

## **CHAPTER 36: PERSONNEL CODE**

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***AUTHORITY, OBJECTIVE, AND SCOPE; DEFINITIONS***

**§ 36.001 AUTHORITY AND OBJECTIVE.**

As authorized by the Local Government Article of the Annotated Code of Maryland, the County Commissioners have adopted this chapter in order to assure fair and equal treatment of county employees with regard to certain aspects of their employment. The County Commissioners may adopt additional policies and procedures, so long as they are consistent with this chapter or any amendments. However, if any resolution, policy, procedure, or practice relating to employment conditions conflicts with this chapter or any amendments, this chapter governs. The County Commissioners specifically reserve unto themselves as the legislative body the power to amend, alter, and repeal any or all parts of this chapter at any time, and there shall be no rights of property or contract created hereby that are not subject to that power, or which may be extended beyond the specific provisions of this chapter.

**§ 36.002 SCOPE.**

(A) **Applicability.** This chapter applies to employees of the County Commissioners including civilian employees of Carroll County Fire/EMS department. However, unless otherwise provided in division (B) below, it does not apply to elected officials; the County Administrator; County Attorney; Comptroller; Department Directors/Administrators appointed by the County Commissioners; uniformed personnel of Carroll County Fire/EMS department, contractual employees; contingent employees; and members of any board or commission created by law, where

the members are appointed by the County Commissioners for a specific term of office. This chapter also does not apply to any officer or employee of the Carroll County Board of Education, Circuit Court for Carroll County, Orphans' Court, Carroll County Health Department, Carroll County Soil Conservation District, Carroll County Public Library, Sheriff's Department, or State's Attorney's Office.

(B) **Special provisions.** With the exception of the following provisions, this chapter applies to the County Administrator; County Attorney; Comptroller; and Department Directors/Administrators appointed by the County Commissioners: §§ 36.105 and 36.106, Probation; §§ 36.165 through 36.167, Discipline; and §§ 36.180 through 36.184, Grievances.

### § 36.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**ABANDONMENT.** An absence without approved leave for three consecutive working days.

**ACTIVE EMPLOYEE.** An employee working as scheduled or absent on approved, paid leave.

**ANNIVERSARY DATE.** The initial date on which an employee begins accruing service (usually the initial date of employment).

**APPOINTED OFFICIAL.** Official appointed by the County Commissioners including the County Administrator, County Attorney, Comptroller, and Directors/Administrators. Employment is governed by employment contract.

**BUSINESS DAY.** Monday through Friday, holidays excepted.

**CHAPTER.** The Carroll County Personnel Ordinance, as from time to time amended.

**CONTINGENT EMPLOYEE.** An employee who is hired to perform services prescribed by a funding source other than Carroll County Government.

**CONTRACTUAL EMPLOYEE.** An employee who is hired to perform services and is not classified as a regular employee.

**DIRECTOR/ADMINISTRATOR.** A person who reports directly to the County Commissioners without an intervening level of supervision.

**DISCHARGE.** The involuntary separation of a regular employee from county service.

**FULL-TIME.** An employee regularly scheduled to work at least 30 hours per week.

**GRIEVANCE.** A complaint brought pursuant to §§ 36.180 through 36.184:

(1) By a nonsupervisory employee in relation to a dispute between the employee and the County that involves the employee's working conditions and application or interpretation of this chapter (except classification appeals as provided for in §§ 36.050 through 36.053, and performance and salary reviews as provided for in §§ 36.120 through 36.122);

(2) By any employee in response to disciplinary action against the employee; or

(3) As permitted by §§ 36.195 and 36.196.

**HOLIDAY LEAVE.** Employees hired or assigned to a non-standard schedule prior to March 1, 2017 shall be awarded holiday leave based on non-standard workday hours. If hired or assigned to a non-standard schedule on or after March 1, 2017 holiday leave is awarded based on one-fifth of the employee's weekly base hours.

**HUMAN RESOURCES ("HR").** The Department of Human Resources or its successor agency.

**INACTIVE EMPLOYEE.** An employee not working as scheduled and absent on approved, unpaid leave.

**LEAVE.** An absence from work approved in accordance with this chapter.

**LEVEL II SUPERVISOR.** A Bureau Chief, Deputy Director, or other supervisor designated as **LEVEL II SUPERVISOR** by the Director/Administrator.

**NON-STANDARD SCHEDULE.** Employee's daily hours are in excess of one-fifth of weekly base hours.

**PART-TIME EMPLOYEE.** An employee regularly scheduled to work at least 18.75 hours but less than 30 hours per week.

**REGULAR EMPLOYEE.** An employee who has satisfactorily completed the initial probationary period and is hired for an indefinite period to fill a position continuing in nature.

**SEVERANCE PAY.** An amount paid to an employee upon dismissal or discharge from employment.

**STANDARD SCHEDULE.** Employee's daily hours are one-fifth of weekly base hours (e.g., employees scheduled to work Monday through Friday).

