

JEFFERSON COUNTY PERSONNEL POLICY MANUAL



COUNTY JUDGE GERALD ROBINSNON

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Issues Not Addressed in the Personnel Policy

Acknowledgement and Receipt

WELCOME to JEFFERSON COUNTY

We believe that every employee helps make Jefferson County successful. We hope that you will be proud to be a member of our team.

This handbook describes many of our policies. The handbook also outlines many of the programs and benefits available to eligible employees.

The handbook will answer many questions you may have about your employment at Jefferson County. We suggest that you become familiar with the handbook as soon as possible.

We hope that your experience here will be challenging, enjoyable, and rewarding. Again, welcome.

OUR MISSION STATEMENT

To provide a quality public service to all citizens and employees of Washington County.

UNDERSTANDING OUR STRUCTURE

If you haven't worked for a government entity before, it is important that you have some information about how it works. Elected officials are responsible for their area of government. Each elected official may adopt additional policies and procedures, provided they do not conflict with the County policies stated in this document or the U.S. and Arkansas constitutions. In addition, these policies must be in accord with all applicable laws, statutes or judicial rulings.

The following are Elected Officials:

Assessor	County Judge	Circuit Clerk
Collector	Coroner	County Clerk
Prosecuting Attorney	Sheriff	Treasurer

THE COUNTY JUDGE

The Jefferson County Judge is the Chief Executive Officer for the county government. The Judge:

- Authorizes and approves the disbursement of all appropriated county funds
- Operates the system of county roads
- Administers ordinances enacted by the quorum court
- Has custody of county property
- Accepts grants from federal, state, public, and private sources
- Hires county employees except those employed by other elected officials of the county
- Presides over the quorum court without a vote, but with the power of veto

THE QUORUM COURT

Jefferson County is comprised of 13 districts. Each district elects a Justice of the Peace to the Quorum Court.

The Quorum Court is the legislative body of the County. They exercise local legislative authority to levy taxes, appropriate public funds for the expenses of the County in a manner prescribed by ordinance. They can fix the number and compensation of deputies, county employees and county officials within a minimum and maximum to be determined by law. Our websites may help you better understand the roles and responsibilities of the various areas of government. The Jefferson County Website is <https://www.jeffersoncounty.ar.gov>

1. Introduction and Purpose

Welcome to employment with Jefferson County, Arkansas (the County). The purpose and intent of this County Personnel Policy is to establish at-will employment as the default employment policy for the County and to state the general employment policies issued by the County Quorum Court in its capacity as the legislative branch of County government. *See* Ark. Const. Amend. 55 §§ 1 & 4; Ark. Code Ann. § 14-14-805(2). The Policy is also intended to establish uniform personnel policies and benefits for all County employees.

County employees are “at-will” employees. County employment is not for a specific period and employment may be terminated at any time, with or without notice, and with or without cause. The provisions set forth in this Personnel Policy do not guarantee any fixed terms or conditions of employment. The Policy neither creates an expectancy of future employment nor establishes grounds upon which employee discipline or dismissal must be based. At any time, the County Quorum Court may revise, supplement, or rescind the policies, practices, and benefits set forth in the Policy subject to, or as may be required by, applicable law.

Consistent with the day-to-day administrative responsibility of his or her elected office, a County elected official may adopt executive employment policies to apply to the employees of that office. Such executive employment policies shall not conflict with this uniform Personnel Policy adopted by the Quorum Court. A County elected official has discretion to determine the application, meaning, and intent of the provisions of the Personnel Policy as they relate to the employees of that official’s office. *See* Ark. Code Ann. § 14-14-805(2).

We are serious about the important work of the County. We are equally serious about adhering to the procedural and substantive requirements of applicable law. County employees are expected to read, understand, and comply with the policies set forth in the County Personnel Policy. Any questions should be directed to a supervisor.

2. County Policy Directives

A. The County and its officials will treat all employees and citizens in a manner that is: (i) rationally related to the effectuation of legitimate County objectives; and (ii) uniformly applied to all persons similarly situated.

B. County officials and employees shall not misuse or abuse governmental power.

C. County officials and employees shall not engage in any intentional act that is illegal (contrary to applicable statutes or judicial decisions) or unconstitutional (contrary to the Arkansas Constitution or the United States Constitution).

