified by the County.

k) Failure to provide a required certification may result in a delay of FMLA leave.

l) An employee must periodically provide the County with notice regarding his or her status and intention to return to work.

F. Procedure

1. An employee's leave request and any required certification must be submitted to the County Administrator, unless otherwise specified by the County. The County Administrator may consult with the employee's Supervisor or County Administrator before either approving or disapproving all requests.
2. Following approval or disapproval, a copy of the leave request and a letter of approval or disapproval will be sent to the employee.
3. The original leave request and any original certification will be kept in the employee's medical leave file, separate from the employee's personnel file.

G. Benefits During Leave

1. During any approved FMLA leave, the employee may retain medical coverage under the same terms and conditions as if he/she was actively working, may select any newly offered medical coverage, and may commence or change medical coverage at any open enrollment date or other date during the leave at which coverage could have been begun or changed had the leave not been taken.

2. Any share of group health plan premiums which had been paid by the employee prior to FMLA leave must continue to be paid by the employee during the FMLA leave period.
3. If the FMLA leave is substituted paid leave, the employee's share of premiums for medical coverage must be paid by the method normally used during any paid leave (i.e. a payroll deduction). If FMLA leave is unpaid, the County will require that the employee pay his or her share of premiums for medical coverage to the County or directly to the insurance carrier.
4. The County's obligations to maintain health insurance coverage cease under FMLA if the employee's premium payment is more than 30 days late, provided that the County will first mail written notice to the employee notifying the employee that the payment has not been received. Such notice shall be mailed to the employee at least 15 days before coverage is to cease.
5. If an employee does not return to work for the County for at least 30 calendar days after completion of his or her FMLA leave, the County may recover its share of health plan premiums during a period of unpaid FMLA leave from an employee. No repayment will be required, however, if the failure to return to work was due to (i) the continuation, reoccurrence or onset of either a serious health condition of the employee or the employee's family member, or a serious injury or illness of a covered servicemember; or (ii) other circumstances beyond the employee's control.
6. The employee's rights to benefits other than group health benefits during a period of FMLA leave is to be determined in accordance with the County policy for providing such benefits when employees are on other forms of leave (i.e. vacation leave).
7. If an employee gives notice of his or her intent not to return to work, the County's obligations under the FMLA to maintain health benefits (subject to COBRA requirements) cease.
8. Vacation, holiday, and sick leave benefits will not accrue during FMLA leave. When an employee returns from leave, he or she will start to accrue benefits again.

H. Return to Work and Job Restoration

1. Notice of return from FMLA leave and certification regarding return from employee medical leave.

    a) An employee should provide the County two days' prior notice of his or her anticipated return to work, where feasible. If possible, the employee should provide as much notice as possible.

    b) In the case of employee medical leave, the employee must provide a certification from his or her healthcare provider that the employee is able to resume work. Such certification should address only the health condition that caused the need for FMLA leave and should state whether

the employee is able to perform all of the essential duties of his or her job and whether there are any reasonable accommodations that the County should make for the employee due to the employee's health condition in order for the employee to return to work. Such certification must be provided at or about the time the employee notifies the County of his or her anticipated return to work, and prior to returning to work. The cost of the certification shall be borne by the employee.

2. Job restoration at the end of FMLA leave.

   a) After the end of an approved FMLA leave and the provision of any required notice of return and any certifications regarding the ability to return, the employee will be returned to the position he or she held immediately before the leave or to an equivalent position, with equivalent benefits, pay and other terms and conditions of employment.

   b) Notwithstanding the above, the employee shall have no greater right to job restoration or to other benefits and conditions of employment than if the employee had been continuously at work and not taken FMLA leave (e.g. if the employee would have been laid off during the leave) or if the employee was hired for a specific term or only to work on a specific project and the term or project has ended.

I. Termination of FMLA Leave

1. FMLA leave will automatically terminate and all of the employee's rights during or following FMLA leave under this policy will automatically terminate if and as of the date the employee notifies the County of the employee's intent not to return to work.

2. If an employee fails to comply with the requirements of this policy (e.g., fails to supply any necessary medical certifications), the County may delay or, in some instances, terminate or deny the employee's FMLA leave and employment. In such case, all of the employee's rights during or following FMLA leave under this policy will automatically terminate. If an employee on FMLA leave takes any actions which would entitle the County to terminate the employee's employment if he or she were an active employee, the County may terminate the employee's FMLA leave and employment. In such case, all of the employee's rights during or following FMLA leave under this policy will automatically terminate.

J. Miscellaneous

1. This policy shall be interpreted in a manner consistent with the FMLA, and all future amendments thereto, and shall provide no rights and imposes no obligations other than those required by the FMLA. To the extent that any provision of this policy conflicts with the FMLA or its regulations, the FMLA and its regulations shall govern.

2. The County is granted discretion to interpret and apply this policy.

3. This policy may be modified or amended by the County at any time and from time to time.
4. If an employee exhausts all available FMLA leave without returning to work, the County reserves the right to terminate the employee's employment.

8.17 SHORT-TERM DISABILITY (STD)

Classified employees in regular full-time positions who are members of the VRS Hybrid Plan are eligible for employer paid short-term disability. Short-term disability provides paid absences for illnesses or injuries including Workers' Compensation meeting criteria set forth in the Code of Virginia. Details of coverage are available from the County Administrator's office.

8.18 LONG-TERM DISABILITY (LTD)

Classified employees in regular full-time positions who are members of the VRS Hybrid Plan are eligible for Long-Term Disability in accordance with the provisions implemented under the Code of Virginia. Details of coverage are available from the County Administrator's office.

CHAPTER 9 - BENEFITS

Along with wages, the County offers a comprehensive benefits program. The following information is intended to make employees familiar with the details of benefit offerings; however, details and availability may and sometimes do change and employees are encouraged to contact their Department head or the County Administrator's Office for the most up to date information or with any questions about the benefits program. Additionally, all benefits are subject to funding in the County's annual operating budget.

It is important that employees advise the County Administrator's Office of any personal status changes (i.e., marriage, divorce and change in dependents or beneficiaries) which could affect their benefits.

9.1 HEALTH INSURANCE

Full time employees are eligible to participate in the health plan made available to them by the County. Evaluation of the contribution is made annually by the County Administrator as part of the budget process.

A. COBRA

Full-time employees and certain beneficiaries who have a qualifying event may elect to continue their health care benefits at the County's group rates for a limited period of time at the same coverage as before the qualifying event in conformance with COBRA. Qualifying events are provided in the COBRA statute.

If the qualifying event is a termination of employment or reduction in hours, the continuation period is 18 months. If the individual is disabled, the period may be extended for eleven (11) more months. For all other qualifying events the continuation period is 36 months. Coverage may end before the time period is up for nonpayment of premiums.

9.2 RETIREMENT

The County is a member of the Virginia Retirement System. The Virginia Retirement System administers pension plans and other benefits for Virginia's public sector employees covered under VRS. They are headquartered in Richmond, Virginia.

A. Amount of Benefit

VRS offers alternative types of retirement plans (based on hire date) and there are various methods of receiving retirement benefit payments (these options are outlined in the VRS Handbook for Members).

The amount of the retirement benefit is calculated per VRS rules and the type of plan for which an employee qualifies. VRS may be contacted directly by dialing 1-888-827-3847 for further information and/or retirement counseling. Also, employees may go online to the VRS website to learn more about retirement planning, to gain

individualized pension benefit information and to learn more about other VRS requirements and information.

VRS: http://www.varetire.org/members/index.asp

B. Notice of Retirement

Employees planning retirement should contact the County Administrator's Office four months prior to retirement to ensure sufficient time for application of all retirement benefits.

C. Disability Retirement

Certain employees may be eligible to apply for disability benefits if they become mentally or physically unable to perform their present duties, and the disability is likely to be permanent, while others will be covered under later forms of disability rules. Please see the County Administrator's office or VRS for guidance on the version that may apply to you.

9.3 GROUP LIFE INSURANCE

Madison County provides group life and accidental death and dismemberment insurance through the Virginia Retirement System for all full time employees. Insurance coverage is two times the employee's annual salary rounded up to the nearest thousand. Employees may purchase additional life, accidental death and dismemberment insurance as well as coverage for their spouses and minor dependents.

Full time employees become eligible for coverage on the first day of the second calendar month following the date of hire.

Employees who are eligible to begin receiving their Virginia Retirement System benefit (even if they elect to wait to start their VRS benefit) may have their life insurance continued with VRS. After you retire with an unreduced or reduced retirement benefit, you receive Basic Group Life Insurance coverage at no cost to you, provided you meet the eligibility requirements under your retirement plan.

9.4 DEFERRED COMPENSATION

The County offers a deferred compensation plan. Employees may participate in the plan at their option. The cost of participation in the deferred compensation plan shall be paid entirely by the employee. Deferred compensation plans allow employees to invest current income into retirement accounts, deferring taxes on the money until received following retirement, when incomes levels (and thus taxes) are typically lower than in your earning years. These plans enhance an employee's retirement benefits while providing a tax break during employment.

9.5 DISABILITY LEAVE PROGRAM – HYBRID PLAN EMPLOYEES

Purpose

To provide an alternative leave system for use by localities to address the leave needs of

employees covered under short and long-term disability programs.

Scope

This policy applies to full-time employees who are not in temporary or emergency positions and whose localities have chosen to limit their sick leave as part of a short and long term disability plan. This group of employees includes full-time employees hired or rehired on or after January 1, 2014; full time employees who chose to opt-in to the hybrid retirement plan in 2014; or other employees as determined by the locality.

9.6 SECTION 125K CAFETERIA PLAN

The County provides the opportunity to enroll in an Internal Revenue Section 125 K cafeteria plan for the purpose of converting their premium for health insurance, medical reimbursement and dependent care costs. Any full-time employee may enroll in this program during open enrollment. Newly hired, Full time employees have thirty (30) days after date of hire to enroll.

It shall be the responsibility of the County Administrator to maintain the plan and the Administrator may select an appropriate person to oversee the plan's upkeep and maintenance, as it may require.

9.7 WORKERS' COMPENSATION

A. Coverage

1. The County provides Workers' Compensation insurance coverage at no cost to employees. This insurance program covers an injury (by accident) or illness (occupational disease) which arises out of and in the course of employment that requires medical, surgical or hospital treatment. Workers' Compensation coverage is provided to all regular and temporary employees, both full and part-time.
2. There are several types of benefits provided by the Virginia Workers' Compensation Act, which generally include time-loss benefits after seven (7) calendar days for temporary or permanent partial disability, death benefits, paid medical expenses and rehabilitation services.

B. Program Administration

1. Employees must provide immediate notification to the County Administrator's Office following any injury or illness including those which occur during emergency or other hours outside the regular business day. The County Administrator shall be notified immediately (at home if after hours) in the event of a fatality.
2. Each department shall establish procedures for notification of appropriate personnel for emergency and after-hours situations, including notification of injury or illness of employees during such times. Departmental procedures shall be communicated to all employees affected.
3. Employee Responsibility

a) Immediate Notification of Injury/Illness

b) It is mandatory that every work-related injury or illness regardless of severity be reported immediately by the employee to his/her immediate supervisor. In addition, when circumstances allow, the employee is to complete the written incident report at the time of supervisor notification. Failure to report an injury/illness promptly may result in loss of compensation and payment of medical expenses.

c) Completion of Required Report(s)

d) Within the first 2 hours following injury, the employee shall be responsible for completing a report of the incident using forms provided for this purpose. Upon completion, the employee shall give the report to his/her supervisor to review the report.

4. Immediate Supervisor Responsibility

a) County Administrator Notification

The Department head shall contact, or designate someone within the department to contact the County Administrator's Office to advise of the following:

i. An injury/accident immediately upon receipt of employee notification; and,

ii. An employee's return to work or change in work status.

b) Completion of Required Report(s)

i. The Department head shall review the incident report to ensure that it is complete. The Department head shall assist the employee when necessary to complete all required information. In addition, the Department head shall complete the report if the seriousness of the injury/ illness precludes the employee from doing so, and shall later, when able, get a written statement from the incapacitated employee.

ii. The incident report shall be forwarded to the County Administrator's Office within three hours of an incident.

5. Modified Work Assignment

a) The County actively supports a selective return-to-work program. For claims deemed compensable by the Workers' Compensation insurance carrier, every effort shall be made within the employee's department to find a suitable modified work assignment for an employee unable to perform his/her regular duties. Any return to work action taken by the County shall be in accordance with Virginia compensation laws.

b) The modified work assignment shall be based upon the treating physician's medical evaluation (including information on required medical treatments, recovery prognosis, work restrictions, and time frames). The Department head and County Administrator shall carefully consider the medical report(s) and the availability of suitable modified duty prior to initiating a modified work assignment.

c) An injured employee, who refuses any suitable employment, shall not be entitled to any compensation at any time during the continuance of such refusal, unless in the opinion of the Virginia Workman's Compensation Commission the refusal was justified.

9.8 SOCIAL SECURITY

All County employees are covered under the Federal Old-Age, Survivors, and Disability Insurance Program, commonly referred to as Social Security. Federal Insurance Contribution Act (FICA) taxes are paid by both the County and employee in required amounts to fund Social Security.

9.9 UNEMPLOYMENT COMPENSATION

All employees are covered under the Virginia Unemployment Compensation Act. County employees who are laid off, dismissed, or otherwise terminated by the County for reasons other than gross misconduct or improper acts shall be entitled to apply for unemployment compensation under the rules and regulations of the Virginia Employment Commission (VEC). Application eligibility is determined by the VEC on an individual case-by-case basis.

9.10 EMPLOYEE ASSISTANCE PROGRAM

Madison County provides a confidential and voluntary Employee Assistance Program to all employees and their family members through its employee health insurance program.

A. Procedures

Employees and their family members can refer themselves to the EAP. The program may be reached 24 hours a day on weekdays and weekends.

B. EAP visits during work hours

In most cases an EAP visit that is urgent or cannot be scheduled outside of work will be treated similar to other doctor's appointments. Refer to company paid time off and call-in procedures.

C. Confidentiality

All contact between an employee and the EAP is held strictly confidential.

9.11 EFFECT OF EMPLOYMENT STATUS CHANGE OF BENEFITS

A. Termination of Employment

1. Health Insurance

   a) The Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) gives employees and their qualified beneficiaries the opportunity to continue health insurance coverage under the County's health plan when a "qualifying event" would normally result in the loss of eligibility. Some common qualifying events are: termination of employment (i.e., resignation, retirement); death of an employee; a reduction in an employee's hours from full-time to part-time; an employee's divorce or legal separation; or, when a dependent child no longer meets eligibility requirements.

   b) Under COBRA, the employee or beneficiary pays the full cost of coverage at the County's group rates. The County reserves the right to impose an administration fee.

   c) Employees shall notify the County Administrator's Office of any qualifying events

9.12 AMENDMENTS TO BENEFITS

This section attempts to provide general information on benefits available to workers; however, benefits may be amended, modified, added or eliminated by the Board of Supervisors at any time. Official actions by the Board of Supervisors will prevail in any conflict between these listed benefits and official actions.

9.13 QUESTIONS CONCERNING BENEFITS

All questions concerning eligibility for various benefits or the proper procedures to be followed to qualify for any benefits discussed in this section should be referred to the County Administrator's Office.

CHAPTER 10 - EMPLOYEE TRAINING

10.1 TRAINING POLICY

Policy

A. It is County policy to encourage employees to increase their technical and professional skills in order that they may perform their duties to the best of their abilities.