**SUPERVISOR.** An employee designated by the County Commissioners to manage the performance of other employees, and who exercises independent judgment, making recommendations in such areas as hiring, performance reviews, promotion, discipline, and discharge.

**WORKDAY.** The individual employee's regularly scheduled work hours for the day.

**WORKWEEK.** The period extending from the 12:00 a.m. Thursday through 11:59 p.m. Wednesday each week.

## ***DELEGATION OF AUTHORITY***

### **§ 36.015 DEPARTMENT OF HUMAN RESOURCES.**

The Department of Human Resources ("HR"), a staff office of the County Commissioners, has the following authority and responsibilities:

- (A) Administering this chapter;
- (B) Ensuring the County's compliance with all applicable laws regulating employment and benefits;
- (C) Administering the overall compensation programs and classification plan for County employees;
- (D) Informing employees of personnel policies and procedures;
- (E) Establishing and maintaining all personnel records for County employees;
- (F) Establishing and overseeing a progressive discipline program;
- (G) Providing employees with reasonable opportunities to review their individual personnel files; and

- (H) Consulting on policy recommendations and other personnel-related matters.

#### **§ 36.016 MANAGEMENT.**

- (A) Management exercises those powers delegated by the County Commissioners.
- (B) The County Commissioners retain complete authority to direct the actions of all personnel.
- (C) Persons holding management positions are at all times required to meet the highest standards of efficiency, courtesy, fairness, and commitment to serving the citizens of the County.
- (D) The County Commissioners may amend, add, or abolish any program, policy, benefit, ordinance, resolution, or privilege as they deem necessary to the public interest and the efficient operation of County government.

### ***FILLING POSITIONS***

#### **§ 36.030 OBJECTIVE.**

The County's objective is to recruit and select the most qualified individuals for County positions. Recruitment and selection shall be conducted to assure competition and provide equal employment opportunity. No consideration shall be given to any political or partisan endorsement for employment.

#### **§ 36.031 VACANCIES.**

- (A) **Procedure.** All requisitions for filling vacancies shall be submitted on the appropriate personnel requisition forms to HR.
- (B) **Filling vacancies.** When a position becomes vacant, unless the County Commissioners direct otherwise, HR shall post a notice of intent to fill the vacancy on official County bulletin boards for a minimum of seven consecutive calendar days, unless an employee within the Department in which the vacancy occurs meets the qualifications and is selected for the position.

#### **§ 36.032 APPLICATIONS.**

- (A) **Procedure.** All applications for employment shall be made on the appropriate forms provided by HR and signed by the applicant. The County Commissioners encourage applications from and employment of qualified County employees and residents.

(B) **Rejection.** HR may reject any incomplete application. The County may also reject any application containing false information. Falsification of information during the application or interview process is cause for an employee's dismissal at any time.

#### § 36.033 SELECTION PROCESS.

(A) **Screening.** HR shall consider for selection all applicants who appear to meet the qualifications for the position. Written, oral, or performance assessments may be used, separately or in combination, to test the applicant's ability to perform in the position. HR, in consultation with the Department, shall set the standards of performance testing and reject applicants who fail to meet them. HR shall refer qualified applicants to the Department for interviewing consideration.

(B) **Interviews.** The Department shall conduct interviews. HR must preapprove screening assessments administered by a Department. The Department shall select an applicant to fill the vacant position. The Department shall report the result of each interview to HR in writing.

(C) **Employment offer.** After the Department makes a selection, HR, in conjunction with the Department Director, shall make all offers of employment for County positions.

#### § 36.034 PROMOTIONS.

(A) **Objective.** Vacancies shall be filled by promotion of current employees when practicable, subject to the County's recruitment objective stated in § 36.030.

(B) **Qualifications for promotion.** Selection of an employee for promotion shall be based on the employee's qualifications and job performance.

#### § 36.035 TRANSFER.

(A) **Intradepartmental transfer.** A Director/Administrator, with HR approval, may transfer an employee within the department from one position to another in the same pay grade.

(B) **Interdepartmental transfer.** An employee may be transferred from one Department to another Department, in a position of the same pay grade, with the approval of the Directors/Administrators of both Departments involved and HR.

#### § 36.036 COUNTY RESIDENCY.

Any individual selected by the County Commissioners to fill the position of County



Administrator, Clerk to the County Commissioners, and County Attorney must be a registered voter and taxpayer in Carroll County. The Comptroller is required to be a resident of the State of Maryland. The Department Directors/Administrators, are preferred to be a resident of Carroll County.

### ***POSITION CLASSIFICATION SYSTEM***

#### **§ 36.050 PURPOSE.**

The position classification system defines and identifies pay grades and positions.

#### **§ 36.051 ADMINISTRATION.**

HR maintains records of communication and actions affecting positions and pay grades, provides for regular review of all position classifications, and recommends amendments to the classification system.