D. County officials and County employees shall not omit the performance of any duty that is affirmatively required by applicable law (statutes and judicial decisions).

E. County officials and employees shall not participate in any County contract or transaction in which they have a direct or indirect personal interest. County officials and employees shall not accept or receive any property, money, or anything of value in exchange for or arising out of any County contract or transaction. *See* Ark. Code Ann. § 14-14-1202.

F. County officials and employees shall not engage in any act that would constitute corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office. *See Ark. Code Ann. § 14-14-1311.*

G. Each County elected official shall administer the day-to-day administrative affairs of his or her County office in a lawful and constitutional manner, and in accordance with applicable law (statutes and judicial decisions), the U.S. Constitution and Arkansas Constitution, and this County Personnel Policy.

H. The use of deadly force against a person by the Sheriff or any employee of the Sheriff is limited to the following:

(1) to make an arrest or to prevent the escape from custody of an arrested person when the officer reasonably believes: (i) there is probable cause to arrest the felony suspect; (ii) the felony suspect cannot be otherwise apprehended; *and* (iii) the felony suspect used deadly force in the commission of a felony or the felony suspect would use deadly force against the officer or others if not immediately apprehended;

(2) to defend himself/herself or a third person from what he/she reasonably believes to be the imminent use of deadly force.

3. County Employment Policies

A. At-Will Employment.

(1) Under its authority as the legislative branch of County government, the County Quorum Court adopts “at-will” employment as the default employment policy for each County employee. County employment is not for a specific period and employment may be terminated at any time, with or without notice or liability of any kind (except for wages earned and unpaid), and with or without cause.

(2) A County employee serves at the pleasure of the elected County official who hires and supervises the employee. Newly elected County elected officials have the discretion to rehire County employees who served under a predecessor. County employees have no expectancy of continued employment or property interest in future employment under a newly elected County official.

B. Claims of Property Interest in Employment. If, notwithstanding the express provisions to the contrary in this County Personnel Policy, a County employee contends that he or she has a property right in his or her employment or a substantial expectancy of continued employment, or that the County or supervising elected County official must have just cause for reduction in pay or removal of position, then the employee must assert such contention at a grievance hearing requested in the time and in the manner set forth in this Policy.

C. Equal Employment Opportunity. It is the policy of the County to provide equal employment opportunity for all County employees. Accordingly, the County will not engage in

any form of employment discrimination based on race, color, national origin, sex or gender, religion, age, disability, veteran or military status, genetic information, or any other legally-protected status. The County hereby affirms its desire to maintain a work environment for all County employees that is free from all forms of unlawful employment discrimination. Employment discrimination based on race, sex or gender, color, national origin, religion, age, disability, veteran or military status, genetic information, or any other legally-protected status is a violation of County policy as well as federal and state law, and will not be tolerated.

(1) If you believe you have been the subject of unlawful employment discrimination, you should report the problem to your supervisor within 3 business days. If the conduct or condition allegedly involves your supervisor, you should report it immediately to the elected County official under whom you serve. If the conduct or condition allegedly involves the elected County official, you should immediately report the conduct or condition to the County Judge. If the conduct or condition allegedly involves the County Judge, you should immediately report the conduct or condition to the County Grievance Committee. If you are not satisfied with the action taken or if the conduct or condition continues, you should report the conduct or condition to the County’s Prosecuting Attorney or a Deputy Prosecuting Attorney. “Immediately” normally means the same day of the alleged discrimination. The failure to make a timely report of alleged discrimination may be a factor used in deciding the merits of the allegation. Your complaint will be promptly investigated. All County employees are expected to cooperate fully in such investigations. To the extent feasible, all internal investigations and/or actions taken to resolve complaints of unlawful employment discrimination will be confidential.

(2) Retaliation against any County employee for making a complaint under this policy or for providing information during an investigation under this policy is strictly prohibited, will not be tolerated, and is a violation of this policy.

(3) Any County employee who violates this policy will be subject to appropriate discipline, up to and including termination. Any supervisor who knowingly permits discrimination or retaliation to take place in his or her areas of supervision will be subject to appropriate discipline, up to and including termination.