B. Training opportunities shall be made equitably without regard to race, sex, age, marital status, religion, disability, or national origin. In addition, efforts shall be made to distribute training assignments to provide maximum benefits to all eligible employees.

C. Approval of any training activity outlined in this policy is dependent upon appropriate budgeted funds being available.

D. A record of training offered and completed shall be maintained in each employee's personnel file.

E. Eligibility

Regular full and part-time employees (including probationary employees unless otherwise specified) shall be eligible to participate in any training activity outlined in this policy.

Employees may be required to successfully complete special training courses as a condition of employment.

F. Criteria

Approval of any training activity shall meet the following criteria:

1. Be of necessary and direct value to the County and relevant to the employee's general field of work;
2. Be limited to knowledge and skills which cannot be acquired through available in-service training; and,
3. Cover subject matter not sufficiently or recently encompassed in the employee's previous education and experience, or which the employee normally would not be expected to know prior to appointment to his/her present position.

G. Procedures

Participation in training activities outlined in this policy shall meet the following conditions and requirements.

1. A Department head may assign an employee, and consider for approval an employee's request for training, in accordance with this policy and the administrative regulations of the County;
2. All assignments, provisions for reimbursement, and direct payment of registrations and related expenses shall be subject to budget constraints. All approved training-related

expenditures shall be charged to the appropriate account within the departmental budget;

3. Training assignments shall be subject to authorization by the County Administrator prior to enrollment; and,
4. Each employee on approved training assignment, as outlined in this policy, shall maintain continuous satisfactory performance in the prescribed course of study.

10.2 EDUCATION REIMBURSEMENT POLICY

A. Policy

This policy is intended for College or technical level classes directly related to the employee's value to the County, or to enhance the employee's ability to advance their standing with the County through promotion. It is not to pay for courses or classes or tests which are requirements of the job and which are paid separately from departmental funds. These classes shall be compensated, subject to budgetary constraints, up to $1000 annually or as determined by the County per year under the following conditions:

1. Employees must earn a grade of "C" or better in order to be eligible for reimbursements.
2. Reimbursement shall be made on the basis granted by the County Administrator in advance.
3. Before an employee registers for any class, he/she should complete a Request for Educational Assistance form (see Appendix) and give it to his/her department head. The department head may give his/her endorsement by his/her signature where indicated. The class must be through an accredited college, business school, or trade school. In this request, the employee will give the subject, how it relates to the employee's current or future assignment with the County, tuition cost, and an estimate of the book cost for the class.
4. If the department head approves the class, he/she will forward the completed, signed form to the County Administrator.
5. At the discretion of the County Administrator, and subject to the availability of funds, approval will be given by the County Administrator's signature where indicated. The assistance will be for 100% of the tuition and book cost, unless other financial aid has been awarded the employee to cover part or all of these costs. The form will be returned to the employee at this time.
6. Upon registration, the employee will collect receipts from the school for the tuition and books to turn them in to the County Administrator with the completed original form. The County Administrator will have the check issued to the employee for the approved costs.
7. Upon completion of the class and the employee's receipt of his/her grade, a copy of the grade will be submitted to the County Administrator to attach to the original request. Should the employee fail or withdraw from the class, he/she will be responsible to refund in full all cost paid by the County.

8. If in the course of taking these classes, a degree is awarded, the employee will be expected to remain in the employment of the County as follows:

   Associates' Degree – 12 calendar months after degree is awarded
   Bachelors' Degree – 24 calendar months after degree is awarded
   Masters' Degree – 36 calendar months after degree is awarded

   If the employee terminates their employment with the County during these specified time frames, he/she will be obligated to reimburse the County as follows for his/her educational assistance.

Associates' Degree –	Between 9 and 11 months – 20% paid back
	Between 6 and 9 months – 50% paid back
	Between 3 and 6 months – 80% paid back
	Less than 3 months – 100% paid back
Bachelors' Degree –	Between 18 and 24 months – 20% paid back
	Between 12 and 18 months – 50% paid back
	Between 6 and 12 months – 80% paid back
	Less than 6 months – 100% paid back
Masters' Degree –	Between 24 and 36 months – 20% paid back
	Between 18 and 24 months – 50% paid back
	Between 12 and 18 months – 80% paid back
	Less than 12 months – 100% paid back

9. Courses must be directly relevant to on-the-job requirements.
10. Institutions from which courses are taken must be recognized by the U.S. Department of Education as accredited and thereby may participate or receive federal education assistance.
11. Any tuition offset to which you are entitled, such as Veterans benefits, scholarships or benefits from any student aid program must be credited before any educational assistance benefits are payable.

CHAPTER 11 - TRAVEL POLICY

11.1 TRAVEL POLICY

It is the policy of the County to adequately compensate employees who may be required to travel outside of the corporate limits of the County. This shall include all expenses relating to travel, lodging, eating and other necessary expenses. Travel time is defined as follows for purposes of being compensable:

A. Home to Work Travel

An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel, which is not considered work time.

B. Call Back or Evening Meeting

Employees called back to work under Section 4.9 of the Personnel Rules will be reimbursed at the current mileage rate published by the IRS for travel when their personal vehicle is used. Also, all employees who are required to attend evening meetings or other official events after normal business hours may be reimbursed for returning to work and the return trip home.

C. Home-to-Work On A Special One-Day Assignment

An employee who regularly works at a fixed location in Madison County is given a special one-day assignment in another city or county and returns home the same day. The time spent in traveling to and returning from the other location is work time, except that the County may deduct/not count that time the employee would normally spend in commuting to the regular work site.

D. Travel That Is All in A Day's Work

Time spent by an employee in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and shall be counted as hours worked.

E. Travel Away from Home Community

Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is work time when it cuts across the employee's workday. The time is counted as hours worked on regular working days during normal working hours and also during corresponding hours on nonworking days. As an enforcement policy the Department of Labor, Wage and Hours Division does not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

F. Travel Advances

1. In instances where significant costs may be incurred by the employee, the County may provide a cash advance in an amount to be spent. This advance must be requested no less than seven (7) days prior to the date payment is expected. All such payments must be approved by the County Administrator upon written request by the employee. In lieu of a cash advance, the County Administrator may provide or authorize the use of a County purchase card or credit card. All receipts for the use of such a card shall be provided by the employee upon return from the trip.

2. The County shall require travel reimbursement requests, with detailed receipts attached both for items purchased and charges incurred on either personal or County credit or purchase cards, from employees who travel on County business and seek reimbursement.

G. Mileage Reimbursement

In the event that a County vehicle is not available for use, the employee may use his/her personnel vehicle on approval by the County Administrator. The County shall reimburse the employee an amount equal to the current mileage rate published by the IRS as the official mileage reimbursement rate. An employee using their personal vehicle for County business should comply with the State's minimum insurance requirements, and in the case of an accident, the employee's insurance will be the primary insurance carrier. All parking, tolls, fares, etc. will be reimbursed at cost. No traffic or parking violation fines will be reimbursed.

H. Meals

1. Meals and Incidental Expenses – Per Diem Reimbursement

When the performance of County business dictates that the employee(s) must be absent from the County for more than eight hours, the County will provide a per diem reimbursement based on the $45 as the cost of per diem meal and incidental expense reimbursements allowed per the following.

Meals and incidental cost reimbursements as calculated below shall be applied at the following rates for travel of:

- More than 8 hours, but less than 24 hours 75%
- Greater than 24 hours – first and last day of travel 75%
- Greater than 24 hours - on full days of travel 100%

Alternatively, the County Administrator may approve reasonable reimbursement of 100% of the cost of meals associated with travel.

2. Meals During Overtime Hours

Employees working emergency overtime in County for more than four hours, and with prior approval of their supervisor, may be reimbursed meals with a valid receipt at the County Administrator's discretion.

3. Long Distance Telephone Calls

Long distance personal telephone calls are not allowed from County telephones. In the event of unscheduled overtime (i.e., snow removal, law enforcement emergencies or any other unexpected overtime), calls for notification purposes of a short duration may be made by employees. Any employee abusing this policy or otherwise making unauthorized personal long-distance calls will reimburse the County for these calls and will be subject to disciplinary action under the County's Personnel Policies.

CHAPTER 12 - POLICIES RELATING TO CONDUCT AND ACTIVITIES

12.1 CONDUCT STANDARDS

A. To ensure orderly operation and provide the best possible work environment, the County expects employees to follow the conduct standards, which are designed to protect the interests and safety of all employees and the County. County employees shall observe the highest standards of professional behavior at all times both within the County government and with the general public in all matters.

B. It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. Examples of infractions of the conduct standards, which may result in disciplinary action, up to and including suspension or dismissal, are listed under Causes for Disciplinary Action in Section 13.7 (G).

C. Employment with the County is by the mutual consent of the County and the employee, and either party may terminate this relationship at any time.

12.2 GIFTS AND GRATUITIES TO COUNTY EMPLOYEES

A. Employees shall not solicit or accept any money, loan, gift or gratuity, favor or service from a contractor, firm, consultant, individual or others which may relate to County business or services provided, or that reasonably tends to influence the officer or employee in the performance of official duties.

B. No one seeking employment or promotion to a County position or appointed office shall directly or indirectly give any money, service or other item to any person in connection with his/her appointment or proposed appointment.

C. Employees are not prohibited from accepting occasional social courtesies which promote good public relations for the County, or gifts of food which can be shared by all employees or those within a given work area. Employees shall not accept gifts or gratuities of a value totaling more than twenty-five dollars per calendar year.

12.3 SOLICITATION ON COUNTY PROPERTY

Persons not employed by the County shall not solicit or distribute literature in the workplace at any time for any purpose, unless specifically authorized by the County Administrator.

12.4 CONFLICT OF INTERESTS

A. Employees shall comply with the Virginia State and Local Government Conflict of Interests Act. An employee with questions concerning interpretation or the application of the Act shall contact the Office of the Commonwealth's Attorney or the employee may request, through his/her department head, an opinion from the County Administrator.

B. Employees have an obligation to conduct business within the guidelines that prohibit actual or potential conflict of interests. An actual or potential conflict of interest occurs when an

employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative as a result of the County's business dealings. For the purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.

C. Note that no "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if an employee has any influence on transactions involving purchases, contracts, or leases, it is imperative that he or she discloses to the County Administrator and/or Board as soon as possible the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties.

D. Personal gain may result not only in cases where an employee or relative has a significant ownership in a firm with which Madison County does business, but also when an employee or relative receives any kickback, bribe, substantial gift, or special consideration as a result of any transaction or business dealings involving Madison County. Employees are cautioned to be aware of any perceived conflict that the General Public may observe - - whether or not such conflict exists.

12.5 EMPLOYEE INTERACTION WITH BOARD OF SUPERVISORS

Madison County operates under a Board-Administrator form of Government. Board of Supervisors serves as the sole policy creation body for the local government and the Board Chair serves as the Chief Executive Officer of the County. The Board appoints a County Administrator who serves as the Chief Administrative Officer of the County and is charged with the direction and supervision of all County departments and staff. The County Administrator and those that the County Administrator may designate are solely responsible for the supervision and assignments given to County employees.

As the elected policy body of Madison County, Board of Supervisors or its members may engage County employees for the purposes of discussions, informal reviews, inquiries or official investigations. The Board or its members may also provide emergency instructions to County employees in the event that they observe a situation that warrants it. The free flow of information to and from the elected body from the staff is an essential part of making local government work.

County employees are authorized and required to engage in these discussions, informal reviews or inquiries.

12.6 POLITICAL ACTIVITY

The County is subject *to § 15.2-1512.2. Political activities of employees of localities, firefighters, emergency medical services personnel, and law-enforcement officers and certain other officers and employees*., a section of the Virginia Code, 1950, as amended. If any conflict occurs between § 15.2-1512.2 and this policy, that section shall prevail.

A. All County employees are encouraged to exercise their right to vote and may freely participate in political activities as previously defined without fear of punishment or discipline unless done in violation of the following prohibited activities. However, political activities as defined herein shall not be allowed except when off duty, out of uniform or otherwise not wearing clothing closely associated with the County, and off the premises of the County. Examples of improper employee political activity are those done:

1. While on duty,
2. When officially representing the County,
3. At any time while wearing a distinctive uniform, or other apparel, which is identifiable with the County,
4. While in or on any property in the County's possession.

B. Other prohibited conduct:

1. County employees shall not make use of their official authority to coerce or attempt to coerce a subordinate employee to pay, lend, or contribute anything of value to a political party, candidate, or campaign, or to discriminate against any employee or applicant for employment because of that person's political affiliations or political activities, except as such affiliation or activity may be established by law as disqualification for employment.
2. County employees, including emergency medical services personnel and law-enforcement officers, are prohibited from discriminating in the provision of public services, including but not limited to emergency medical, and law-enforcement services, or responding to requests for such services, on the basis of the political affiliations or political activities of the person or organization for which such services are provided or requested.
3. County employees, including emergency medical services personnel and law-enforcement officers, are prohibited from suggesting or implying that the County has officially endorsed a political party, candidate, or campaign.
4. Use any County funds, supplies or equipment for political purposes.

C. Election to office

Any employee who runs and is elected for Board of Supervisors must resign their position as an employee of the County prior to taking office. At the end of their elected term, they cannot be re-employed by the County following a period of 12 full calendar months.

12.7 SMOKING AND VAPING POLICY

A. There shall be no smoking or vaping allowed by County employees in any public building operated by the County. Smoke or Smoking is defined as the carrying or holding of any lighted pipe, cigar, or cigarette of any kind, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling of smoke from a pipe, cigar, or cigarette of any kind. Vaping is defined as the carrying or holding of any device intended to be used to inhale vapor through the mouth from a usually battery-operated electronic device (such as an electronic cigarette) that heats up and vaporizes a liquid or solid

12.8 CONFIDENTIALITY OF RECORDS

A. Many County employees work in capacities where confidential data is handled. State law mandates the protection of certain personal information and employees shall not discuss nor release such information with persons not authorized to have access to it. Employees handling sensitive information should be aware of the state law and familiarize themselves with it. Employee records should be restricted to those with a business need-to-know.

B. Inquiries for information on past or present employees from creditors, researchers, insurance agencies, prospective employers, etc., will be handled very carefully so as to ensure that every precaution is taken to guarantee the confidentiality of this personal information. Unless the employee or former employee has given written approval, only verification that the person was employed, the dates of employment, and the last job title are to be given.

C. Employee information sought by legal investigation is always referred to the County Administrator prior to the release of any information. The County must be satisfied as to the proper identification of the investigation and their legal authority to conduct an investigation before releasing any information.

D. An employee who has worked with confidential information during County employment shall honor such confidentiality even after separation from County service, being mindful of state law on the subject.

E. If there is a question as to whether or not the information should be released, the inquirer shall be referred to the appropriate department head or County Administrator.

12.9 ADMINISTRATIVE INVESTIGATIONS

Employees are required to cooperate with and participate in administrative investigations involving themselves and others. Failure to do so may result in disciplinary action, including dismissal.

12.10 USE OF PROPERTY AND EQUIPMENT

A. County property and equipment. County vehicles, machinery, uniforms, badges, equipment, materials, supplies and other items used by or assigned to a County employee in connection with the performance of his job duties are for official county business only. Any unauthorized or inappropriate usage is prohibited.

B. All such items are the sole property of the County of Madison and must be returned to the employee's immediate supervisor upon separation from employment or movement into another position.

C. Employees' property and equipment. Employees shall perform their job duties utilizing equipment and materials provided by the County except for de minimis, incidental use approved by employee's supervisor. No employee shall utilize his own equipment, materials or supplies in the performance of County duties in excess of de minimis, incidental use, without advance written approval of his supervisor. At the time of such approval, agreement must be reached as to the terms and conditions upon which such privately-owned equipment will be utilized in performance of County functions, including compensation, liability, maintenance, wear and tear, etc.