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#### **§ 36.053 CLASSIFICATION OF POSITIONS.**

##### **(A) Procedure.**

(1) HR shall notify all supervisors of procedures and deadlines for information necessary for processing classification of positions.

(2) On an annual basis HR shall review relevant and reliable data sources to monitor the salary movement of the market. A more in-depth market review to re-evaluate its overall market position and compensation plan every four years.

(3) HR may evaluate positions when the description has changed and no longer accurately describes the current job duties. Review requests must be in writing to HR by the supervisor and with Director/Administrator approval.

(4) HR reviews all position descriptions whenever a department, bureau, office or division is organized or reorganized, or other changes occur. HR shall require departments to review position descriptions periodically to assure accuracy.

(5) Any pay changes resulting from the review of position descriptions shall take effect on a date determined by HR and the Director of the Department of Management and Budget, or

its successor agency.

(6) The analysis regarding the placement of positions in appropriate pay grades shall be based, among other things, on the relative difficulty and responsibility of the work; the prevailing pay rate for a comparable position in the public and private sectors in the vicinity; the relationships among positions within the County; the recruitment and retention experience of the County, and the County's financial position.

## ***WAGE AND SALARY ADMINISTRATION***

### **§ 36.065 ADMINISTRATION AND AMENDMENT OF PAY PLAN.**

HR administers the County's pay plan and informs employees about pay plans approved by the County Commissioners. The County Commissioners must approve the adoption and amendment of any pay plan for County employees. The County Commissioners may establish, amend, or abolish salary schedules, pay grade assignments, or pay grades. HR shall perform an annual review of the County's pay plan. The pay plan sets forth the salary ranges for employees and salary adjustments such as market equity adjustments or merit pay increases.

### **§ 36.067 [RESERVED]**

### **§ 36.068 ENTRANCE PAY RATE.**

Generally, a new employee shall be paid the minimum rate of pay for the position. Exceptions may be granted upon the prior approval of the Director of Human Resources and the County Administrator in the following cases:

- A. The minimum rate for each class is based upon the requirement that the applicant meets the minimum qualifications stated in the job description. If it becomes necessary to fill a position with an applicant of lesser qualifications, he/she may begin at a lower grade.
- B. If an applicant more than meets the minimum qualifications, and will not accept the position at the minimum rate, he/she may be offered a higher rate of pay. Cases will be thoroughly analyzed and measured against objective standards.

### **§ 36.069 OTHER SALARY ADJUSTMENTS.**

(A) **Transfer.** When an employee is transferred from one position to another within the same pay grade, the pay rate shall be the same. Exceptions for change in pay rate may be granted upon the prior approval of the Director of Human Resources and the County Administrator.

(B) **Promotion.** When an employee is promoted from a position in one pay grade to a position in a higher pay grade, the employee's current rate of pay shall be increased by 10% for the first pay grade, 7% for the second grade, and 3% for any additional grades, to a maximum promotion increase of 20%, or to the base of the new grade, whichever is higher. When an employee is promoted from a position on a C scale to a position on the M scale, the employee shall receive at least an 18% increase, or to the base of the new grade, whichever is higher. When an employee is appointed to a position on the E scale, the salary will be approved by the Board of County Commissioners.

(C) **Demotion.** When an employee is voluntarily or involuntarily demoted from a position in one pay grade to a position in a lower pay grade, the employee's current rate of pay shall be decreased by 10% for the first grade, 7% for the second grade, and 3% for any additional grades, to a maximum demotion decrease of 20%, or to the maximum of the new grade, whichever is lower. When an employee is demoted from a position on the M scale to a position on the C scale, the employee shall receive at least an 18% decrease, or to the maximum of the new grade, whichever is lower. If an employee on the E scale is demoted to a position on the M or the C scale, the salary will be within the new pay grade as approved by the Board of County Commissioners.

(D) **Acting capacity.** When an employee is temporarily assigned to perform duties of a position with a higher pay grade, the employee's current rate of pay shall be increased by 10% for the first grade, 7% for the second grade, and 3% for any additional grades, if applicable, to a maximum promotion increase of 20%, or to the base of the acting grade, whichever is higher. Acting capacity pay may not exceed the maximum pay rate for the temporary position's assigned pay grade.

(1) Acting capacity pay only applies to temporary assignments anticipated to be at least 30 consecutive days in duration and shall begin with the first full day of acting capacity.

(2) An employee or appointed official promoted to the position after serving in acting capacity shall receive the promotion salary increase based on the pre-acting capacity pay rate; however, the salary, after promotion, shall not be less than the acting capacity pay rate.

(3) When an employee or appointed official assumes responsibilities of a position in acting capacity that result in a change to the exempt or non-exempt status under the Fair Labor Standards Act (FLSA), the employee or appointed official shall be compensated accordingly.

(4) Acting capacity pay may be awarded for a period not to exceed six months, unless specifically approved by the County Commissioners.

(5) The Director/Administrator shall request and HR shall authorize and process acting capacity pay for employees. The County Commissioners shall authorize acting capacity pay

for appointed officials.