D. Anti-Harassment Policy. The County provides a workplace free from harassment based on race, color, national origin, sex or gender, religion, age, veteran or military status, genetic information, disability, or any legally-protected status. Harassment includes any verbal or other conduct that demeans, insults or intimidates an employee or group of employees because of their race, color, national origin, gender, religion, age, veteran or military status, genetic information, disability, or other legally-protected status. Prohibited conduct includes, but is not limited to, jokes, labels, names, verbal abuse, ridicule or stories offensive to a protected group of persons.

(1) Because of the County’s strong disapproval of offensive or inappropriate sexual behavior at work, all employees must avoid any action or conduct which could be viewed as sexual harassment, including:

1. Unwelcome sexual advances, including unwelcome requests for dating and requests for sexual acts or favors.
2. Verbal abuse of a sexual nature, including sexually-related comments or joking and graphic or degrading sexual comments about another’s appearance.

3. Nonverbal abuse of a sexual nature, including suggestive or insulting noises, leering, whistling or making obscene gestures, e.g., giving someone the finger, and the display of sexually suggestive objects or pictures.
4. Physical conduct of a harassing nature, including inappropriate touching or brushing the body of another.
5. Any other verbal, nonverbal or physical conduct of a harassing nature.

(2) If you believe you have been the subject of harassment by anyone, including supervisors, elected County officials, co-workers, citizens, or vendors, you should **immediately** report the conduct to your supervisor. If the conduct allegedly involves your supervisor, you should immediately report it to the elected County official under whom you serve. If the conduct allegedly involves the elected County official, you should immediately report the conduct to the County Judge. If the conduct allegedly involves the County Judge, you should immediately report the conduct to the County Grievance Committee. If you are not satisfied with the action taken or if the conduct continues, you should report the conduct to the County's Prosecuting Attorney or a Deputy Prosecuting Attorney. "Immediately" normally means the same day of the alleged harassment. The failure to make a timely report of alleged harassment may be a factor used in determining the merits of the allegation. Your complaint will be promptly investigated. All County employees are expected to cooperate fully in such investigations. To the extent feasible, all internal investigations and/or actions taken to resolve complaints of harassment will be confidential.

(3) Discrimination or retaliation against any County employee for making a complaint under this policy or for providing information during an investigation is strictly prohibited, will not be tolerated, and is a violation of this policy.

(4) Any County employee who violates this policy will be subject to appropriate discipline, up to and including termination. Any supervisor who knowingly permits harassment or retaliation to take place in his or her areas of supervision will be subject to appropriate discipline, up to and including termination.

E. Disabilities Policy. The County will provide reasonable accommodations to qualified individuals with disabilities, unless to do so would cause an undue hardship. An accommodation is a change in the work environment or in the way things are customarily done that is not unreasonable and that enables an individual with a disability to enjoy equal employment opportunity. Generally, an individual with a disability must inform his or her immediate supervisor that an accommodation is needed. When the disability and need for accommodation are not obvious, the County may require the individual to provide documentation from a medical provider concerning the disability and the need for a reasonable accommodation.

F. Genetic Information Nondiscrimination Policy. The County complies with the Genetic Information Nondiscrimination Act (GINA) and the Genetic Information in the Workplace Act (GIWA). GINA and GIWA prohibit employers and other entities covered by these laws from requesting or requiring the disclosure of genetic information of an employee or family member of an employee, except as specifically allowed by these laws. To comply with these laws, employees should not, directly or indirectly, disclose any "Genetic Information" to the County at any time. "Genetic Information" includes an employee's family medical history, the results of an employee's or family member's genetic tests, the fact that an employee or an employee's family member sought or received genetic services, and genetic information of a fetus carried by an employee or an

employee's family member or an embryo lawfully held by an employee or family member receiving assisted-reproductive services.

G. Immigration Reform and Control Acts. The County complies with the Immigration Reform and Control Acts of 1986 and 1990. Every newly-hired County employee shall complete an I-9 Form before commencing employment.