D. Employees authorized to take home County owned vehicles. The following County employees are essential to public safety and subject to being called in or mobilization at any time and they are, therefore, authorized to take their assigned County vehicle home during off-work or non-scheduled hours:

1. Employees under the supervision of the Madison County Sheriff; as directed and authorized by the Sheriff and as vehicles are made available to the Sheriff's office;
2. Animal Control Officers employed by the County, as vehicles are available and provided the employee lives within 20 miles of the Madison County line,
3. The Emergency Services Coordinator, as vehicles are available and provided the employee lives within 20 miles of the Madison County line,
4. The Director of Emergency Communications, as vehicles are available and provided the employee lives within 20 miles of the Madison County line,
5. The Director of Emergency Medical Services, as vehicles are available and provided the employee lives within 20 miles of the Madison County line, and
6. On an event-by-event basis, employees designated by the County Administrator that would respond to an impending emergency event or be involved in the initial post-event mitigation.
7. County Administration as agreed to and as included in any employment contract entered into by the Board of Supervisors and such management staff.
8. Facilities and Maintenance Department staff when associated with pending or called for adverse weather conditions (snow, ice storms), so that such staff will be better able to reach county facilities with proper and necessary snow plowing and spreader equipment.

CHAPTER 13 – SEPARATIONS AND DISCIPLINE

13.1 SEPARATIONS

A. An employee may be separated from County service by any one of the following methods:

1. Resignation – Voluntary separation initiated by an employee who chooses to leave County service
2. Layoff – A temporary or indefinite reduction in the workforce due to economic conditions, lack of work or funds, County or department reorganization, or other appropriate reasons, initiated by the County.
3. Dismissal – Involuntary separation initiated by the County as a result of an employee's unsatisfactory work performance or misconduct.

B. Regular full-time employees may be eligible to apply for:

1. Retirement – The provisions of the Virginia Supplemental Retirement System shall apply.
2. Disability Retirement – Separation initiated by the employee or by the County when an employee is unable, for health reasons, to continue to work. Depending on the circumstances, the employee may be eligible for disability retirement in accordance with the provisions of the Virginia Retirement System.

13.2 RESIGNATION

A. An employee desiring to resign in good standing shall submit a signed written notice, to include the effective date, to the employee's supervisor at least 14 calendar days prior to the effective date of resignation. Certain employees may be required to give a 30 day notice. The Department head and the employee resigning, by mutual consent, may waive or modify the requirement for advance notice.

B. An employee who has submitted his/her resignation may be continued in his/her position as though the resignation had not be filed, on his/her written request for authorization to withdraw the resignation, filed before the effective date thereof, with the approval of the County Administrator, unless the position has been filled in the meantime.

C. Failure to comply with Section 13.2.A of this policy may be entered on the employee's personnel records and may be grounds for refusal to re-employ the employee.

13.3 RETIREMENT

Eligible employees who are planning to retire from County service shall submit written notification to their Department head at least four months prior to the retirement effective date. The written notice shall be forwarded to the County Administrator's Office.

Retirement benefits are stipulated in the County's retirement plan and outlines in Section 9.2 of this policy.

13.4 LAYOFF

The County Administrator has the right and obligation to manage the workforce to best serve the interests of the County. This may require implementation of the reduction in workforce procedure. Unless specific instruction is received from the County Administrator, the following shall serve as the general procedure for a reduction in workforce for positions under the control of the County Administrator.

A. When a reduction in the workforce necessitates the actual removal of personnel because of reduced appropriations, lack of sufficient work or funds, or County-wide or departmental reorganization, layoffs may be ordered by the County Administrator in the following order:

1. The order of the layoffs shall be inverse to the relative value of the employees to the County as determined by the County Administrator.
2. No regular full-time employee shall be laid off from any position while any temporary employee's employment is continued in the same position classification.
3. No regular part-time employee shall be laid off from any position while any temporary part-time employee's employment is continued in the same position classification.

B. The County Administrator's Office is responsible for executing the necessary written notices and notifying employees of layoff decisions. Department heads shall immediately advise the County Administrator's Office of any personnel problems arising from a layoff.

C. Notice of Layoff

1. Insofar as practical, all employees to be laid off shall be provided a minimum written notice of 14 calendar days.
2. Department heads shall personally meet with each affected employee to inform the employee of the layoff decision.

D. Recall Lists

1. All employees who are laid off as a result of this policy shall be placed on a Recall List for their position classification and for their department until a job offer is made or for one year from the date of separation, whichever comes first. Once a job offer is made, whether accepted or refused, the laid off employee shall be removed from the Recall List.
2. Individuals recalled to fill the same position from which they were originally removed shall be restored to regular employment status and not serve any additional probationary period.

E. Employee Responsibility

Any employee laid off and placed on a Recall List is responsible for notifying the County Administrator of any change in address or telephone number. Employees shall be notified to return to work by registered mail. Any individual who fails to report to work as directed within five workdays following receipt of notification to return to work shall be removed from the Recall List and no additional efforts shall be made to contact the individual.

F. Aid to Employees

Employees who are laid off under a reduction in force directive are eligible to apply to the Virginia Employment Commission for unemployment compensation. Laid off employees shall be paid for accrued holiday leave, paid time off and compensatory leave as if they had resigned.

13.5 SEPARATION DATE

A. When an employee separates from County service, the effective date must be the last day that such employee is physically on the job. The County will not be liable for matters affecting the employee following his/her physical absence from the job. It is not permissible to delay the effective date of separation by any amount of accumulated annual or compensatory leave due the separated employee. Pay for any annual and compensatory leave balances due to eligible employees shall be paid in a lump sum basis.

B. If an employee is on approved sick leave, Workers' Compensation leave or leave without pay when separated, the effective date of separation shall be the actual date of separation as given by the employee and approved by the County Administrator.

C. When the effective separation date immediately precedes a holiday, the employee shall not be paid for the holiday

13.6 RETURN OF COUNTY PROPERTY

A. Employees are responsible for all property, materials, and written information issued to them or in their possession or control. Employees must return all County property that is in their possession or control in the event of separation from County employment, or immediately upon request, to the Department head or other County authorized designee.

B. The County may withhold from the employee's accrued holiday leave and paid time off payouts the cost of any items that are not returned in proper condition. The County may also take all action deemed appropriate to recover or protect its property.

13.7 DISCIPLINE

A. Disciplinary action may take the form of an informal counseling session, formal written notice, or other disciplinary action as set forth herein depending upon the severity of the situation. Counseling is not mandatory prior to taking formal disciplinary action, depending on the circumstances.

B. The Department head shall consult with the County Administrator when considering disciplinary action beyond verbal reprimand.

C. All disciplinary actions beyond suspensionare initiated by the County Administrator based upon the justification(s) and recommendation(s) of the Department head.

D. Disciplinary and termination decisions shall not based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, disability, age (40 or older) or genetic information (including family medical history).

E. Disciplinary and termination decisions are not based on an employee's decision to report discrimination, participate in a discrimination investigation or lawsuit, or oppose discrimination (for example, threatening to file a discrimination complaint).

F. The Madison County Board of Supervisors is to be notified by the County Administrator when disciplinary action beyond suspension is required for any employee covered by this policy.

G. All disciplinary actions beyond verbal reprimand shall be documented in writing to the employee with a copy to the employee's personnel file and records kept, as required, by the Equal Employment Opportunity Program

H. Disciplinary action includes:

1. Verbal Reprimand – A discussion between the Department head and the employee where the employee is advised and cautioned with reference to unsatisfactory work performance or misconduct.
2. The Department head shall maintain written departmental records to document that such discussion took place, when it took place, what was discussed and who was present; depending on the severity of the offense, such documentation may be placed in the employee's personnel file.
3. Written Reprimand – A reprimand reduced to writing, which documents the unsatisfactory work performance or misconduct and recommends specific guidance for corrective action.
4. Suspension – A temporary removal from duty of an employee for cause where the situation is not sufficiently grave to merit dismissal. The length of time shall depend on the seriousness of the offense.

    a) An employee may be suspended without pay; or,

    b) An employee may be suspended with pay for the purpose of completing investigatory and administrative processes concerning allegations against the employee.

    c) For any suspension without pay in excess of seven calendar days, the Department head shall provide the employee with an explanation of the reason for the County's action and an opportunity to present his/her side of the story.

    d) Where an employee is charged with a criminal act, the outcome of the criminal case shall not necessarily affect the outcome of the administrative investigation. The fact that a person is acquitted of the charge does not necessarily mean the suspension or other disciplinary action will be revoked.
5. Withholding of Merit Salary Increase – The denial or postponement of a merit increase, which is normally awarded upon the employee's completion of a prescribed period of successful job performance.

6. FLSA-docking of pay and disciplinary suspensions for exempt employees. Under the FLSA employees who are exempt from overtime pay requirements may not be docked in pay for periods of absence from work of less than one full workweek, except:

    a) When the dock occurs during the first or last week of employment;

    b) When accrued sick or annual leave has been exhausted;

    c) When the employee chooses to be docked rather than use leave;

    d) Sick or annual leave has been requested but denied; or

    e) When the dock constitutes a disciplinary suspension for an infraction of a safety rule of major significance.

I. Non-exempt employees. Non-exempt employees may be docked in pay for actual periods of absence from work or as a form of disciplinary action (in increments of at least one hour).

J. Administrative Decrease – A reduction in pay as a disciplinary action resulting from unsatisfactory job performance or misconduct.

K. Disciplinary Demotion – Demotion of an employee, for disciplinary reasons, may occur when it is determined that the employee's work has not been satisfactory after providing the opportunity and guidance for improvement and the County wishes to retain the employee. The employee shall meet the qualification requirements of the new, lower pay grade position prior to appointment. If the demotion is specified as temporary, the length of the demotion shall be so stated.

L. Dismissal – An employee may be dismissed from County service upon the recommendation of the Department head, subject to the review and approval of the County Administrator.

Before any employee may be dismissed, the Department head shall provide the employee with an explanation of the reason for the County's action and an opportunity to present his/her side of the story. If the employee is dismissed, such dismissal shall take effect immediately.

M. Causes for Disciplinary Action

The following are a partial list containing examples of unsatisfactory work performance and misconduct, which may result in disciplinary action up to and including suspension or dismissal. It is not intended to reflect all possible causes for disciplinary action.

1. Excessive absenteeism or excessive tardiness;
2. Abuse of leave;
3. Absent without approved leave;
4. Insubordination;
5. Insolence;
6. Failure to follow proper orders and work requests, including when requested, the immediate disclosure of knowledge or information relating to a matter of business interest

to the County, such as, but not limited to, activities of other employees involving their work or operation of vehicles.

7. Possession, distribution, sale, transfer or use of alcohol or illegal drugs in the workplace, during working hours, or while operating County-owned vehicles or equipment;
8. Neglect or carelessness in observance of departmental safety rules or disregard of common safety practices such as improper driving, etc.
9. Mischievous actions such as horse play, wrestling or other similar undesirable conduct.
10. Deliberate or grossly negligent or improper conduct endangering the safety of self or others, or which leads to damage of County-owned or public property;
11. Theft, unauthorized use, unauthorized removal, possession of or vandalism of County records or property or employees' property;
12. Falsification of or damage to County records (i.e., employment application and supporting documents, timekeeping records, safety records and reports, expense reports);
13. Unauthorized disclosure of County records and information;
14. Participating in a work slowdown, sit down or strike;
15. Unlawful conduct, on or off duty, when the conduct impairs the efficiency of the County service or brings it into public disrepute;
16. Willfully, wantonly, unreasonably, unnecessarily, or through culpable negligence has been guilty of brutality or cruelty to an inmate or prisoner or to a person in custody, provided the act committed was not necessarily or lawfully done in self-defense, or to protect the lives of others, or to prevent the escape of a person lawfully in custody.
17. Willfully violating safety or health rules where there is a threat to life or health;
18. Boisterous or disruptive activity, fighting or threatening violence in the workplace;
19. Smoking in prohibited areas;
20. Sexual or other unlawful harassment;
21. Possession or use of dangerous or unauthorized materials, such as firearms, weapons or explosives in the workplace;
22. Unauthorized use of telephones, the Internet, mail system or other County-owned property;
23. Violation of County rules, policies, ordinances, procedures or applicable federal/state regulations;
24. Operation of County vehicles in excess of posted speed limits except by law enforcement officers and public safety employees in proper performance of their duties.
25. Reckless driving of County vehicles or reckless operation of County equipment.
26. Operating a County vehicle or personal vehicle on County business without a valid Virginia Operator's Permit.
27. Improper use of authority or position; and,

28. Use of abusive or threatening language toward employees, supervisor(s) or the public.
29. Takes for his or her personal use from any person any fee, gift, or other valuable thing in the course of his work or in connection with it, when such gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons, or accepts any bribe, gift, token, monies, or other things of value intended as an inducement to perform or refrain from performing any official acts, or engages in any action of extortion or other things of value through his position in the County.
30. Violates the County's risk management policy.
31. Conviction of a felony or of a misdemeanor involving moral turpitude and other criminal acts that continued performance of duties is compromised.
32. Providing false, misleading, inaccurate or incomplete information to the employee's department head, the County Administrator or any other individual or organization.

As noted, this list is not intended to be exhaustive and dismissals may be warranted for failure to follow lawful directives, or in circumstances where the employee does not meet the conditions of employment for the position, such as unsatisfactory job performance as evidenced by receiving unsatisfactory performance evaluations; failure to maintain valid licenses or other qualifications necessary to perform the job; or, inability to perform the work required, with or without reasonable accommodation.

N. Disciplinary Procedure

Disciplinary investigation of employees will be conducted and actions taken for inefficiency, insubordination, misconduct or other cause as described above.

1. Investigation. Upon receiving a report of a violation of a departmental or disciplinary regulation as set forth in these rules, from an official, an employee of the County or from any other complainant, the Department head or County Administsrator will investigate. The investigation will be made for the purpose of ascertaining the true facts relative to the circumstances surrounding the alleged offense.
2. Discussion. The employee is to be advised of the rule or policy which s/he is alleged to have violated and the evidence and witnesses concerning the violation. The employee is to be given the opportunity to deny the charge and to give his own version, either orally or in writing. The employee is to be advised of what disciplinary action, if any, will be taken.
3. Report. Reports shall be prepared on violations of department or disciplinary regulations shall be shared in full upon final action with the County Administrator. The report is to include a copy of any written complaint, the facts of the investigation, the disciplinary action taken (if any) and the employee's response.

In cases of dismissal for any reason noted in these or future published regulations, a Department head contemplating dismissal of a non-probationary employee will conduct a pre-termination meeting. At such meeting, the Department head will provide the employee with oral and written notice of the charges against him, an explanation of the employer's evidence, and will provide the employee with an opportunity to present his side of the story. At the

conclusion of such a meeting, with the approval of the County Administrator, an employee may be dismissed. In certain circumstances, where serious misconduct is alleged and circumstances preclude holding such a hearing, the employee may be suspended with pay until a hearing can be conducted.

Once taken, all written notices of discipline shall be placed in the employee's personal file and may be accumulated into a more serious action if the employee displays a pattern of disrespect or inappropriate conduct and activity in contravention to these standards of conduct. A pattern does not imply many incidents, but could be more than a single incident, particularly if the infraction(s) is/are of a serious nature and/or show a pattern of disregard for the rules of conduct, even if not considered a serious infraction standing alone. In such cases, each incident referenced in conjunction with any future disciplinary actions may constitute a basis for suspending, transferring, demoting, or terminating an employee in light of the pattern of behavior.