(6) At the conclusion of the acting capacity assignment, the employee will return to the position from which he/she was assigned and to the rate of pay in effect prior to the assignment plus any salary adjustments awarded.

(E) **Recall from layoff.** An employee recalled to work from layoff shall be compensated within the pay range for the position to which the employee returns.

#### § 36.070 [RESERVED]

#### § 36.071 OVERTIME PAY.

(A) **In general.** Overtime must be authorized in advance, except in emergencies, by the appropriate Director, subject to budgetary considerations.

(B) **Regular pay.** A non-exempt employee under the Fair Labor Standards Act (FLSA) shall be compensated at the regular hourly pay rate for all hours worked and for which the employee has received paid leave through 40 hours each workweek.

(C) **Overtime pay.** A non-exempt employee under the FLSA shall be compensated at one and one-half times the regular hourly pay rate for all hours the employee works in excess of 40 hours per workweek. In calculating the number of hours in a workweek, hours actually worked and hours of approved paid leave shall be used.

#### § 36.072 DEATH BENEFITS.

Upon the death of an employee who has completed a minimum of a year of full-time County service, the County shall pay the employee's estate or designated beneficiary a death benefit of one month's salary. This payment will equal one-twelfth of the annual pay.

#### § 36.073 CALLBACK/ON-CALL PAY.

(A) Directors/Administrators may designate persons as emergency personnel based upon a demonstrated need or emergency, either generally or for specific events.

(B) A non-exempt employee designated as emergency personnel who is called back to work outside of regular work hours shall be paid at the applicable hourly rate for a minimum of four hours.

Subsequent callbacks occurring during the initial four hour period are treated as part of the initial call back.

(C) A non-exempt employee designated to an on-call status shall receive a stipend pursuant to County Policy 22 – HR - 05 On-Call or its successor policy.

#### **§ 36.074 SHIFT DIFFERENTIAL PAY.**

An employee regularly assigned to a full shift where the majority of hours worked are after 4:00 p.m. or before 8:00 a.m. shall be paid a premium pay called “shift differential pay” for the hours worked between 4:00 p.m. and 8:00 a.m. Leave hours are not compensated at the shift differential rate. Shift differential is considered a premium payment and not considered a part of base pay. Employees shall be compensated at five percent of their base hourly rate or seven and one half percent for overtime rate for hours worked between 4:00 p.m. and 8:00 a.m.

### ***ATTENDANCE AND LEAVE***

#### **§ 36.085 APPROVAL REQUIRED; INCREMENTS.**

Leave requires supervisory approval and may be authorized with or without pay in accordance with the provisions of this chapter and the work requirements of the County. An employee may use leave in quarter-hour increments. HR shall establish the procedure for crediting leave to an employee’s account.

#### **§ 36.086 HOLIDAY LEAVE.**

Eligible employees receive paid holiday leave subject to the following.

(A) The County Commissioners shall establish a schedule of holidays on an annual basis. A Director/Administrator may permit or require that a holiday be observed by an employee on a day other than the scheduled holiday. If an employee is required to report for work on a County Commissioner sanctioned holiday, the employee shall receive holiday pay in addition to hours worked on the holiday. If, in the sole discretion of the County Commissioners, overtime budgeted resources are determined to be inadequate to pay the holiday leave plus hours worked on the holiday, the employee shall bank the holiday leave to be utilized at another time during the fiscal year.

(B) Holiday leave accrual shall be based on the following:

(1) An employee hired and assigned to a non-standard schedule prior to March 1, 2017 shall accrue holiday leave based on assigned schedule workday hours.

(2) An employee hired or assigned to a non-standard schedule on or after March 1,

2017 shall accrue holiday leave at the rate of 1/5 of employee's weekly base hours.

(3) Employees assigned to an agency that alternates between standard and non-standard schedules will accrue holiday leave as stated in B(1) and (2) of this section.

(C) If an employee is not normally scheduled to work on the day of the week the Commissioner sanctioned holiday falls:

(1) An employee hired and assigned to a non-standard schedule prior to March 1, 2017 shall bank holiday leave based on weekly base hours divided by the number of days worked per week to be used at a later date in the fiscal year.

(2) An employee hired or assigned to a non-standard schedule on or after March 1, 2017 shall bank holiday leave at the rate of 1/5 of employee's weekly base hours to be used at a later date in the fiscal year.

(3) Employees assigned to an agency that alternates between standard and non-standard schedules will bank holiday leave as stated in C(1) and (2) of this section.

(D) Banked holiday leave must be used by the last day of the last pay period in June of the fiscal year, and shall not be carried forward to the next year. Upon termination of County employment, no employee will be compensated for unused banked holiday leave.

(E) Eligible employees include regular full-time and part-time employees and employees on initial probation.

(F) An employee must be on active status immediately prior to and following the holiday in order to receive paid holiday leave.