H. Political Activity. County employees are encouraged to participate in the election process, but assistance to candidates or issues must only be rendered on the employees' own time and County property must not be involved. County employees are not to endorse candidates or issues in their official capacities as County employees, or on behalf of the County or any County office. The legal provisions are summarized as follows: (1) County employees are prohibited from engaging in partisan political activity during the hours they are performing work for the County, excluding personal leave time; (2) political banners, posters, or literature should never be allowed or displayed in a County office; (3) political bumper stickers or decals should never be displayed on County property or any County-owned vehicle; County-owned vehicles must not be used during or after work hours to promote or assist the candidacy of any person or any ballot issue; (4) no County employee shall approach other County employees for any political purpose or use threats or coercion to require or persuade any employee to contribute to a particular candidate or cause. In the discretion of the County Judge or other elected County official who supervises a County employee, a County employee may be granted leave without pay for an extended absence to participate in a campaign.

I. Social Media Policy. Social media includes all means of communicating or posting information or content of any sort on the Internet. The same principles and guidelines applicable to County employee conduct also apply to County employees' activities online. Any conduct that adversely affects an employee's job performance, the performance of fellow employees, or otherwise adversely affects the interests of the County may result in disciplinary action up to and including termination. This policy applies to comments made under the employee's name or under a pseudonym used by the employee as a username. Harassment and cyber-bullying of any County employee will result in termination. Racist or sexist comments or comments that target the religious beliefs of others will result in termination. County employees should avoid posts, "likes," or other social media activity during work hours and on County-owned equipment, unless authorized to do so by a supervisor or consistent with County policy. State law prohibits electioneering by public servants during work hours. Employees should consider any political activity to be electioneering—employees should follow the County's Political Activity Policy with all online posts.

J. Freedom of Information Act. The County complies with the Arkansas Freedom of Information Act (FOIA). Upon receiving a FOIA request, a County employee shall immediately notify his or her supervisor of the FOIA request. Any County official receiving notice of a FOIA request shall take steps to ensure timely compliance with the FOIA request.

K. County Property. The County's telephones, fax machines, photocopying equipment, computers, vehicles, and other property are to be used for business purposes only. County property

is restricted to business use to assist County employees in the performance of their jobs. Occasional de minimus use of County property for personal, non-business purposes is permitted—however, such personal use should not negatively affect the use of County property for business purposes or negatively affect employee performance. All business equipment, software, computer systems, electronic systems and all information stored, transmitted, received, initiated, or contained in the County information system are County property. The County reserves the right to monitor, copy, use, delete, publish, and log all network, Internet or local activity including email, software use, or other activity with or without notice—County employees should have no expectation of privacy when using these resources.

4. Hiring, Promotion and Demotion, Transfer, and Termination

The County Employment Policies set forth in this County Personnel Policy (§ 3 above) apply equally to hiring, promotion and demotion, transfer, and termination.

A. Hiring. The County Quorum Court shall establish the number and compensation of all County employees. The job title, classification, and annual pay rate shall be specified for each position of a County department or County office in the annual budget. Positions cannot be advertised as vacancies, nor may persons be hired into positions, until positions are authorized by the Quorum Court.

B. Reduction or Removal of Pay or Position. A County elected official may reduce or remove pay or position for any reason that is rationally related to the effectuation of any conceivable legitimate County objective. It is not possible to list all conceivable rational bases for reduction or removal of pay or position; however, examples include but are not limited to:

- (1) Misrepresentation, dishonesty, or self-dealing conduct;
- (2) Intemperate conduct;
- (3) Insubordination, including the failure or refusal to follow the legal orders of an elected County official or other supervisor;
- (4) Negligent, reckless, knowing, or intentional destruction of County property;
- (5) Abuse or misuse of your position as a County employee;
- (6) Any conduct, act, or omission that interferes with or impairs your ability to properly and effectively perform your duties as a County employee;
- (7) Any rational change in the mode or manner of operations, including any rational decision regarding the persons selected by an elected County official or supervisor for the delivery of County services.