CHAPTER 14 – GRIEVANCE PROCEDURES

14.1 GRIEVANCE PROCEDURE

A. Purpose

The purpose of Madison County Grievance Procedure is to afford an immediate and impartial method for the resolution of disputes which may arise between the County government and County employees.

B. Coverage

Except as noted below, all non-probationary full-time and part-time employees are eligible to file grievances under this procedure. The following are the exceptions:

1. Key officials of the County. For purposes of this procedure, a key official is defined as the head of any separate County department such as

    a) Building Official

    b) Director of Planning, Zoning and Permitting

    c) Director of Economic Development and Tourism

    d) Director of Emergency Communications

    e) Director of Emergency Medical Services

    f) Chief Animal Control Officer & Shelter Manager

    g) Finance Director/Assistant County Administrator

    h) Facilities Manager

2. Members of boards and commissions.
3. Employees whose terms of employment are limited by law.
4. Officials and employees who serve at the will or pleasure of an appointing authority.
5. Appointees of elected individuals or elected groups.
6. Probationary employees in matters concerning their dismissal. Probationary employees may, however, use this procedure for complaints or disputes other than dismissals that are determined to be grievable.
7. County Administrator
8. County Attorney
9. Department heads

10. Employees of Department of Social Services
11. Constitutional Officers
12. Temporary, limited term or Seasonal positions
13. Grant funded positions

The County Administrator shall, to the extent required by law, ensure that any required certifications shall be executed and filed with the appropriate person(s).

C. Definition of Grievance

A grievance shall be a complaint or dispute by a covered employee relating to his/her employment, including but not necessarily limited to:

1. Disciplinary actions, including disciplinary demotions, suspensions, and dismissals provided that such dismissals result from formal discipline or unsatisfactory job performance.
2. The application of personnel policies, procedures, rules, and regulations, and the application of ordinances and statutes.
3. Acts of retaliation as the result of the use of or the participation in the grievance procedure or because the employee has complied with any law of the United States or of the Commonwealth of Virginia, has reported any violation of such law to a governmental authority, has sought any change in law before the United States Congress or the General Assembly of Virginia, or has reported an incident of fraud, abuse, or gross mismanagement.
4. Discrimination on the basis of race, color, creed, religion, political affiliation, age, disability, national origin, or sex.

D. Management Responsibilities

The County reserves to itself the exclusive right to manage the affairs and operations of County government. Accordingly, complaints involving the following management rights and prerogatives are not grievable:

1. Establishment and revision of wages or salaries, position classification, or general benefits.
2. Work activity accepted by the employee as a condition of employment, or work activity which may reasonably be expected to be a part of the job content.
3. The contents of ordinances, statutes, or established personnel policies, procedures, rules, and regulations.
4. The methods, means, and personnel by which work activities are to be carried on, including but not necessarily limited to:

    a) The provision of equipment, tools, and facilities necessary to accomplish tasks.

    b) The scheduling and distribution of manpower/personnel resources.

c) Training and career development.

5. The hiring, promotion, transfer, assignment, and retention of employees in positions within the County's service.
6. Failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly.
7. The relief of employees from duties or taking action as may be necessary to carry out the duties, of the County in emergencies.
8. Direction and evaluation of the work of County employees, including periodic performance appraisals and pay adjustments.
9. Termination, layoff, demotion, or suspension from duties because of lack of work, reduction in force, or job abolition, except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance. In any grievance brought under the exception to this paragraph, the action shall be upheld upon a showing by the County that:
    a. There was a valid business reason for the action, and
    b. The employee was notified of the reason in writing prior to the effective date of the action.

E. Standing to Pursue a Grievance

A grievant must be personally and directly affected by an occurrence or condition before s/he shall be permitted to pursue a grievance. No employee may grieve another employee's job performance unless such job performance directly or adversely affects the grievant's own employment. Disputes as to an employee's standing to file a grievance shall be determined as shall any other disputes as to grievability as set forth in Section F.

F. Grievability

1. Grievability and access are determined by the County Administrator generally after the grievance reaches Step 3. Only after the County Administrator has determined that a complaint is grievable and/or the grievant has access to the procedure may a grievance be advanced through Steps 3 and 4. Should the question of grievability or access arise at Step 2, the grievant or the Department head may request a ruling on grievability and/or on access by the County Administrator. The County Administrator shall render a decision within ten calendar days of receipt of the ruling request and shall send a copy of the decision to the grievant and the Department head.
2. The County Administrator's decision on grievability and/or access may be appealed to the Circuit Court of the County. Such appeals shall be instituted by the grievant by filing a notice of appeal with the County Administrator within ten calendar days from the date the grievant received the decision. Within ten calendar days after the filing of the notice of appeal, the County Administrator or his designee shall transmit to the Clerk of the Circuit Court a copy of the County Administrator's decision on grievability or access to the procedure, a copy of the notice of appeal, a copy of the grievance record, and copies of all exhibits. A list of the evidence furnished to the Court shall also be furnished to the

grievant. The appeal will be heard by the Court as provided by law. The decision of the Court is final and is not appealable.

G. General Policy

Except as otherwise noted, the following rules apply to all levels of grievance hearings.

1. Hearings may be by a panel composed of three persons appointed as indicated herein.
2. Appointment of Panel.

    a) The panel shall consist of one member appointed by the grievant, one member appointed by the agency head and a third member selected by the first two. In the event that agreement cannot be reached as to the final panel member, the chief judge of the circuit court of the jurisdiction wherein the dispute arose shall select the third panel member.

    b) The panel shall not be composed of any persons having direct involvement with the grievance being heard by the panel, or with the complaint or dispute giving rise to the grievance. Managers who are in a direct line of supervision of a grievant, persons residing in the same household as the grievant and the following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee or co-employee of the attorney shall serve as a panel member.

    c) The third member of the panel shall serve as the Chair of the panel.

3. Time intervals specified in Steps 1 through 4 may be extended by mutual consent of the parties.
4. When a deadline falls on a Saturday, Sunday, or County holiday, the next calendar day that is not a Saturday, Sunday, or County holiday shall be considered the last calendar day.
5. All grievance meetings and hearings shall be held during normal County working hours unless both the grievant and the County Administrator should mutually agree otherwise.
6. County employees who are necessary participants at grievance hearings shall not lose pay for time necessarily lost from their jobs and will not be charged leave because of their attendance at the grievance proceedings.
7. At the Step 3 meeting, the grievant, at his option, may have present a representative of his choice. If the grievant is represented by legal counsel, the County likewise has the option of being represented by counsel.
8. The use of recording devices or a court reporter is not permitted at Step 1, 2, and 3 meetings. Only Step 4 hearings may be recorded.

9. Hearings are not intended to be conducted like proceedings in court and the rules of evidence do not necessarily apply.
10. At Step 4, the panel shall have the discretion to limit the attendance at the hearing of persons not having a direct interest in the hearing.
11. At the request of either party, Step 4 hearings shall be private.
12. Except in grievances involving discipline or in cases where the panel determines otherwise, the grievant shall present his evidence first.
13. The panel shall determine the propriety of and the weight to be given the evidence submitted.
14. Both the grievant and the County may call appropriate witnesses. All witnesses, including the grievant, shall be subject to examination and cross-examination.
15. Witnesses shall be present only while actually giving testimony and shall otherwise be excluded from the room.
16. The grievant shall not be entitled to financially recover more than that which he has lost; the grievant's costs are not to be assessed against the County.
17. Where a grievant has obtained partial relief at one level of this grievance procedure but decides to appeal to the next higher level, the filing of a request form to the next higher level shall constitute rejection of, and relinquishment of any claim to, any and all relief granted at the previous level.
18. Each party shall bear the costs and expenses, if any, of his legal counsel or representative.

H. Consolidation of Grievances

In the event that an employee files more than one grievance, the County Administrator may, at any time prior to the final hearing, consolidate those grievances for joint processing. If the grievances are consolidated, the processing of the first grievance shall be suspended until such time as the last filed grievance proceeds to the same point in this procedure. Once consolidated, the grievances shall be processed at the same time.

I. First Step – Immediate Supervisor Level

An employee who believes he has a grievance and wishes to utilize this procedure shall discuss the grievance informally with his immediate supervisor within twenty calendar days of the occurrence of the incident giving rise to the grievance or within twenty calendar days following the time when the employee reasonably should have gained knowledge of its occurrence. A response to the grievance shall be communicated, either orally or in writing, to the grievant within ten calendar days.

Note: If the complaint is alleging discrimination or retaliation by the immediate supervisor, the grievance may be presented at Step 1 to the Department head or, if there is no Department head above the immediate supervisor to the County Administrator. If Step 1 is with the County Administrator, Step 2 is omitted and the written grievance is presented to the County Administrator. The grievance proceeds immediately to Step 3.

J. Second Step – Department head Level

If the grievant is not satisfied with and does not accept the Step 1 response, or if a response is not provided within the required time frame, the grievant may proceed by putting the grievance in writing on the Grievance Form. The Grievance Form shall be delivered, by mail or in person, to the Department head within ten calendar days of receipt of the supervisor's response or the deadline for that response, whichever occurs first. If the immediate supervisor is the Department head, the written grievance should be presented to the County Administrator and it will proceed as if it were at Step 3.

The grievant shall specify the relief that he expects to gain through the use of this procedure. The Department head shall promptly meet with the grievant. Normally, the only persons who may be present at the meeting or hearing shall be the agency head, the grievant, and the appropriate witnesses. The Department head shall render a written response to the grievance within ten calendar days following receipt of the completed request form with a copy of the response being sent to the Administrator. By mutual consent of the grievant and the Department head, the grievant may skip Step 2 and proceed directly to Step 3.

K. Third Step – County Administrator Level

If the grievant does not accept the response at Step 2, or if the Department head fails to respond within the required time frame, the grievant shall indicate his desire to advance the grievance to Step 3 on the Grievance Form. The Grievance Form shall be delivered by mail or in person, directly to the County Administrator within ten calendar days following receipt of the Step 2 response or immediately after the deadline for that response, whichever occurs first. If the County Administrator determines (or has previously determined) that the complaint is grievable, a meeting with the grievant, the grievant's representative if there is one, a representative of the affected department and the County Administrator will be held within five days. Appropriate witnesses for each side, and such other persons as the County Administrator or the grievant may want to call, may be present to offer testimony only. The County Administrator shall render a written response to the grievance within ten calendar days following receipt of the completed request form.

In the event that the County Administrator determines that the complaint, or a portion of the complaint, is not grievable, the grievant may appeal that decision to the Circuit Court as set out in Section F.2 of this procedure.

L. Fourth Step –Impartial Panel

If the grievant does not accept the Step 3 written response, or if the County Administrator fails to respond within the required time frame, and the grievant wishes to advance to a hearing, the grievant shall complete step 4 of the Grievance Form and submit it to the County Administrator.

The Grievance Form shall be delivered, by mail or in person, directly to the County Administrator within ten calendar days following receipt of the Step 3 response or the deadline for that response, whichever occurs first. Upon receipt of the form, the County Administrator shall proceed to confirm the availability of a qualified administrative panel as noted above.

M. The Hearing

1. General

   Within 5 workdays of the qualification of the grievance, both parties must submit the names of their panelist to the other party. For hearing scheduling purposes, the County and grievant will both provide the contact information of their panel appointee and legal representative (if any). Following appointment of the two panelists, the County shall provide each with the contact information for the other and the parties shall have an additional 5 days to select a third-party panel. When the chair is determined and has agreed to serve, the panel will notify the County Administrator, who will, at least 10 days prior to the hearing, send the panelists a copy of the Grievance Record, which will consist of all records involved in the matter being grieved, as well as all documents created or added to the record of the matter during the initial steps of the grievance process. The Administrator will also send a copy of the County's grievance policy, along with the adopted rules on conducting the grievance hearing.

2. Rules for Conducting Grievance

   The hearing will be conducted under the rules set forth in Appendix A, hereafter, which sets for the panel's duties and authority under the grievance procedure. The panel, advocates, and parties must comply with the Rules for Conducting Grievance Hearings, as well as the provisions of this Manual.

3. Scheduling the Hearing

   It is the responsibility of the Chair to notify the parties, either in writing or at a prehearing conference, of the date, time, and place of the hearing. The hearing must be held in the locality where the employee is or has been employed unless the party's and panel mutually agree to another site. The County must arrange a place for the hearing unless the panel chooses to make the arrangements.

4. Prehearing Conference

   A prehearing conference is required to be held. This conference must be conducted by telephone or other equivalent means. This conference provides an opportunity to improve the management of the hearing by addressing procedural and evidentiary issues. If a party desires to have a particular individual testify at hearing, or to have a particular document produced prior to hearing, the party may request the panel to order the appearance of the individual, or the production of the document. The agency shall make available for hearing any employee ordered by the panel to appear as a witness.

5. Length of Hearing

   A hearing is to last no more than one day, unless the panel determines that the time is insufficient for a full and fair presentation of the evidence by both sides.

6. Absence from the Hearing

   The parties must appear at the hearing or request a postponement. The panel has the discretion to grant or deny a request for a postponement. At the panel's discretion, a

hearing may proceed in the absence of one of the parties; a hearing so conducted will be decided on the record and the evidence presented at the hearing.

N. Recording the Hearing

The hearing must be recorded verbatim to create a record should there be an administrative or judicial review of the hearing decision. The County shall provide recording equipment. It is the panel's responsibility to record the hearing. Either party may receive a copy of the recording, if requested, for the cost of reproduction. A court reporter is not required. If a party requests a court reporter, that party is responsible for the costs.

O. Authority of the Panel

A panel's authority derives from Va. Code §§ 15.2-1507 et seq., this Manual, and the attached Rules for Conducting Grievance Hearings. Panels have the authority to:

1. Hold a prehearing conference;
2. Require the parties to exchange a list of witnesses and documents;
3. Issue orders for the appearance of witnesses at hearing and the production of documents;
4. Decide whether non-parties may attend the hearing;
5. Record the hearing verbatim;
6. Administer oaths;
7. Admit evidence and exclude evidence, including but not limited to evidence in mitigation or aggravation of any offense charged by agency;
8. Accept offers of proof of excluded evidence;
9. Rule on procedural requests;
10. Render written decisions on qualified grievances and provide appropriate relief; and
11. Take other actions as necessary or specified in the grievance statutes, this Manual, or the Rules for Conducting Grievance Hearings.

P. Rules for the Hearing

Panels are bound by the provisions of Va. Code §§ 15.2-1507 et seq., the Rules for Conducting Grievance Hearings, and this Manual.

Hearings are to proceed as follows:

1. Parties may represent themselves or may be represented by an individual of choice; this advocate does not have to be an attorney;
2. In disciplinary actions and dismissals for unsatisfactory performance, the County must present its evidence first and must show by a preponderance of the evidence that the action was warranted and appropriate under the circumstances. The employee has the burden of raising and establishing any affirmative defenses to discipline and any evidence of mitigating circumstances related to discipline;

3. In all other actions, the employee must present his/her evidence first and must prove his/her claim by a preponderance of the evidence;
4. Each party may make opening and closing statements;
5. Formal rules of evidence do not apply;
6. Testimony and exhibits may be admitted into evidence and made part of the record;
7. Non-party witnesses are not to be present at the hearing except to give testimony and be cross-examined; and
8. The hearing is closed to the public.