(G) Full-time and part-time employees shall receive paid holiday leave for all County Commissioner-determined holidays.

(H) If an employee is required to report for work on a holiday, and is absent on the holiday without approved leave, the employee forfeits paid or banked holiday leave and may be otherwise disciplined.

### **§ 36.087 ANNUAL LEAVE.**

(A) **Accrual rate.** Full-time and part-time employees, including those on initial probation, shall accrue annual leave at the rate of one-fifth of the employee's weekly base hours based on length of service as follows:

<i>Years of Service</i>	<i>Days of Annual Leave Accrued Per Year</i>
Under 1	8
1 through 5	14
6 through 15	18
16 through 20	21
Over 20	24

(B) **Accumulation.** An employee may carry a maximum accumulation of 60 days forward from one fiscal year to the next. For purposes of this section, the fiscal year ends on the last day of the last full pay period in June each year.

(D) **Termination of County employment.** Upon termination of County employment, a regular employee shall be paid for no more than 60 days of annual leave accumulated during preceding years, plus any annual leave accrued in the current fiscal year. The rate of payment shall be based on the employee's regular pay rate at the time of termination. In case of termination due to the employee's death, payment shall be made to the employee's estate or designated beneficiary. An employee who leaves County employment while on initial or extended initial probation is not compensated for annual leave.

#### **§ 36.088 SICK & SAFE LEAVE.**

(A) **Accrual rate.** Employees accrue sick leave at the same rate as they accrue annual leave.

(B) **Accumulation.** An employee may carry an unlimited number of sick leave days forward from one fiscal year to the next.

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(E) **Termination of County employment.** Upon termination of County employment, an employee will not be compensated for accumulated sick leave, unless the County Commissioners

authorize otherwise in any sick leave policy in effect at that time.

(G) **Family Medical Leave Act INSERT POLICY NO..** In accordance with applicable Federal and State laws, HR will review and approve leave under the Family and Medical Leave Act (FMLA) for eligible employees.

#### **§ 36.089 PERSONAL LEAVE.**

(A) **Number of days.** Employees shall receive six days of paid personal leave each fiscal year at the rate of 1/5 of the employee's weekly base hours.

(B) **Use and accumulation.** Personal leave must be used by the last day of the last pay period in June of the fiscal year, and shall not be carried forward to the next fiscal year. An employee's supervisor may authorize the use of personal leave.

(C) **Termination of County employment.** Upon termination of County employment, no employee will be compensated for unused personal leave.

#### **§ 36.090 COMPENSATORY LEAVE.**

(A) Employees who are non-exempt from the provisions of the FLSA may choose to receive compensatory leave for each hour worked over their regularly scheduled work hours per workweek.

(B) Non-exempt employees must choose compensatory leave in lieu of paid overtime prior to the performance of any overtime hours. Employees must make their choice in writing on forms provided by HR.

(C) Compensatory leave shall be earned at the rate of one and one-half hours of compensatory leave for each hour worked over 40 hours. For a non-exempt employee whose regularly scheduled work hours are less than 40 per week, compensatory leave will be accrued on an hour-for-hour basis for hours worked up to 40.

(D) Non-exempt employees may accumulate a maximum of 80 hours of compensatory leave. All hours earned over 80 shall be paid.

(E) Compensatory leave must be approved in advance by an employee's immediate supervisor before it is accrued or used. Approval to use accrued compensatory leave shall be in accordance with the provisions of the FLSA as amended.

(F) Upon termination of County employment, an employee shall be paid for all accumulated



compensatory leave at the final regular rate of pay.

### § 36.091 ADMINISTRATIVE LEAVE.

The purpose of Administrative Leave is to make an employee whole for the workday. Leave shall be granted based on the individual employee's scheduled workday hours. Employees, including employees on initial probation, shall, with supervisory approval, be granted paid administrative leave in accordance with the following:

(A) **Jury duty.** An employee called for jury duty shall receive jury leave for the period of jury service. If the employee's services are not required as a jury member on any part of a workday, the employee shall report to his or her supervisor for duty. The employee shall remit to the County the per-day fee received for jury service to receive Administrative Leave. Employee is not required to remit parking fees or meal allowance which may be provided by the Court.

(B) **Subpoenaed witness.** An employee subpoenaed to appear in a court action, before a grand jury, administrative agency, or for a deposition shall receive witness leave for the period covered by the subpoena. Employee is required to submit appropriate documentation to receive Administrative Leave award. This does not apply to an employee who is a party to the action or who is appearing as a paid witness.

(C) **Military.** An employee who is a member of the Army, Navy, Air Force, Marine, or Coast Guard Reserve shall be granted military leave for military training or operations not to exceed 15 workdays per County fiscal year and in accordance with Federal and State laws.

(D) **Bereavement.**

(1) An employee shall receive bereavement leave upon the death of an immediate family member, not to exceed three regularly scheduled workdays or five, if travel requires an overnight stay.