C. Constitutionally-Protected Conduct.

(1) It is the policy of the County to comply with the Constitutions and laws of the State of Arkansas and the United States, and the public policy of the State of Arkansas. These

laws include: (i) laws prohibiting unlawful discrimination based on race, color, national origin, sex or gender, religion, age, disability, veteran or military status, genetic information, or any other legally-protected status; (ii) laws prohibiting retaliation for exercising a constitutionally-protected liberty right (e.g., free speech, free association, political patronage, access to courts, privacy, etc.); and (iii) laws requiring that governmental action be rationally related to a conceivable legitimate government objective.

(2) Should any applicant, employee, or person requesting County assistance or services contend that he or she is the victim of unlawful discrimination, unlawful retaliation, or unlawful arbitrary government action, he or she shall request, in the time and manner set forth in this County Personnel Policy, a hearing before the County Grievance Committee to provide the County's final policymaker with notice of the alleged unlawful discrimination or unlawful retaliation or unlawful arbitrary government action, and the opportunity to voluntarily conform the conduct of the County, County officials, and County employees to the requirements of County policy (including conformity with the Constitutions and laws of the State of Arkansas and the United States, and the public policy of the State of Arkansas).

D. Background Investigations. Background investigations may be performed on department heads, any position with access to County funds, and upper-level employees as determined by the hiring elected official. Background investigations may be conducted for other positions at the discretion of the hiring elected official. All background investigations will be performed by a third party in compliance with the law.

E. Drug-Free and Alcohol-Free Workplace Policy. The County is committed to protecting the safety, health, and wellbeing of all employees and the public in our workplace. The County has established a drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol-free and drug-free environment. The purpose of this policy is to assure worker fitness for duty and to protect the County's employees, passengers, and the public from the risk posed by misuse of alcohol and use of prohibited drugs. This policy is intended to comply with all applicable federal regulations governing workplace anti-drug and anti-alcohol programs.

(1) Testing. To ensure the accuracy and fairness of drug and alcohol testing, all testing will be confirmed by a in accordance with procedures required by the U.S. Department of Transportation where applicable, and in compliance with all applicable laws and regulations. Prohibited controlled substances are those defined by the Federal Controlled Substances Act and applicable Arkansas statutes governing controlled substances. An employee whose initial drug test result is positive and who requests a test of the split sample will be suspended without pay until the County receives the result of the split test. The split test will be paid by the County to be reimbursed to the County by the employee via withholding from the employee's paycheck. A negative result from the split test will render the first test invalid and the employee will be reinstated with back pay and reimbursement for the cost of the split test.

(2) Prescription Drugs, Over-the-Counter Drugs, and Medical Marijuana. Prescription drugs and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription—however, a safety-sensitive employee who has been prescribed a medication that might cause drowsiness or otherwise impair the employee's ability to

safely perform job functions shall notify the employee's supervisor and provide a written statement from the prescribing practitioner certifying that such use will not impair the employee's ability to safely perform his or her essential job functions. When proper notification is made and a licensed medical practitioner's statement is provided, the employee may continue working in the same position. If a statement is not provided or if a provided statement does not certify that the employee's use of the prescription will not impair the employee's ability to safely perform job functions, a reasonable effort will be made to temporarily assign the employee to another position, if available. The illegal or unauthorized use of prescription drugs is prohibited. Medical marijuana usage under the Arkansas Medical Marijuana Amendment is subject to Act 593 of 2017, which restricts an employee in a safety-sensitive position from performing those duties if a positive test result occurs even if the employee is a qualifying patient under the Amendment and/or holds a registry identification card.

(3) Post-Offer / Pre-Employment Testing. County officials who hire for a position may elect to conduct post-offer / pre-employment testing on any prospective County employee. The prospective employee will not be employed until the test results are received by the office of the County Judge. The County Judge will then notify the County Clerk, who will notify the elected County official or department head of the testing results. A prospective employee cannot start work until the post-offer / pre-employment test result is received.