Q. Panel's Decision

A panel's decision must be in writing. The decision must contain findings of fact on the material issues and the grounds in the record for those findings. A copy of the decision must be provided to the grievant, the parties' advocates, and the County Administrator. The panel should send the decision by e-mail or fax, if accessible by the parties and advocates so long as proof of receipt is established. If a party or advocate does not have access to e-mail or fax, the hearing decision must be sent by certified mail, return receipt requested, and regular mail. Panels may order appropriate remedies but may not grant relief that is inconsistent with law, policy, or the grievance procedure. In granting relief, the panel should consider the relief requested in the written grievance. In hearings contesting formal discipline, if the panel finds that (i) the employee engaged in the behavior described in the Written Notice, (ii) the behavior constituted misconduct, and (iii) the agency's discipline was consistent with law and policy, the agency's discipline must be upheld and may not be mitigated, unless under the record evidence, the agency's discipline exceeds the limits of reasonableness (see also Rules for Conducting Grievance Hearings).

R. Compliance

1. Except as noted in paragraph 2 below, after the initial submission of the grievance to the immediate supervisor, the failure of either party to comply with all substantial procedural requirements of this procedure without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five work days of receipt of written notification by the other party of the noncompliance. Such written notification by the grievant shall be made directly to the County Administrator.
2. If one of the management respondents in Steps 1, 2, or 3 does not respond to the grievance, the grievant at his option may move the grievance to the next level by submitting it without the response to the next Step or the grievant can provide the County Administrator notice of the non-compliance as set forth in paragraph 1 above.
3. The County Administrator shall determine compliance issues. Compliance determinations made by the County Administrator or his designee shall be subject to judicial review, which shall be initiated by the grievant filing a petition with the Circuit Court of the County within thirty calendar days of the compliance determination.

CHAPTER 15 - Use of County Computers and Other County Information Systems

15.1 "INFORMATION SYSTEMS" DEFINED; PURPOSE

A. The County's information systems consist of, but are not necessarily limited to, all County-owned or leased computer equipment, telephones, printers, copiers, cell/mobile phones, pagers, personal digital assistants, network devices, software, storage media, data, peripherals and accessories, etc., as well as electronic media and services that the county provides, such as e-mail, voice mail, the Internet, an Intranet, electronic files, downloads, uploads, and wireless access devices.

B. The purpose of this policy is to protect the county from inappropriate use of its Information Systems, and from virus attacks, compromises of security, and legal and related issues.

15.2 ACCESS TO INFORMATION SYSTEMS

A. Access to County Information Systems is restricted to appropriate individuals as authorized by the County "users". Users shall follow general password creation and maintenance protocol, keeping passwords private, protected and maintained at all times. Electronic communications should be carried out with the same level of care, professional judgment and discretion as paper communications.

B. Installation or use of non-County hardware, such as personal computers, personal laptops, flash drives, wireless access points, etc. on the County network is prohibited.

15.3 USE OF COUNTY INFORMATION SYSTEMS

A. County Information Systems shall not be used by users to access, create, transmit, print, download or upload material (including images or text) that is considered abusive, fraudulent, defamatory, obscene, indecent, or sexually oriented, or which may be construed as harassing, threatening, or discriminatory based on race, color, religion, sex, national origin, age or disability.

15.4 PRIVACY

Users shall not assume that any electronic communications are private. The County reserves the right to monitor electronic communications in furtherance of the purposes of this policy. Monitoring, auditing and inspection by the County of any and all information systems may occur at any time, without notice, and without the user's permission, in order to ensure compliance with this and other County policies and guidelines. Users shall have no expectation of privacy when using County information systems. Electronic records are considered public records and may be subject to disclosure under the Freedom of Information Act.

15.5 USE FOR PERSONAL PURPOSES

Use of the County's Information Systems is a privilege made available to users to assist in the performance of their County duties or County business. Limited, occasional use for personal, non-business purposes may be acceptable, provided that it does not adversely affect the performance of the user 's County duties and does not negatively impact the information Systems' resources, integrity or ability to appropriately conduct county business, and provided further that such use does

not violate this policy, any other County rule, regulation or policy, or any federal, state or local law. However,

15.6 ACCESS TO PERSONAL EMAIL ON COUNTY SYSTEM

Unless necessary for conducting county business, users shall not access private, non-County e-mail accounts from County owned or leased equipment within the County's internal network.

15.7 STREAMING SERVICES

Users should not access streaming services unless access to this content is in the interest of County business (including, but not limited to: viewing video clips, movie trailers, listening to web-based music, playing games, etc. from the internet).

15.8 ENFORCEMENT OF POLICY

Compliance with and enforcement of this policy is the responsibility of each department head. Violations of this policy or violations of related federal or state laws shall be reported immediately to department heads and to the County Administrator. Any employee found to have violated this policy or related policies may be subject to disciplinary action up to and including termination of employment. Violations of applicable federal or state laws may be considered a law enforcement matter subject to prosecution.

15.9 PRIVACY OF INFORMATION COLLECTED OR HELD RELATING TO OTHERS

The General Assembly has found[1] that:

A. An individual's privacy is directly affected by the extensive collection, maintenance, use and dissemination of personal information;

B. The increasing use of computers and sophisticated information technology has greatly magnified the harm that can occur from these practices;

C. An individual's opportunities to secure employment, insurance, credit, and his right to due process, and other legal protections, are endangered by the misuse of certain of these personal information systems.

D. To the extent allowed by the Virginia Freedom of information Act, protection of the confidentiality of personal information of employees and members of the public is a requirement of every County official and employee. Each person who handles forms, reports and/or written or electronic information must treat such information as confidential.

E. Virginia Code Section 2.2-3801 defines "personal information" as any information that describes, locates or indexes anything about an individual; however, the definition specifically excludes (i) routine information maintained for the purpose of internal office administration, the use of which could not adversely affect the individual, and (ii) real estate assessment information.

F. Adequate measures should be taken to prevent others from gaining access to personal information, including, without limitation: locking computer screens, locking data in drawers,

[1] 20 VA Code 2.2-3800 et seq.

cabinets or offices; not removing data from the workplace; not saving data to flash drives, discs or computer hard drives; and shredding or other secure destruction of old data.

G. Intentional misuse of data for purposes other than those for which it was collected is prohibited, and shall be grounds for discipline of an employee, up to and including termination of employment.

H. In the performance of their job duties, County officials and employees shall conduct their record-keeping activities in accordance with the following principles:

I. There shall be no personal information system whose existence is secret.

J. Personal information shall not be collected unless the need for it has been clearly established in advance.

K. Personal information collected shall be appropriate and relevant to the purpose for which it has been collected.

L. Personal information shall not be obtained by fraudulent or unfair means. 6-5.5.5. Personal information shall not be used unless it is accurate and current.

M. Any individual shall be afforded the opportunity to learn the purpose for which information has been recorded and particulars about its use and dissemination.

N. Upon request, any individual shall be allowed to correct or amend, as appropriate and as may be allowed by law, any inaccurate, obsolete or irrelevant personal information about himself. The employee should submit his or her rebuttal in writing for inclusion within his personnel record. No purging, deletion or destruction of records shall be done, except with the approval of the Director of Finance and in accordance with applicable retention schedules of the Library of Virginia.

O. All requests for verification of employment will be handled centrally by the Finance Department. Neither the Finance Department nor any department head or supervisor shall release any employment or personal information (other than verification of employment, and dates of service) except in accordance with a specific written authorization signed by the employee who is the subject of the request. A standard authorization form shall be obtained from the Department of Finance.

CHAPTER 16 - IMPLEMENTATION OF POLICIES

16.1 CONFLICTING POLICIES REPEALED

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

16.2 SEVERABILITY

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

16.3 VIOLATIONS OF POLICY PROVISIONS

An employee violating any of the provisions of this policy shall be subject to suspension and/or dismissal, in addition to any civil or criminal penalty.

16.4 EFFECTIVE DATE

If an effective date is not specified, this policy shall become effective upon adoption.

APPENDIX A: GRIEVANCE HEARING FORMS AND RULES

Grievance Hearing Form - Step 2
Grievance Hearing Form - Step 3
Rules of Conduct of Grievance Hearing
Order for County Witness
Order for General Witness

Grievance Hearing Form Step 2

Name of Grievant _____ Job Title _____

Department _____ Telephone Number(s) _____

Step 2 - Department Head Meeting
To be completed by the Grievant at Step 2 only and filed with the Grievant's Department head with a copy sent to the County Administrator's Office.

1. Date of the incident-giving rise to this grievance.

2. Date of the Grievant's first awareness of the incident.

   _____

3. Have you had a Step 1 informal hearing with your immediate supervisor?

   ☐ Yes ☐ No

   If yes, please state the date and time.

   _____

4. Person(s) against whom this grievance is directed.

   _____

5. Specify the incident that resulted in this grievance. (Use separate sheets if necessary)

   _____

6. Specify the policy(ies), rule(s), or regulation(s) at issue. (Use separate sheets if necessary.)

   _____

7. Specify why the action taken was not proper. (Use separate sheets if necessary)

   _____

8. Specify the relief sought. (Use separate sheets if necessary)

   _____

Printed Name _____ Date Submitted _____

Department Head Response: (Use separate sheets if necessary)

_____

Department Head _____ **Date Grievance Received** _____

Grievance Hearing Form Step 4

Request for Step 4 – Grievance Panel Hearing:

To be completed by the grievant at Step 4 only and filed directly with the County Administrator.

1. I wish to have my grievance heard at the Step 4 (grievance panel) level. I understand that by requesting to have my grievance heard at Step 4, I am giving up the relief, if any, that was awarded to me at Step 3.

_____ _____

Signature of Grievant Date Submitted

_____

Name of Grievant (Typed or Handwritten)

Rules for Conducting Grievance Hearings

Madison County, Virginia

Rules for Conducting Grievance Hearings

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I. Overview of the Grievance Procedure

A. As provided by statute (Va. Code §§ 15.2-1507 et seq.) Madison County's policy, as an employer, is to encourage the resolution of employee problems and complaints through training, consultation, and the grievance procedure.

B. The grievance procedure is a formal process through which most employees may seek resolution of a workplace dispute or concern[2]. See Madison County Policy Manual, Chapters 14.1

C. The County's Policy Manual lists the types of grievances that qualify for hearing. A challenged management action or omission not determined as a grievable issue through the processes outlined in the Policy Manual cannot be brought to the later stages of a grievance and, therefore, not to a hearing. Determinations of grievability identify the issues to be resolved but do not determine the ultimate merits of the grievance. A panel is not bound by factual determinations or findings in prior determination of grievability rulings. A panel may not qualify an issue for hearing.

D. These Rules are considered part of the grievance procedure. To the extent there is any conflict between these Rules and the grievance provisions contained within Madison County Policy Manual, the provisions contained in the Policy Manual shall control.

II. Summary of the Panel's Duties and Powers

In addition to the actions listed in § 14.1 (O) of Madison County Policy Manual, the panel is responsible for the following:

- Conducting the hearing in an equitable and orderly fashion.
- Complying with these Rules, the Grievance Procedure in Madison County Policy Manual, and other controlling state law or statue.
- Recording the hearing verbatim, marking the exhibits received into evidence and proffers not admitted, and making them a part of the grievance record.
- Writing a decision that contains a statement of the issues qualified, findings of fact on material issues and the grounds in the record for those findings, conclusions of policy and law, any aggravating or mitigating factors that were pertinent to the decision, and clearly defined order(s).
- Avoiding the appearance of bias.
- Avoiding ex parte communications with parties, unless such a communication is needed for (i) for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits, (ii) the panel reasonably believes that no party will gain a procedural or tactical advantage as a result, and (iii) the panel promptly notifies the other party or parties of the substance of the communication and allows an opportunity to respond.

[2] See 15.2-1506

- Voluntarily recusing himself or herself and withdrawing from any appointed case (i) as required in "Recusal," § III(G), below, or, (ii) when required by the applicable rules. governing the practice of law in Virginia.

III. Planning for the Hearing

A. Scheduling

Following appointment, a panel should promptly contact the parties to schedule the hearing and pre-hearing conference.

B. Time

Generally, the hearing should occur within 35 calendar days after the panel is appointed. However, the panel in his or her discretion may grant reasonable requests for extensions or other scheduling or deadline changes if no party objects to the request. If a party objects to the request, the panel may only grant extensions of time or just cause – generally circumstances beyond a party's control. If any extensions are granted, the reasons for each extension should be stated in the written decision.

For circumstances within a party's control, the panel should accommodate the party's scheduling wishes as flexibly as possible, but preferably within the 35-calendar day period. For example, because settlement is generally within the control of the parties, failure to resolve the dispute through that process may not constitute just cause for an extension of the hearing date depending on the facts of the case. Thus, for instance, if settlement is being considered, the hearing date should be docketed as late within the 35-day period as possible to allow time for settlement negotiations. However, the panel should advise the parties that absent an intervening event over which the parties have no control, the hearing will be conducted on the docketed date and that the parties should decide whether to settle before that date.

If one or more of the parties do not respond in a timely manner to the panel's requests to schedule a pre-hearing conference and/or the hearing, the panel has the authority to set a reasonable hearing date. The parties must be notified of the scheduled date and any other associated deadlines provided in a scheduling order, if applicable.

Most hearings can be completed within a day. However, hearings may continue beyond one day if necessary for a full and fair presentation of the evidence by both sides.

The panel shall issue a written decision as promptly as possible after the conclusion of the hearing or the expiration of any period allowed for the receipt of additional evidence or briefing (i.e., the closing of the evidence).

C. Consolidation

At times, two or more pending grievances between the same employee and the County may be qualified for hearing. Similarly, two or more employees may each file a grievance with the County challenging substantially similar management actions involving a single incident or set of circumstances. At

the request of either party, the Panel may order that grievances involving the same (1) factual background and (2) issues or policies be consolidated and heard before the same panel at a single hearing, to be followed with decision(s) addressing each of the qualified issues raised in the consolidated grievances. Where the grievances of two or more employees have been consolidated, the panel will provide each employee with a separate opinion.

D. Pre-hearing Conference

The panel shall schedule a pre-hearing conference, to be conducted by telephone or other equivalent means. A pre-hearing conference presents an opportunity to improve the management of the hearing through prior discussion and the resolution of procedural and evidentiary issues. During the pre-hearing conference, the panel may assist the parties by:

a. Explaining procedures that will be followed at the hearing; establishing the date, time, and location of the hearing; and confirming the roles of the parties, their advocates, and the panel.

b. Clarifying the issue(s) qualified for the hearing.

c. Preparing the parties for the presentation of evidence at the hearing, particularly in light of the inapplicability of the technical rules of evidence.

d. Ruling on preliminary procedural and evidentiary requests.

e. Encouraging the parties to stipulate to facts or exhibits not in dispute and the applicable policies or laws.

f. Issuing, upon request of the parties, orders for the appearance of witnesses at hearing and the production of documents.

g. Establishing the date for the exchange of witness lists and documents and ruling on any objections to these.

h. Explaining the standard of proof to be applied and the order of presentation for each party.

i. Affording the parties the opportunity, upon request, to review the grievance record for completeness and accuracy.

Importantly, too, a pre-hearing conference allows the panel to instill confidence in the parties that their panel is an independent and neutral decision-maker. In this regard, it is essential that the panel establish and maintain a tone of impartiality. Panels should bear in mind, during the pre-hearing conference and throughout the hearing process, that an idle gesture or remark, or an ex parte conversation (meaning that one party is absent from the discussion), can be perceived as partiality, no matter how necessary and proper such communication may have been.