(2) For purposes of this section, **IMMEDIATE FAMILY MEMBERS** are defined as employee's spouse, parents (including long-term foster parents), step parents, siblings, step siblings, children, step children, grandparents, step grandparents, grandchildren, step grandchildren, father-in-law, step father-in-law, mother-in-law, step mother-in-law, brother-in-law, step brother-in-law, sister-in-law, step sister-in-law, son-in-law, step son-in-law, daughter-in-law, and step daughter-in-law. **IMMEDIATE FAMILY MEMBER** also includes other family members residing with the employee at the time of their death.

(3) An employee's supervisor may approve up to one workday of bereavement leave to attend the funeral of family members, other than immediate family, not to exceed two workdays per fiscal year.

(4) An employee shall, upon request, submit appropriate documentation to their supervisor including but not limited to a death certificate, a funeral slip, or an obituary notice.

#### **§ 36.092 LEAVE OF ABSENCE WITHOUT PAY.**

(A) **Duration.** The duration of leave without pay shall be at the discretion of the supervisor and the Director/Administrator, based on the reason for the request and the effect on County operations. The leave may not exceed 30 days in a rolling 12 month calendar period. All available leave must be exhausted prior to requesting leave without pay.

(B) **Leave accrual.** When leave of absence without pay occurs for the duration of an entire pay period, no leave of any kind shall accrue during the pay period.

(C) **Approval.** There is no entitlement to leave of absence without pay except where required by Federal or State law. The leave must be requested and approved prior to the beginning of the leave. The Director/Administrator and HR must approve all requests for leave without pay. If the Director/Administrator and HR do not approve the leave as requested, the employee may make a written appeal to the County Commissioners within one business day of the leave denial. The County Commissioners' decision is final. The County may impose conditions and restrictions on approval of leave without pay.

(D) **Return to active employment.** An employee who has been granted leave without pay must return to work by the date the leave expires. Failure of an employee to return to duty upon the expiration of his/her leave without pay shall be interpreted as a resignation.

### ***PROBATION***

#### **§ 36.105 INITIAL PROBATION.**

(A) **Duration.** Every employee shall be on probation for a minimum of six months following the employee's initial employment date. The Director/Administrator may extend initial probation for up to six additional months, using forms HR provides. In no event shall the initial probationary period exceed one year.

(B) **Rejection on initial probation.** A Director/Administrator may reject an employee on initial probation at any time. An employee rejected on initial probation shall have no recourse through the grievance procedure. An employee rejected on initial probation shall receive 2 weeks severance pay.

(C) **Performance review.** At least two weeks before the end of an employee's initial probationary period, the employee's supervisor shall complete a performance review and forward it to HR. The supervisor shall not complete a performance review if the employee is to be rejected on probation. Failure to comply with this deadline may result in disciplinary action against the supervisor.

#### **§ 36.106 PERFORMANCE PROBATION.**

An employee may be placed on performance probation following an annual or special performance review in accordance with § 36.122(C). Performance probation may occur when an employee does not maintain a satisfactory level of performance. If, during the course of a performance probation, the employee does not maintain a satisfactory level of performance, the employee may be discharged. In no event shall performance probation exceed six months. At the end of the performance probation, the supervisor shall complete a second performance review.

### ***PERFORMANCE REVIEW PROGRAMS***

#### **§ 36.120 PURPOSE.**

The purposes of the employee performance review programs are to identify and evaluate employee strengths and weaknesses and to implement measures to improve performance where appropriate.

#### **§ 36.121 PERFORMANCE REVIEW CATEGORIES.**

HR establishes and implements the employee performance review programs.

#### **§ 36.122 PERFORMANCE REVIEW PROGRAM.**

(A) **In general.** The employee's supervisor normally completes the performance review with input and review from other appropriate managers, and the Director/Administrator. The County Commissioners evaluate Directors/Administrators. All performance reviews shall be discussed with the respective employee.

(B) **Performance review criteria.** The employee's job description and/or corresponding standards serve as the basis for performance review.

(C) **Review schedule.**

(1) **Initial probationary period.** At least two weeks prior to completion of the initial probationary period, the supervisor shall complete a performance review in accordance with §§ 36.105 and 36.106, unless the employee is to be rejected on initial probation.

(2) **Annual performance review.** The supervisor shall conduct a performance review at least once per year, but may conduct reviews more frequently. If an employee does not maintain a satisfactory level of performance, the supervisor shall place the employee on performance probation.

(D) **Interim performance review.** When an employee's performance declines to an unacceptable level, a supervisor shall conduct a review of an employee's performance. If an employee's performance is less than satisfactory the supervisor may place the employee on performance probation.

(E) **Performance probation review.** The supervisor shall complete a follow-up review no later than six months after an employee is placed on performance probation. A follow-up review where the employee does not maintain a satisfactory level of performance may be cause for discharge.

(F) **Grievances of performance reviews.** An employee's performance review is not subject to the grievance procedure except where the employee receives no pay increase or is placed on performance probation.