(4) "Safety-Sensitive Positions" include, but are not limited to, positions involving a safety-sensitive function pursuant to regulations governing drug and alcohol testing adopted by the U.S. Department of Transportation and the Arkansas General Assembly. Safety-sensitive positions typically involve job duties where impairment may present a clear and present risk to co-workers or other persons. A safety-sensitive position includes any position where a momentary lapse in attention could result in injury or death to another person. A safety-sensitive position includes, but is not limited to, a position in which a drug or alcohol impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to:

- (i) carry a firearm;
- (ii) perform life-threatening procedures;
- (iii) work with confidential information or criminal investigations;
- (iv) work with controlled substances;
- (v) maintain a commercial driver's license;
- (vi) drive a vehicle or operate heavy equipment as part of normal duties;
- (vii) serve as a mechanic on County vehicles;
- (viii) serve as a dispatcher for law enforcement or emergency services; or
- (ix) be prepared to use justified physical force against persons to maintain order or security for persons detained by the county.

(5) Testing of Safety-Sensitive Employees. Safety-sensitive employees are subject to testing to detect the presence of alcohol and controlled substances, including:

- (i) post-offer / pre-employment testing;
- (ii) random testing;
- (iii) reasonable-suspicion testing;
- (iv) post-accident testing; and

(v) return-to-duty testing and follow-up testing.

(6) Random Testing of Safety-Sensitive Employees. Employees in safety-sensitive positions will be subject to random, unannounced testing. A computerized program shall determine the individual safety-sensitive employees to be randomly tested.

(7) Reasonable-Suspicion Testing of Safety-Sensitive Employees. A safety-sensitive employee who is reasonably suspected of being intoxicated, impaired, under the influence of alcohol or drugs, or not fit for duty, shall be suspended from job duties with pay pending an investigation and verification of condition.

(8) Post-Accident Testing. A County employee shall be suspended with pay pending an investigation and verification of condition, and screened for the presence of controlled substances and alcohol, as soon as practicable, following his or her involvement in an accident involving a County vehicle or equipment, under the following situations:

- (i) an accident that results in the loss of human life;
- (ii) an accident that results in a moving violation citation;
- (iii) an accident that involves bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or,
- (iv) an accident that involves one or more vehicles incurring disabling damage as a result of the accident (requiring any vehicle to be transported away from the scene).

(9) Disciplinary Action. The following shall result in immediate discharge:

- (i) refusal to take a mandated test for drugs or alcohol;
- (ii) a positive drug test (once the time limit for requesting a split test has expired, or upon receipt of a positive result from the split test); or
- (iii) a positive alcohol test.

(10) Records. All records regarding the County's Drug-Free and Alcohol-Free Workplace Policy shall be confidentially maintained, in a secure location with controlled access. Although records maintained by the County will remain confidential, such records may be used in legal proceedings in defense of the County, its agents, and employees, and such records may be otherwise disclosed as required or allowed by law.

5. Employee Classification, Attendance, and Compensation

A. Employee Classifications. The County's office hours for normal business are 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding holidays, however work schedules can vary

depending on the department. A full-time County employee is an employee who occupies a full-time position with the County and who works a full-year schedule for the County. Full-time County employees are expected to work during County office hours, with an unpaid lunch break each day and two paid breaks each day of up to 15 minutes per paid break. Paid breaks may not be taken at the beginning or end of the work day, nor at the beginning or end of the unpaid lunch break.

A part-time County employee is an employee who works less than a full year schedule for the County. A regular part-time employee is hired to work less than a full workweek on a non-seasonal basis, and will be permitted to work no more than 29 hours per workweek. A seasonal part-time employee is hired to work less than a full workweek during seasonal and/or peak periods—the temporary employment period must be less than 90 days. Regular part-time and seasonal part-time employees are not eligible for benefits (other than those required under state and federal law) that are afforded to regular full-time employees.

B. Employee Compensation. County employees are paid on a biweekly basis (pay period every two weeks; 26 pay periods annually). Each pay period covers the two weeks prior to the week of payment, but not the week of payment. After termination of employment, a County employee will be paid through the employee’s final working day in the payment for the pay period following termination of employment. Annual raises are not guaranteed, and annual budgets must be approved by the Quorum Court.

C. Employee Attendance. County employees are expected to be on the job during their regular work hours. Unexcused and excessive tardiness and/or absenteeism may result in disciplinary action, up to and including termination. County employees will be permitted absence without prior authorization under only the following conditions: (1) County business, (2) inclement weather conditions where the employee is unable to travel safely; (3) other, if subsequently approved by the employee’s supervisor. Excused absences with prior or contemporaneous authorization are governed by the leave policies set forth separately below.