E. Orders

The panel's authority to order discovery (procedures used by either party to prepare for the hearing by obtaining information about the case from the other party) is more limited than that of a court. For example, the grievance

procedure does not require, and panels may not order (without both parties' agreement) discovery by (i) witness deposition (testimony recorded and provided under oath prior to the hearing); (ii) interrogatories (written questions about the case submitted by either party to the other party or witness); or (iii) requests for admissions (written statements concerning the case submitted by one party to the other, who then admits or denies each statement).

The panel may, however, issue an order for witnesses or for the production of documents. Examples of the recommended format and content of orders are included in Appendix A-1. If a party believes that a panel's order is out of compliance with the grievance procedure, the party may seek the intervention on the question by a court of law.

Witness Orders: Orders should be issued in the name of the panel and sent by the panel to the appropriate individual(s), with a copy to each party. The County shall make available for hearing any employee ordered by the panel to appear as a witness. An order for a County employee to testify as a witness should be sent to the County's advocate, not the individual employee. The County shall then provide a copy of the order to the employee and require his/her attendance at hearing. The panel can ask the County to schedule requested employee witnesses to a shift compatible with the date, time, and location of the hearing. If this unduly burdens the business of the County, the hearing can be continued to another day, witnesses can testify by phone, or the hearing may be moved to a location at the work site.

Production of Documents: In considering a party's request for an order for the production of documents, panels should bear in mind that under the grievance statutes, absent just cause, all documents, as defined in the Rules of the Supreme Court of Virginia, relating to actions grieved "shall be made available" upon request from a party to the grievance, by the opposing party[3]. Accordingly, the County's discretion under the Freedom of Information Act or other statute to withhold certain documents from an employee does not necessarily extend to the grievance process. Documents pertaining to non-parties that are relevant to the grievance must be produced in such a manner as to preserve the privacy of the individuals not personally involved in the grievance[4]. Also, a party is not required to create and produce a document if the document does not exist. A panel may order a party to produce previously undisclosed relevant evidence (documents or witnesses) at the hearing.

F. Distribution by Panel

A panel need only send notifications, orders, or other communications to the advocates for the parties, or, if a party does not have an advocate, to the party or party's contact identified on the Grievance Form, Step 2. It is then the responsibility of these recipients to transmit the communications as needed to any others (e.g., other County employees) involved in the grievance process. Copies of the final hearing decision, however, will be provided by the panel only to the parties identified on the Grievance Form, Step 2 and their advocates. See also § V(C).

[3] See Rule 4:9(a) of the Rules of the Virginia Supreme Court

[4] However, the panel must also ensure that relevant and material personal information is not withheld so as to unduly limit a party's due process interests. See infra § IV(F).

G. Recusal

A panel member shall recuse himself or herself in any hearing "in which the [panel's] impartiality might reasonably be questioned," unless the basis for the potential recusal are disclosed and the parties consent to the panel's continued service as described below. Grounds for recusal could include, but are not limited to:

a. The panel has a personal bias or prejudice concerning a party or a party's advocate;

b. The panel has personal knowledge of disputed evidentiary facts concerning the grievance;

c. The panel or a family member of the panel:

   i. Is a party or advocate in the grievance;

   ii. Is employed by a party to the grievance;

   iii. Has a financial interest that could be substantially affected by the grievance; or

   iv. Is likely to be a material witness in the grievance.

A panel should disclose information that he or she believes the parties or their advocates might consider relevant to the question of recusal, even if the panel believes there is no real basis for recusal. If following disclosure of any basis for recusal other than personal bias or prejudice concerning a party, the parties and advocates agree that the panel should not be disqualified, and the panel is then willing to participate, the panel may participate in the proceeding. Disclosures of potential issues regarding recusal should be made as early in the hearing process as possible.

The panel also "has a concomitant obligation not to recuse himself or herself absent a valid reason for recusal."

IV. The Hearing

Grievances focus on personnel matters impacting the privacy of the individuals involved, as well as the County's personnel practices. To protect the privacy of all concerned, grievance hearings are not public hearings.

A. Persons Present

At the panel's discretion, a hearing may proceed in the absence of one of the parties; a hearing so conducted will be decided on the grievance record and the evidence presented at the hearing. The panel shall maintain order, decorum and civility during the hearing and shall have the authority to eject disruptive individuals from the hearing room. Disruptive conduct by a party or advocate during the hearings process may also result in the panel ordering sanctions against that party or advocate (*see supra* § III(E)).

Parties: The parties to the grievance are the employee and the County. The County may select an individual to serve in its capacity as a party. The fact that the individual selected by the County is directly involved in the grievance or may testify is of no import. Each party may be present during the entire hearing and may testify.

Advocates: Parties may be represented by legal counsel, another individual of choice, or themselves. The advocate, or the party without an advocate, may examine or cross-examine witnesses and present evidence. If a party is represented

by more than one individual, however, only one advocate may examine an individual witness.

Witnesses: Each party may call witnesses to testify at the hearing. A non-party witness may be present in the hearing room only while testifying.

Aides/Interpreters: An impaired party, advocate, or witness may use an aide or an interpreter throughout the time that the individual is in the hearing room. Likewise, anyone not fluent in English may use a language interpreter. It shall be the County's responsibility to secure the services of any necessary aides/interpreters and to bear all associated costs.

Observers: The panel has the authority to determine whether observers may be present during the hearing. Observers include anyone who is not a party, advocate, testifying witness, or aide/interpreter (e.g., friends, acquaintances, co-workers, or the County's personnel officer). In deciding whether observers may attend the hearing, the panel should recognize that non-parties might inhibit the full disclosure of information. The confidentiality of the parties and others not directly involved in the grievance must be preserved. Accordingly, at the request of one or both of the parties, the hearing should be closed to all persons who are not direct participants in the hearing.

B. Recording the Hearing

The hearing must be recorded verbatim to create a record should there be an administrative or judicial review of the hearing decision. It is the panel's responsibility to record the hearing.[5]

Prior to commencing the hearing, the panel must test the recording equipment to ensure that a clearly audible recording is produced. Parties may have a transcript produced at their own expense by ordering a duplicate copy of the hearing recording from the Hearing and engaging the services of a court reporter. If a transcript is produced, the opposing party must be permitted to purchase a copy at his/her expense.

C. Conducting the Hearing

The hearing must be conducted in an orderly, fair, and equitable fashion, pursuant to the provisions of the Madison County Policy Manual. Because the grievance process permits use by unrepresented parties and lay advocates, the panel must establish an informal, non-judicial hearing environment that is conducive to a free exchange of information and the development of the facts. The panel is responsible for marking the exhibits received into evidence and making them a part of the grievance record. In addition, during the course of the hearing, the panel may question the witnesses and, if essential to the resolution of a material issue in the case, request a party to provide further documentation. Panels should exercise this discretion sparingly, however. The tone of the inquiry, the construct of the question, or the frequency of questioning one party's witnesses can create an impression of bias, so care should be taken to avoid appearing as an advocate for either side.

[5] If cassette tapes are used to record the hearing, the write protection tabs must be removed as each tape is completed. The removal of the tabs should be recorded on the record (except with regard to the final tape, which can be announced at the conclusion of the hearing).

Each party may make opening and closing statements. In disciplinary actions and dismissals for unsatisfactory performance, the County must present its evidence first and must show by a preponderance of the evidence (in other words, that it is more likely than not) that the action was warranted and appropriate under the circumstances. In all other actions, the employee must present evidence first and must prove his or her claim by a preponderance of the evidence. (See also below § VI(B)(1) regarding burdens of proof regarding mitigating circumstances in disciplinary actions.)

If procedural or compliance issues arise, the panel may contact others for general guidance.

D. Admitting Evidence

The grievance hearing is not intended to be a court proceeding. Therefore, the technical rules of evidence do not apply and most probative evidence (any evidence that tends to prove that a material fact is true or not true) is admitted. However, the liberal admission of evidence should not be construed as a retreat from the underlying principles and reasoning behind rules of evidence. The purpose of liberal admission is to allow the introduction of evidence that might not be admissible under evidentiary rules, not to encourage the substitution of less reliable evidence for more reliable evidence. For example, because documents are typically the best evidence of their contents, when a party seeks to establish the contents of an available document, the party should introduce the document as evidence rather than relying solely upon an inherently less reliable form of evidence such as recollected testimony as to the document's contents. Because of the liberal admission policy, the panel must exercise great care when considering and weighing the reliability of the evidence received.

The panel may exclude evidence that is irrelevant, immaterial, insubstantial, privileged, repetitive, not timely exchanged consistent with the panel's orders, or otherwise for just cause. The panel may exclude evidence regarding any theory (for example, retaliation, discrimination, or inconsistent management actions) not raised by the time of the last pre-hearing conference. However, due consideration should be given as to whether there has been sufficient time to develop and/or raise such theories, as, for example, in a dismissal grievance proceeding immediately to hearing without benefit of the management resolution steps of the grievance process. If excluded, evidence about such theories should not be addressed at hearing or in the panel's decision. However, testimony about previously unknown or undisclosed facts may still be admissible if relevant to matters properly at issue. Evidence that is newly discovered since the exchange of exhibits may be presented if the evidence could not have been discovered until that time through the due diligence of the party. Before excluding evidence as a means of sanctioning a party, the panel must take into account the factors identified in § III(E) for considering an order for sanctions.

Unfounded objections to the admission of evidence by either party must be discouraged, however. An unrepresented party can become flustered when this occurs and may not know how to respond after such objections. If an advocate or a party disrupts the hearing with repeated objections or is argumentative, the panel may declare a recess to talk about the standard of professional conduct expected of parties and advocates in the hearing.

Pursuant to §§ 8.01-418.2 and 40.1-51.4:4 of the Code of Virginia, the results of polygraph tests of a party or a witness are not admissible as evidence in a grievance

hearing except as to disciplinary or other actions taken against a polygrapher. Evidence related to such inadmissible polygraph tests shall not be submitted, referenced, referred to, offered or presented in any manner at hearing.

Pursuant to § 60.2-623.B of the Code of Virginia, determinations or decisions of the Virginia Employment Commission (VEC) are not admissible in grievance hearings. Information provided to the VEC is likewise not admissible at a grievance hearing unless the information was otherwise discoverable and could have been obtained through other means.

E. Witness Issues

All parties to the grievance, including the employee who initiates the grievance, may testify at hearing. The panel is responsible for limiting the number of witnesses called by either party whenever the testimony would be merely cumulative. The purpose of this power is to ensure the speedy and efficient conduct of the hearing. However, when limiting the number of witnesses, the panel should be careful not to exclude testimony that may be of greater weight or probative value than that already presented.

Sometimes a party may wish to present the testimony of an individual who is in the physical custody of the state. There is no law or policy that requires the County to produce that individual to testify as a witness. Nevertheless, testimony from such a person may be important. If that is the case, the panel should weigh the costs associated with transporting the witness to the hearing location, as well as any security or health risks that could arise as a result of such an order. If transporting the witness to the hearing is not feasible, testimony can be received via conference call or by conducting all or part of the hearing at the institution or building where the witness is housed. Another alternative is to admit a recorded statement from the witness.

There are several concerns regarding the testimony of those who are mentally incapacitated. Because there is a strong interest in protecting such a witness from aggressive direct or cross- examination, the panel may choose to personally examine such a witness, as is done by the courts in competency proceedings, instead of allowing the parties to do so. Although the competency of a witness may be called into question, mental incapacity does not automatically disqualify a witness. A witness need only have personal knowledge of the event, and be able to perceive, remember, recognize the duty to tell the truth, and comprehend and respond to questions in an understandable manner.

The matter before the panel may involve an individual who is not under the control of either party, such as a discharged patient or a customer of the County. If the party has made a good faith effort to produce the witness, or if there are sound reasons for not requesting the presence of the witness, the panel may admit any recorded statement or official report previously made by the unavailable witness.

F. Documents

The Madison County Policy Manual does not require the use of affidavits or sworn statements at hearing. However, the formality of a recorded statement may affect the evidentiary weight that the panel accords to the statement. If the panel prefers a certain formality to recorded statements used in lieu of testimony, he or she should so inform the parties during the pre-hearing conference, and should explain to the parties how formality could affect the weight that will be given to such statements.

When a recorded statement is offered into evidence, the burden is on the party introducing the document to establish the truth of the facts contained in that statement. The truth of the facts can be established by direct or circumstantial evidence.

Personally identifiable information regarding individuals not party to the proceeding is often deleted from investigative notes or County records. If a party objects to such deletions, or if the panel deems that the deleted information is essential for a fair process to determine the merits of the grievance, the panel should work with the parties to obtain the information in a format that does not violate the privacy rights of non-parties. If this is not feasible or fair, the panel should seek to preserve confidentiality when non-party records, especially medical records, are exchanged or admitted into evidence, for example, by issuing a protective order.

A party's failure to comply with the grievance procedure or the panel regarding documents may result in the panel ordering sanctions against that party. See supra § III(E); infra § V(B).

G. Closing of the Evidentiary Record

The evidentiary record is generally closed at the conclusion of the hearing, unless the panel has allowed for a period after the hearing for the receipt of additional evidence. The panel may also allow a similar period after the hearing for the parties to submit additional briefing, which is not evidence. After the panel closes the evidentiary record, additional evidence generally may not be admitted.

A narrow exception to prohibiting the admission of evidence after the close of the evidentiary record is the case of newly discovered evidence, an issue that can be raised through a Request for Administrative Review. Newly discovered evidence is evidence that was in existence at the time of the hearing, but was not known (or discovered) by the party until after the panel closed the evidentiary record. In addition, to be "newly discovered," the party must also show that (1) due diligence on the part of the party to discover the new evidence prior to the closure of the evidentiary record was exercised; (2) the evidence is not merely cumulative or impeaching; (3) the evidence is material; and (4) the evidence is such that is likely to produce a new outcome if the case were reheard, or is such that would require the judgment to be amended.

V. The Decision

A. Deliberations

After the hearing, the panel should deliberate on the evidence admitted at the hearing and arrive at a decision in an expeditious fashion. The panel must not issue a bench decision immediately following the hearing. If additional information or clarification is required after the hearing, both parties must have the opportunity to respond to the panel's request.

B. Use of Adverse Inferences

Although a panel does not have subpoena power, he or she has the authority to and may draw adverse factual inferences against a party, if that party, without just cause, has failed to produce relevant documents, has failed to make available relevant witnesses as the panel had ordered, or against the County that has failed to instruct material County employee witnesses to participate in the hearing process.[6] Under

[6] Nothing in the Rules is intended to require any witness to provide information otherwise protected by law (e.g., attorney-

such circumstances, an adverse inference could be drawn with respect to any factual conflicts resolvable by the ordered documents or witnesses. For example, if the County withholds documents without just cause, and those documents could resolve a disputed material fact pertaining to the grievance, the panel could resolve that factual dispute in the grievant's favor. See also above § III(E) regarding sanctions.

C. Written Decision

A written decision shall be issued as promptly as reasonably possible after the close of the evidentiary record. The decision must resolve the grievance on the merits of the substantive issue(s) qualified and not on procedural issues. Challenges to management actions or omissions that have not been qualified in the grievance assigned to the panel are not before that panel , and may not be resolved or remedied. In reaching a decision, the panel must consider de novo all evidence admitted into the hearing record. If a case is decided on issues of disputed facts, the hearing officer must identify and explain his/her reasoning in resolving the dispute(s).

The decision must contain a statement of the issues qualified; findings of fact on material issues and the grounds in the record for those findings; any related conclusions of law or policy; any aggravating or mitigating circumstances that are pertinent to the decision; and clearly identified order(s) specifying whether the County's action has been upheld, reversed, or modified, and clearly listing all required actions. Finally, the decision must include, within its text, information regarding a party's right to appeal the decision.