### ***OUTSIDE EMPLOYMENT***

#### **§ 36.135 CONFLICTS WITH COUNTY EMPLOYMENT PROHIBITED.**

An employee may not engage in outside employment that could create a conflict with the employee's County employment.

#### **§ 36.136 NOTIFICATION OF OUTSIDE EMPLOYMENT; DETERMINATION OF CONFLICT.**

An employee who engages in outside employment must notify the supervisor and Director/Administrator in writing. The supervisor, Director/Administrator and HR shall review the outside employment request to determine if a potential conflict exists and if the mission of the agency could be adversely affected by the employment. If either the supervisor, Director or HR finds a potential conflict or adverse effect, the employee shall not engage in the outside employment. All

outside employment requests are reviewed by the Ethics Administrator for potential conflict. The Ethics Administrator determination is final. The Ethics Administrator shall notify the employee, supervisor, Director/Administrator, and Director of HR of its decision in each case.

## ***TERMINATION OF EMPLOYMENT***

### **§ 36.150 METHODS.**

#### **(A) Resignation.**

(1) To resign in good standing, an employee must file written notice of the resignation and its effective date with the employee's supervisor at least 14 calendar days before the resignation. Unless the employee's supervisor waives notice, failure to give notice shall be documented in the employee's personnel record and may be cause for denying future County employment.

(2) Upon written notice of resignation and its effective date, the Director/Administrator may approve, but is not required to approve, the use of leave, in accordance with the provisions in §§ 36.085 through 36.092, Attendance and Leave, not to exceed ten workdays, prior to the employee's effective date of resignation.

(B) **Abandonment.** Termination of employment for abandonment shall occur automatically, effective from the first day of the unauthorized absence. The employee may not grieve the determination of abandonment, except to prove that leave was authorized. The employee shall have the burden of so proving. An employee abandoning his or her position shall not be eligible for reemployment with the County.

#### **(C) Discharge.**

(1) A supervisor recommending discharge must meet with the employee to notify the employee of the recommendation and the reasons for discharge. If the recommendation remains unchanged, the supervisor shall refer the matter to HR in writing and on forms HR provides.

(2) HR shall meet with the employee to review the supervisor's recommendation and to listen to the employee's views, including any reasons why the employee considers discharge improper. HR shall establish the procedure for the meeting.

(3) If HR rejects the discharge recommendation, HR shall determine alternate discipline and the employee shall return to work. If HR upholds the recommendation, the supervisor shall discharge the employee.

(4) Where an HR supervisor recommends discharge of an HR employee, the County Administrator for the County Commissioners shall act on behalf of HR for purposes of this section.

(5) An employee discharged shall be eligible for future employment with the County.

(D) **Layoff.** The County Commissioners reserve the right to lay employees off temporarily or permanently as per Policy 02-09-HR Reductions in Force (or its successor).

### **§ 36.152 EFFECT OF TERMINATION.**

All rights, benefits, and privileges cease upon termination of County employment, unless Federal, State or local law provides otherwise. An employee returning to County service following termination receives no seniority privileges or credit for previous service unless otherwise granted by law. The preceding sentence does not apply to an employee returning after a layoff of less than 12 months.

### **§ 36.153 EXIT INTERVIEWS.**

HR shall offer a confidential exit interview to any departing employee. HR shall disclose the interview to the agency in interest and/or County Administrator.

## ***DISCIPLINE***

### **§ 36.165 PURPOSE; TYPES OF DISCIPLINE.**

The purpose of discipline is to assure adherence to policies the County determines necessary to maintain efficiency. Supervisors may impose appropriate sanctions necessary, according to the circumstances of each case. Disciplinary sanctions include but are not limited to, suspension with or without pay, withholding of pay increases, demotion, discharge, or any other sanction deemed appropriate at the discretion of management and HR. Disciplinary sanctions do not include oral or written reprimands.

### **§ 36.166 PROGRESSIVE DISCIPLINE.**

(A) In most cases, but not all, supervisors shall impose a progression of disciplinary actions before recommending discharge.

(B) The County reserves the right to judge each case individually, based on such factors as the seriousness of infraction, the employee's performance record and length of County service, and any other relevant consideration.

### **§ 36.167 GRIEVANCES OF DISCIPLINARY ACTIONS.**

An employee may grieve disciplinary sanctions in accordance with §§ 36.180 through 36.184.

## ***GRIEVANCES***

### **§ 36.180 EXCLUSIVE REMEDY.**

This Chapter contains the exclusive procedure for presenting and resolving grievances. An employee may pursue a grievance only as specified here.

### **§ 36.181 FILING OF GRIEVANCE FORM REQUIRED.**

With the exception of Step One grievances, all grievances shall be made in writing on forms approved by HR and signed by the aggrieved employee. The aggrieved employee must specify the nature of the dispute, the provisions of this chapter at issue and the remedy requested.