In an effort to protect personal privacy, the decision itself must not reference any individual or entity (other than the party County) by name.

The panel must send his or her decision with a cover letter preferably by e-mail or fax, if accessible by the parties and advocates, so long as proof of receipt is established. If a party or advocate does not have access to e-mail or fax, the hearing decision must be sent by certified mail, return receipt requested, and regular mail. A copy of the decision must be provided to the grievant, the parties' advocates, and any other individuals identified on the Grievance Form, Step 2.

The decision must also be provided to the County Administrator in an electronic format, either "text only" or Microsoft® Word. The electronic version may be sent as an e-mail attachment to the Administrator.

VI. Scope of Relief

A. General

Under the grievance statutes, management is reserved the exclusive right to manage the affairs and operations of County government. In addition, challenges to the content of County human resource policies and procedures are not permitted to advance to a hearing. Thus, in fashioning relief, the reasonableness of an established policy or procedure itself is presumed, and the panel has no authority to change the policy, no matter how unclear, imprudent or ineffective s/he believes it may be[7]. However, the panel may order relief to remedy the application of a policy when policy was

client privilege; Fifth Amendment to the United State Constitution).

[7] Cf. Pulliam v. Coastal Emergency Services, 257 Va. 1, 9, 509 S.E.2d 307, 311 (1999)(citing to the "well-established principle" that all statutes are presumed to be constitutional, and that unless "plainly repugnant" to the state or federal constitution, the wisdom or propriety of a statute is for the legislature, not the courts, to decide).

misapplied, unfairly applied, or when that application is inconsistent with law or with another controlling policy.

Further, a panel is not a "super-personnel officer."[8] Therefore, in providing any remedy, the panel should give the appropriate level of deference to actions by County management that are found to be consistent with law and policy.

In general, the panel is not limited to the specific relief requested by the employee on the Grievance Hearing Form, Step 2, as long as the relief granted is consistent with law, policy, and the grievance procedure. When the grievance involves a disciplinary matter, the panel may uphold or reverse the disciplinary action challenged by the grievance, or, in appropriate circumstances, modify the action; the panel may also order the reinstatement of a grievant with back pay for the appropriate period The awardable period may not extend back beyond the 30 calendar day statutory period preceding the initiation of the grievance.[9]

All remedies provided by a panel in his/her decision must conform to law, policy, and the grievance procedure.

B. Disciplinary Actions

The Conduct Standards are outlined in the County Personnel policy and are applicable to most County personnel.

As the Conduct Standards [12.1 (B)] state, “It is not possible to list all the forms of behavior that are considered unacceptable in the workplace.” They are intended as examples of conduct for which specific disciplinary actions may be warranted. Accordingly, the County may issue a Written Notice for an offense not specifically listed in the Standards of Conduct or in the Discipline section of the policy (Section 13.7). In all circumstances, however, the employee must receive notice of the charges in sufficient detail to allow the employee to provide an informed response to the charge. The panel should ensure that an employee receives adequate post-disciplinary due process. Thus, a panel’s review is limited to the conduct charged in the Written Notice and attachments.

Framework for Determining Whether Discipline was Warranted and Appropriate

The responsibility of the panel is to determine whether the County has proven by a preponderance of the evidence that the disciplinary action was warranted and appropriate under the circumstances. To do this, the panel reviews the evidence de novo (independently, as if no determinations had yet been made) to determine (i) whether the employee engaged in the behavior described in the Written Notice; (ii) whether the behavior constituted misconduct; and (iii) whether the disciplinary action taken by the County was consistent with law (e.g., free of unlawful discrimination) and policy (e.g., properly characterized as a punishable offense).

When a disciplined employee asserts that the discipline was issued for an improper reason[10], the employee is deemed to be raising an affirmative defense and it is the

[8] *Cf.* DeJarnette v. Corning, 133 F.3d 293, 299 (4th Cir. 1998)("Title VII is not a vehicle for substituting the judgment of a court for that of the employer").

[9] Compare Brinkley-Obu v. Hughes Training, Inc., 36 F.3d 336 (4th Cir. 1994)(in context of a Title VII or Equal Pay Act violation, relief is available only for the designated statutory time) with Va. Code §2.2-3003(C)(in context of on employee grievance, designated time to file is 30 calendar days).

[10] For example, an employee might argue that the disciplinary action violates law or was otherwise

employee's burden to prove the affirmative defense[11]. The County has no burden to disprove the affirmative defense[12]. If the County does not prevail as to any of the elements (i) through (iii) above, the disciplinary action should not be upheld. If the County prevails on all three elements, the panel must then consider whether the grievant has shown, by a preponderance of the evidence, that there were nevertheless mitigating circumstances justifying a reduction or removal of the disciplinary action, and if so, whether any aggravating circumstances exist that would overcome the mitigating circumstances. See Mitigating and Aggravating Circumstances below.

In reviewing County-imposed discipline, the panel must give due consideration to management's right to exercise its good faith business judgment in employee matters, and the County's right to manage its operations[13]. Therefore, if the panel finds that (i) the employee engaged in the behavior described in the Written Notice, (ii) the behavior constituted misconduct, and (iii) the County's discipline was consistent with law and policy, the County's discipline must be upheld and may not be mitigated, unless, under the record evidence, the discipline exceeds the limits of reasonableness.[14] (See Mitigating and Aggravating Circumstances below.)

When the panel sustains fewer than all of the County's charges, the panel may reduce the penalty to the maximum reasonable level sustainable under law and policy so long as the County head or designee has not indicated at any time during the grievance process or proceedings before the panel that it desires that a lesser penalty be imposed on fewer charges.[15] Sometimes an employee may experience an "adverse employment action" (e.g., discharge, transfer, demotion, etc.)[16] that is not accompanied by a formal Written Notice as contemplated by the Standards of Conduct, but which may have been taken for essentially disciplinary reasons -- in other words, to correct or penalize behavior by enforcing applicable standards of conduct or performance. If the grievance is qualified, the grievant will have the burden of proving at hearing that the contested adverse employment action, though unaccompanied by a formal Written Notice, was nevertheless taken for disciplinary reasons. If the panel

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discriminatory or retaliatory.

[11] *See* Edwards v. Dep't of Veterans Affairs, 100 M.S.P.R. 437, 2005 MSPB LEXIS 6557 (2005).

[12] See *id*.

[13] In LaChance v. M.S.P.B., 178 F.3d 1246 (Fed. Cir. 1999), the court noted that "it is a well-established rule of civil service law that the penalty for employee misconduct is left to the sound discretion of the County." Id. at 1251 (citing Miguel v. Department of the Army, 727 F.2d 1081, 1083 (Fed. Cir. 1984)); see also Beard v. General Serv. Admin., 801 F.2d 1318, 1321 (Fed. Cir. 1986) ("[T]he employing (and not the reviewing) County is in the best position to judge the impact of employee misconduct upon the operations of the County . . ."); Hunt v. Department of Health and Human Servs., 758 F.2d 608, 611 (Fed. Cir. 1985) ("Determination of an appropriate penalty is a matter committed primarily to the sound discretion of the employing County.").

[14] Cf. Davis v. Department of Treasury, 8 M.S.P.R. 317 (1981)(the Merit Systems Protection Board (MSPB) "will not freely substitute its judgment for that of the agency on the question of what is the best penalty, but will only 'assure that Administratorial judgment has been properly exercised within tolerable limits of reasonableness.'"). See also Mings v. Department of Justice, 813 F.2d 384, 390 (Fed. Cir. 1987)(The MSPB "will not disturb a choice of penalty within the agency's discretion unless the severity of the agency's action appears totally unwarranted in light of all factors.").

[15] Cf. Lachance, 178 F.3d at 1260.

[16] See Boone v. Goldin, 178 F.3d 253 (4th Cir. 1999) (under Title VII, an "adverse employment action" typically requires discharge, demotion, or reduction in grade, salary, benefits, level of responsibility, title, or opportunities for future reassignments or promotions). See also Von Gunten v. Maryland Department of the Environment, 243 F.3d 858, 866 (4th Cir. 2001)(citing Munday v. Waste Mgmt. of North America, Inc., 126 F.3d 239, 243 (4th Cir. 1997)).

finds that the contested action was disciplinary, the County will have the burden of proving that the action, though disciplinary, was warranted. As with formal disciplinary actions, the panel shall consider mitigating and aggravating circumstances, giving appropriate deference to the County's right to manage its affairs.

1. **Mitigating and Aggravating Circumstances:**

DHRM's Standards of Conduct allows agencies to reduce the disciplinary action if there are "mitigating circumstances," such as "conditions that would compel a reduction in the disciplinary action to promote the interests of fairness and objectivity; or . . . an employee's long service, or otherwise satisfactory work performance." By law, the panel must "[r]eceive and consider evidence in mitigation or aggravation of any offense charged by an agency."[17] Examples of "mitigating circumstances" to be considered by the panel include, but are not limited to:

- whether an employee had notice of the rule, how the County interprets the rule, and/or the possible consequences of not complying with the rule;[18]
- whether the discipline is consistent with the County's treatment of other similarly situated employees; or
- whether the penalty otherwise exceeds the limits of reasonableness under all the relevant circumstances.

In making such a determination the panel must give due weight to the County's discretion in managing and maintaining employee discipline and efficiency, recognizing that the panel's function is not to displace management's responsibility but to assure that Administratorial judgment has been properly exercised within the tolerable limits of reasonableness.[19] A panel must give deference to the County's consideration and assessment of any mitigating and aggravating circumstances. Thus, a panel may mitigate the County's discipline only if, under the record evidence, the County's discipline exceeds the limits of reasonableness. If the panel mitigates the County's discipline, the panel shall state in the hearing decision the basis for mitigation.

The grievant has the burden to raise and establish mitigating circumstances that justify altering the disciplinary action consistent with the "exceeds the limits of reasonableness" standard. The County has the burden to demonstrate any aggravating circumstances that might negate any mitigating circumstances.

2. **Accumulated Discipline**:

Under the County's Standards of Conduct, Written Notices remain "active" following their creation and may be used, in conjunction with other disciplinary actions by the County as the basis for suspending, transferring, demoting, or terminating an employee.

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[17] Va. Code § 2.2-3005(C)(6).

[18] However, an employee may be presumed to have notice of written rules if those rules had been distributed or made available to the employee. Proper notice of the rule and/or its interpretation by the agency may also be found when the rule and/or interpretation have been communicated by word of mouth or by past practice. Notice may not be required when the misconduct is so severe, or is contrary to applicable professional standards, such that a reasonable employee should know that such behavior would not be acceptable.

[19] Cf. Douglas v. Veterans Admin., 5 M.S.P.R. 280, 302 (1981).

If the grievance involves a County action based on accumulated active Written Notices, the panel must ascertain from the County whether any of the other Written Notices supporting the action are being grieved. If so, final disposition of the grievance before the panel must wait until the grievances on the other Written Notices have been decided. The panel must await the outcome of the other grievance(s) to determine whether there are sufficient cumulative active Written Notices to support the County's disciplinary action.

3. **Suspension and Termination**:

The panel has authority to order a lesser, but not greater, number of days of suspension than the County issued to the employee and otherwise must conform to the County's Standards. The panel's order must be consistent with the Standards of Conduct.

An employee may be terminated for misconduct. A panel may order that the employee be reinstated while upholding the level of the Written Notice. The panel must give deference, however, to the County's decision to discharge as opposed to suspend an employee, and thus, may mitigate discharge to a suspension only if the discharge exceeds the limits of reasonableness. If the panel rescinds or reduces a Written Notice and the employee's total accumulated active Written Notices are insufficient to sustain a termination, the employee must be reinstated.

C. Non-disciplinary Actions

As with disciplinary actions, the panel must review the evidence de novo and all remedies for non-disciplinary actions must conform to law, policy, and the grievance procedure. The grievant bears the burden of proof for grievances regarding non-disciplinary actions.

1. **Misapplication or Unfair Application of Policy:**

If the issue of policy misapplication is qualified for hearing, and the panel determines that a policy mandate has been misapplied or applied unfairly, the panel may order the County to reapply the policy from the point at which it became tainted. However, in cases where the panel concludes that written policy requires a particular result without the exercise of County discretion (i.e., no other outcome under policy), the panel may order the County to implement those particular policy mandates.

2. **Arbitrary or Capricious Performance Evaluation:**

If a contested performance evaluation is qualified for hearing, and a panel finds that it is arbitrary or capricious[20], the only remedy is for the County to repeat the evaluation process and provide a rating with a reasoned basis related to established expectations. The remedy cannot include an award of any particular rating, unless it is the only possible result under a written policy mandate.

3. **Retaliation/Discrimination:**

[20] See also Norman v. Dept. of Game and Inland Fisheries (Fifth Judicial Circuit of Virginia, July 28, 1999)(Delk, J.). The court's opinion in Norman indicates that an arbitrary or capricious performance evaluation is one that no reasonable person could make after considering all available evidence, and that if an evaluation is fairly debatable (meaning that reasonable persons could draw different conclusions), it is not arbitrary or capricious. Thus, mere disagreement with the evaluation or with the reasons assigned for the ratings is insufficient to sustain an arbitrary or capricious performance evaluation claim as long as there is adequate documentation in the record to support the conclusion that the evaluation had a reasoned basis related to established expectations.

If the issue of retaliation or discrimination is qualified for hearing and the panel finds that it occurred, the panel may order the County to create an environment free from discrimination and/or retaliation, and to take appropriate corrective actions necessary to cure the violation and/or minimize its reoccurrence. The panel should avoid providing specific remedies that would unduly interfere with management's prerogatives to manage the County (e.g., ordering the discipline of the Administrator for discriminatory supervisory practices).

D. Other Remedies

1. **Reinstatement**: Reinstatement means an order returning the employee to the position he or she formerly held prior to a separation, demotion, or transfer. In some circumstances, reinstatement to the exact same position may not occur. Where the position has been filled or no longer exists, reinstatement means returning the employee to an equivalent position, if one exists.

2. **Back Pay**: Back pay may be awarded, and must be considered, as required by the circumstances of the individual case. The panel has no authority to award front pay or damages. An order for back pay generally includes an award of back benefits, including seniority.

   If back pay is awarded, it must be offset by interim earnings. Interim earnings include unemployment compensation and other income earned or received to replace the loss of County employment. Thus, if an employee had previously engaged in gainful employment in addition to his or her County employment, the earnings from this ancillary employment would generally not count as interim earnings.

   The authority of the panel in determining the amount of back pay in a disciplinary matter is limited by the accumulated amount of discipline. For example:

   - If a Written Notice is rescinded or reduced, and the total accumulated discipline is insufficient to support a suspension of any length, back pay must be awarded.
   - If there are insufficient active Written Notices remaining to support a termination, back pay must be ordered. The amount of back pay that may be withheld is limited to the period of suspension allowed by the accumulated Written Notices, as delineated in DHRM's Standards of Conduct.
   - No back pay can be ordered if the termination or suspension without pay resulted from a Written Notice that is not before the panel .

3. **Transfer or Assignment of Employees:** A panel may order the transfer or assignment of an employee as a form of relief only i) to return the employee to the status quo in correcting improper or unsupported disciplinary action, retaliation, discrimination, or misapplication or unfair application of policy, OR ii) if it is determined that the employee is entitled to the relief based on the effect of law or, in the absence of County discretion, policy, procedure, or County practice. Due consideration should be given to whether there is an available position to which a transfer can be ordered.

4. **Attorneys' Fees**

   There shall be no award of attorney's fees.

VII. Challenges to the Panel's Decision

A. Administrative Review of Hearing Decisions

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A hearing decision must be consistent with law, policy, and the grievance procedure (including Madison County Policy Manual and these Rules for Conducting Grievance Hearings). A hearing decision is subject to administrative and judicial review. Once the administrative review phase has concluded, the hearing decision becomes final and is subject to judicial review.

B. Final Hearing Decisions

A panel's decision becomes a final hearing decision, when:

1. The 15 calendar day period has expired and neither party has filed a request for a review and reconsideration; **or**
2. All timely requests for review and reconsideration have been decided and the panel has issued a either a denial to the request or has entered a revised decision.

Once the hearing decision becomes final, the County will assemble the hearing record. The record consists of:

- The original Grievance Hearing Form, Step 2.
- The original Grievance Hearing From, Step 3.
- Any attachments to the Grievance Hearing Forms - Step 2 and Step 3.
- Qualification (grievability) determinations.
- Recording of the hearing (verbatim).
- Exhibits both proffered and received in evidence.
- Panel orders.
- Other correspondence or documentation submitted and/or communicated by the parties or panel during the hearing phase deemed material to the appellate proceedings.
- Panel's decision(s), including any original, revised, or reconsidered decision.

C. Judicial Review of Final Hearing Decisions

Once a hearing decision becomes final (see above Section VII.A), either party may seek review by the circuit court having jurisdiction in the locality in which the grievance arose on the ground that the final hearing decision is contradictory to law. Both parties shall be responsible for payment of counsel fees and the Court shall not award legal fees for other than bad faith appeals. The parties shall have 10 calendar days of the final hearing decision to enter an appeal.

Either party may appeal the final decision of the Circuit Court to the Court of Appeals pursuant to Virginia Code § 17.1-405.

D. Implementation of Final Hearing Decisions

Once a hearing decision becomes final (see above Section VII.A), either party may petition the circuit court having jurisdiction in the locality in which the grievance arose for an order requiring implementation of that decision.

Order for County Employee Witnesses

TO: WITNESS (C/O County)

Order

Pursuant to Madison County's *Grievance Procedure*, your presence is hereby ordered as a witness in the above-referenced grievance. Your testimony has been deemed necessary to determine the merits of the grievance. You should understand that you either must appear on [date, time and location] or must notify me by [date/time] at [telephone and address] that you will not be appearing and provide a reason. If your attendance is not possible on the date requested, alternative arrangements can be made.

Pursuant to Madison County Policy Manual, Appendix (A)(1), the County shall make available for hearing any employee ordered by the panel to appear as a witness. As a state employee, the time spent at the grievance hearing will be considered work time and you will be on administrative leave and entitled to travel expenses.

Your participation in this hearing is an activity protected from retaliation by law.

_____

(Panel Name)

cc: County Advocate/Contact Employee

Order to General Witnesses

TO: WITNESS

Order

Pursuant to Madison County's *Grievance Procedure*, your presence is hereby ordered as a witness in the above-referenced grievance. Your testimony has been deemed necessary to determine the merits of the grievance. You should understand that you either must appear on [date, time and location] or must notify me by [date/time] at [telephone and address] that you will not be appearing and provide a reason. If your attendance is not possible on the date requested, alternative arrangements can be made.

_____

(Panel Name)

cc: County Advocate/Contact Employee

APPENDIX B: COBRA

Important Information About Your COBRA Continuation Coverage Rights

Am I eligible to elect COBRA continuation Coverage at this time?

Only individuals who lost group health coverage from September 1, 2008 through February 16, 2009 due to an involuntary termination of employment that occurred during that period, and who did not elect COBRA continuation coverage during their first election period OR who elected but subsequently discontinued COBRA coverage (for reasons other than becoming eligible for another group health plan or Medicare), are entitled to elect coverage at this time. If you lost group health coverage for any other reason between these dates and did not elect COBRA continuation coverage when it was first offered, you are not entitled to this second election period.

Am I eligible for the premium reduction?

If you lost group health coverage from September 1, 2008 through February 16, 2009 due to an involuntary termination of employment that occurred during that period and are not eligible for Medicare or other group health plan coverage, you are entitled to receive the premium reduction. Information about the amount of the premium reduction and how it affects your premium payments can be found below under the question, "How much does COBRA continuation coverage cost?"

How long will continuation coverage last?

> Your coverage will begin retroactively on **the applicable date**, and can generally continue for up to 18 months from the date of your involuntary termination of employment. The duration of the premium reduction is determined separately and may not last for the entire length of your COBRA coverage. See the question below entitled *"How much does COBRA continuation coverage cost?"*

Continuation coverage will be terminated before the end of the 18 month period if:

- any required premium is not paid in full on time,
- a qualified beneficiary becomes covered, after electing continuation coverage, under another group health plan that does not impose any pre-existing condition exclusion for a pre-existing condition of the qualified beneficiary,
- a qualified beneficiary becomes entitled to Medicare benefits (under Part A, Part B, or both) after electing continuation coverage, or
- the employer ceases to provide any group health plan for its employees.

Continuation coverage may also be terminated for any reason the Plan would terminate coverage of a participant or beneficiary not receiving continuation coverage (such as fraud).

How can you extend the length of COBRA continuation coverage?
If you elect continuation coverage, an extension of the maximum period of coverage may be available if a qualified beneficiary is disabled or a second qualifying event occurs. You must notify Amy Gordon, Group Administrator, Madison County of a disability or a second qualifying event in order to extend the period of

continuation coverage. Failure to provide notice of a disability or second qualifying event may affect the right to extend the period of continuation coverage.

Disability

An 11-month extension of coverage may be available if any of the qualified beneficiaries is determined under the Social Security Act (SSA) to be disabled. The disability has to have started at some time on or before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of continuation coverage. Each qualified beneficiary who has elected continuation coverage will be entitled to the 11-month disability extension if one of them qualifies. If the qualified beneficiary is determined to no longer be disabled under the SSA, you must notify the Plan of that fact within 30 days after that determination.

Second Qualifying Event

An 18-month extension of coverage will be available to spouses and dependent children who elect continuation coverage if a second qualifying event occurs during the first 18 months of continuation coverage. The maximum amount of continuation coverage available when a second qualifying event occurs is 36 months. Such second qualifying events may include the death of a covered employee, divorce or separation from the covered employee, the covered employee's becoming entitled to Medicare benefits (under Part A, Part B, or both), or a dependent child's ceasing to be eligible for coverage as a dependent under the Plan. These events can be a second qualifying event only if they would have caused the qualified beneficiary to lose coverage under the Plan if the first qualifying event had not occurred. You must notify the Plan within 60 days after a second qualifying event occurs if you want to extend your continuation coverage.

How can you elect COBRA continuation coverage?

To elect continuation coverage, you must complete the Election Form and furnish it according to the directions on the form. Each qualified beneficiary has a separate right to elect continuation coverage. For example, the employee's spouse may elect continuation coverage even if the employee does not. Continuation coverage may be elected for only one, several, or for all dependent children who are qualified beneficiaries. A parent may elect to continue coverage on behalf of any dependent children. The employee or the employee's spouse can elect continuation coverage on behalf of all of the qualified beneficiaries.

In considering whether to elect continuation coverage, you should take into account that a failure to continue your group health coverage will affect your future rights under Federal law. First, you can lose the right to avoid having preexisting condition exclusions applied to you by other group health plans if you have a 63-day gap in health coverage, and election of continuation coverage may help prevent such a gap. Second, you will lose the guaranteed right to purchase individual health coverage that does not impose a preexisting condition exclusion if you do not elect continuation coverage for the maximum time available to you. If you do elect continuation coverage under this additional election period, the period from qualifying event to the date coverage begins under your election will not count as a break in coverage in determining whether you had a 63-day break in coverage.

How much does COBRA continuation coverage cost?

Generally, each qualified beneficiary may be required to pay the entire cost of continuation coverage. The amount a qualified beneficiary may be required to pay may not exceed 102 percent (or, in the case of an

extension of continuation coverage due to a disability, 150 percent) of the cost to the group health plan (including both employer and employee contributions) for coverage of a similarly situated plan participant or beneficiary who is not receiving continuation coverage. The required payment for each continuation coverage period for each option is described in this notice.

The American Recovery and Reinvestment Act of 2009 (ARRA) reduces the COBRA premium in some cases. The premium reduction is available to certain individuals who experience a qualifying event that is an involuntary termination of employment during the period beginning with September 1, 2008 and ending with December 31, 2009. If you qualify for the premium reduction, you need only pay 35 percent of the COBRA premium otherwise due to the plan. This premium reduction is available for up to nine months. If your COBRA continuation coverage lasts for more than nine months, you will have to pay the full amount to continue your COBRA continuation coverage. See the attached "Summary of the COBRA Premium Reduction Provisions under ARRA" for more details, restrictions, and obligations as well as the form necessary to establish eligibility.

If employees are eligible for trade adjustment assistance, the following information is relevant:
The Trade Act of 2002 created a tax credit for certain individuals who become eligible for trade adjustment assistance and for certain retired employees who are receiving pension payments from the Pension Benefit Guaranty Corporation (PBGC). Under the tax provisions, eligible individuals can either take a tax credit or get advance payment of 65% of premiums paid for qualified health insurance, including continuation coverage. ARRA made several amendments to these provisions, including an increase in the amount of the credit to 80% of premiums for coverage before January 1, 2011 and temporary extensions of the maximum period of COBRA continuation coverage for PBGC recipients (covered employees who have a nonforfeitable right to a benefit any portion of which is to be paid by the PBGC) and TAA-eligible individuals.

If you have questions about these provisions, you may call the Health Coverage Tax Credit Customer Contact Center toll-free at 1-866-628-4282. TTD/TTY callers may call toll-free at 1-866-626-4282. More information about the Trade Act is also available at www.doleta.gov/tradeact.

When and how must payment for COBRA continuation coverage be made?

First payment for continuation coverage

If you elect continuation coverage, you do not have to send any payment with the Election Form. However, you must make your first payment for continuation coverage not later than 45 days after the date of your election. (This is the date the Election Notice is post-marked, if mailed.) If you do not make your first payment for continuation coverage in full not later than 45 days after the date of your election, you will lose all continuation coverage rights under the Plan. You are responsible for making sure that the amount of your first payment is correct. You may contact Amy Dooley, Group Administrator for Madison County to confirm the correct amount of your first payment.

Periodic payments for continuation coverage

After you make your first payment for continuation coverage, you will be required to make periodic payments for each subsequent coverage period. The amount due for each coverage period for each qualified beneficiary is shown in this notice. The periodic payments can be made on a monthly basis. Under the Plan, each of these periodic payments for continuation coverage is due by the **10th of each month for that**

coverage period. If you make a periodic payment on or before the first day of the coverage period to which it applies, your coverage under the Plan will continue for that coverage period without any break. The Plan will not send periodic notices of payments due for these coverage periods.

Grace periods for periodic payments

Although periodic payments are due on the dates shown above, you will be given a grace period of 30 days after the first day of the coverage period to make each periodic payment. Your continuation coverage will be provided for each coverage period as long as payment for that coverage period is made before the end of the grace period for that payment. However, if you pay a periodic payment later than the first day of the coverage period to which it applies, but before the end of the grace period for the coverage period, your coverage under the Plan will be suspended as of the first day of the coverage period and then retroactively reinstated (going back to the first day of the coverage period) when the periodic payment is received. This means that any claim you submit for benefits while your coverage is suspended may be denied and may have to be resubmitted once your coverage is reinstated.

If you fail to make a periodic payment before the end of the grace period for that coverage period, you will lose all rights to continuation coverage under the Plan.

Your first payment and all periodic payments for continuation coverage should be sent to:

Madison County

This notice does not fully describe continuation coverage or other rights under the Plan. More information about continuation coverage and your rights under the Plan is available in your summary plan description or from the Plan Administrator.

If you have any questions concerning the information in this notice, your rights to coverage, or if you want a copy of your summary plan description, you should contact:

Private sector employees seeking more information about rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, can contact the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) at 1-866-444-3272 or visit the EBSA website at www.dol.gov/ebsa. State and local government employees should contact HHS-CMS at www.cms.hhs.gov/COBRAContinuationofCov/ or NewCobraRights@cms.hhs.gov.

Keep Your Plan Informed of Address Changes

In order to protect your and your family's rights, you should keep the Plan Administrator informed of any changes in your address and the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator.

APPENDIX C: REQUEST FOR EDUCATIONAL ASSISTANCE

TO: _____, Department Superintendent

FROM: _____, Employee

Date Submitted: _____

As an employee of Madison County for more than the specified period of one year, I wish to continue my education by enrolling in the following:

Name of School:_____
Title of Class:_____
Tuition Cost:_____ Est. Book Cost:_____

How can this class be applied to your current position or possible future assignment with the Madison County:

_____
_____
_____
_____
_____
_____

_____
(Signature of Employee)

Approved ___
Not approved ___

_____ (Signature of Department Administrator and Date)

Approved ____
Not Approved____

_____
(Signature of County Administrator and Date)

APPENDIX D: APPLICANT/EMPLOYEE CONSENT TO ALCOHOL AND CONTROLLED SUBSTANCE SCREENING TEST

SUBSTANCE ABUSE
SCREENING TEST

MADISON COUNTY
302 Thrift Road
MADISON, VIRGINIA 22727

I, _____, Social /DL # _____,
as an ( ) employee of ( ) applicant for employment by Madison County agree by signing this form to take either or both of the substance abuse screenings tests as indicated below:

( ) Urine or oral fluid test for substance abuse or chemical dependency. In the event that a urine test is utilized, the preparation of the sample for the test may be witnessed by a person of the same sex as the undersigned.

( ) A breath analyzer test for alcohol usage.

I certify that I have taken the following drugs or substances within the last fourteen (14) days: **(This certification is optional):**

a. Medicine prescribed by my physician:
(If none, so indicate)

_____

_____

_____

b. Non-prescription (over-the-counter) medicines:
(If none, so indicate)

_____

_____

_____

If I am an applicant for employment, I understand that if I decline to consent to the administration of either or both of the above tests, my application for employment with Madison County will be rejected. If I am a present employee of Madison County I understand that if I decline to consent to the administration of either or both of the above tests, my employment with Madison County will be terminated.

By signing this form below, I, as an applicant for a job with the County or as an existing employee, consent to take either or both of the tests indicated above and to fully cooperate in the administration of such tests. I understand and agree that the results of either or both tests may be reported to the my Department head,

my supervisor and the County Administrator. The results of such test shall not be made available to any other persons unless permitted by state or federal law or regulations.

_____ _____

Applicant or Employee (Date) Witness (Date)

Voluntary Blood Test: I choose to have a blood test for alcohol.

_____ _____

Applicant or Employee (Date) Witness (Date)

APPENDIX E: PERSONNEL POLICY RECIEPT

Access to Personnel Policies Manual and Agreement to Comply

I _____ have been advised that Madison County's Personnel Policies Manual is available on the County web site (www.madisonco.virginia.gov). I agree to comply with all provisions as set forth in this manual now and as they may in the future be modified in the future.

In addition, I specifically agree to the following:

1. I consent to monitoring of electronic communications as described in the manual.
2. I consent to screening for drugs and alcohol as described in the manual.
3. Employment with the County is by the mutual consent of the County and the employee, and either party may terminate this relationship at any time.

Signed, this _____ day of _____ 20_____.

_____

_____
Employee's typed name

A copy of this acknowledgment shall be kept as part of the employee's personnel file.