### **§ 36.182 TIME LIMITS.**

Any time limit in this chapter may be extended by agreement of both sides in advance of its expiration. The County Commissioners may extend the time limits for Step Four grievances. If an employee fails to comply with any time limit in this chapter, the grievance will be dismissed. If the County fails to comply with any time limit in this chapter, the grievance will automatically proceed to the next step.

### **§ 36.183 SPECIAL CIRCUMSTANCES.**

For suspension of more than five days, an involuntary demotion, or a discharge, an employee grievance shall be heard by a Grievance Review Board. All other grievances are subject to Section 36.184.

### **§ 36.184 PROCEDURE.**

#### **(A) Step One Grievance.**

(1) **Presentation.** An employee must present a grievance in person to his or her immediate supervisor within five business days after the event giving rise to the grievance or within five business days after the employee reasonably should have known of the event.

(2) **Resolution.** The supervisor shall meet with the employee and attempt to resolve the grievance and must respond in writing to the employee within five business days after hearing the grievance.

**(B) Step Two Grievance.**

(1) **Presentation.** If the grievance is not satisfactorily resolved at Step One, the employee may file a written grievance with his or her Director/Administrator within five business days after receiving the written response of their supervisor.

(2) **Resolution.** The Director/Administrator shall meet with the employee and attempt to resolve the grievance, and shall have five business days in which to respond in writing to the employee.

**(C) Step Three Grievance.**

(1) **Presentation.** An employee whose grievance is not satisfactorily resolved after Step Two may file a written grievance with HR within five business days after the Director/Administrator delivers the written response.

(2) **Resolution.** The Director/Administrator HR or its designee shall meet with the employee and attempt to resolve the grievance within five business days after receipt. HR shall respond in writing to the employee within five business days after the meeting.

(3) The decision of HR is final and binding.

**(D) Grievance Review Board.**

(1) **Presentation.** An employee suspended for more than five days, involuntarily demoted, or discharged shall serve a written grievance on HR within five business days after the suspension, involuntary demotion or discharge.

(2) **Compliance with procedural requirements.** Upon receiving the grievance, HR shall determine whether the grievance has been timely and properly processed. If it has not, HR shall deny the grievance and notify the employee of the reasons in writing. If the grievance has been timely and properly processed, HR shall schedule a hearing before the Grievance Review Board.

(3) **Time of hearing.** The Grievance Review Board shall schedule a hearing at a mutually agreed upon time by both parties.

(4) **Composition of Grievance Review Board.** The Grievance Review Board shall be chaired by the County Administrator for the County Commissioners, a Director/Administrator from a department or office other than that in which the employee works selected by HR, and an employee chosen by the employee from a list maintained by HR.

(5) **Hearing and decision.**



- (a) The Grievance Review Board shall determine the procedure for the hearing, giving both sides the opportunity to present witnesses and evidence. The employee may be represented by anyone the employee chooses.
- (b) The Grievance Review Board shall make a sound recording of the hearing.
- (c) The Grievance Review Board shall hand deliver its written decision within 30 days after the hearing. The decision shall be final and binding on all parties, except as provided in division (E)(1) below.

**(E) Appeal.**

(1) **Appeal to County Commissioners.** Either the employee or management may appeal the Grievance Review Board's decision to the County Commissioners. The party appealing must serve a written notice of appeal on the County Administrator for the County Commissioners within ten business days after the Grievance Review Board hand delivers its decision.

(2) **Presentation.** The County Administrator shall submit to the County Commissioners the record of the hearing before the Grievance Review Board. The record shall include a sound recording of the Grievance Review Board's hearing, a copy of the decision and all documents accepted into evidence.

(3) **Hearing.** The County Commissioners may decide the appeal based on the record without further hearing or, at their sole option, may hold an additional hearing to determine such facts as they deem necessary.

(4) **Disposition.** The County Commissioners shall render a final, binding decision on the appeal within 30 days after receiving the record of the hearing before the Grievance Review Board or within 30 days after holding a hearing. The decision of the County Commissioners is final and binding and not subject to judicial review.

***EQUAL OPPORTUNITY COMPLIANCE***

**§ 36.195 DISCRIMINATION AND SEXUAL HARASSMENT PROHIBITED.**

The County does not discriminate or tolerate discrimination against any employee on the basis of age, religion, gender, gender identity, race, color, national origin, genetic information, sexual orientation, pregnancy or maternity, veteran status, marital status, physical or mental disability or any other status protected by Federal or State law. Likewise, the County does not tolerate sexual

harassment or retaliation against any employee or by any employee. An employee subjected to any form of discrimination, including sexual harassment or retaliation, is entitled to a prompt, fair resolution.

**§ 36.196 DEVELOPMENT OF POLICIES AND PROGRAM IMPLEMENTATION.**

HR shall develop policies governing equal opportunity compliance. Policies will contain procedures to resolve complaints and expedite resolutions. HR shall also develop and oversee programs implementing this chapter.

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