D. Overtime Work and Compensatory Time. The County complies with the Fair Labor Standards Act (FLSA). All comp-time and all overtime must be authorized in advance by your supervisor before the work is performed.

(1) Any County employee who makes less than the minimum pay amount set by the FLSA is, regardless of job duties, eligible for overtime compensation.

(2) Otherwise, only County employees defined by the FLSA as “non-exempt”—which means not employed in a bona fide “executive, administrative, or professional capacity”—are eligible for overtime compensation.

(3) The fact that an employee is paid a “salary” has nothing to do with whether an employee is (or is not) eligible for overtime compensation.

(4) As authorized by the FLSA, the County’s employees who are eligible for overtime compensation shall receive, in lieu of overtime pay, compensatory time off at the rate of one and one-half hours of compensatory time for each hour of overtime worked.

(5) The normal work period shall be 40 hours per week for all County employees except employees engaged in the provision of law enforcement (including jailers) and ambulance services. The normal work period for law enforcement (including jailers) and ambulance personnel shall be 171 hours per consecutive 28-day work period.

(6) Overtime shall only be worked in emergencies or when public health, welfare, and the safety of the community is in danger. Overtime shall not be worked without the approval of the elected County official or supervisor designated by the elected County official to approve overtime. This includes checking emails and/or phone messages outside business hours—non-exempt employees shall not check emails and/or phone messages, or otherwise work outside of business hours without approval. Overtime worked shall be compensated as set forth in this policy whether approved in advance or not, but employees who work overtime without approval as set forth in this policy are subject to discipline up to and including termination.

(7) No employee shall accrue more than 120 hours of compensatory time. After an employee accrues the maximum 120 hours of compensatory time, the employee shall be paid any additional overtime in cash (subject to normal withholdings for taxes, etc.) at a rate of one and one-half times the employee's normal hourly rate, for each hour of overtime worked.

(8) An employee who has accrued compensatory time shall, upon termination of employment, be paid for the unused compensatory time at the employee's average hourly rate during the last three years of employment, or the employee's final hourly rate, whichever is higher.

(9) An employee who has accrued compensatory time off and who has requested the use of compensatory time off shall be permitted to use such time within a reasonable period after making the request if the use of compensatory time does not unduly disrupt the operation of the County or employing department. If any employee fails to schedule time off according to this policy, the elected official may place them on paid leave to exhaust comp time in compliance with the above.

(10) All County elected officials and department heads will maintain time sheets to be filled out by each non-exempt employee on a weekly basis. All time sheets shall be signed under oath by the non-exempt employee and signed by the elected official or department head. Time sheets shall be provided to the County Clerk's Office at the end of each month to be kept as permanent records. If an elected County official or department head fails to provide the required and approved time sheets to the County Clerk, the County Clerk shall not issue subsequent paychecks.

(11) Paid leave days shall not count toward time worked in a work period for calculating overtime. Only time worked by an employee shall count toward calculating overtime (including time worked on a holiday).

(12) A person who accepts employment with the County or continues in employment with the County shall be deemed to have agreed to receive compensatory time off in lieu of overtime compensation as set forth in this policy.

E. Overtime and Leave Time Liability Control Procedure.

(1) **Employees Required to Personally Sign and Certify Timesheets.** Each non-exempt County employee shall *personally* sign his or her time sheet, certifying: “My signature certifies that the above recorded hours worked and leave taken are correct.”

(2) County Clerk will keep Employee Time Sheets as a Permanent Record. The signed/certified employee time sheets shall be timely provided to the County Clerk’s Office at the end of each pay period to be kept as a permanent record (for at least five years).

(3) **County Clerk to Calculate Payroll from Non-Exempt Employee Time Sheets.** The County Clerk will calculate payroll for non-exempt employees, including overtime pay, vacation leave pay, sick leave pay, and holiday pay, based on the signed/certified time sheets and in reliance upon the employees’ signed certification that the hours worked and the leave time taken are correct.

(4) **County Clerk Not to Issue Check without Signed/Certified Timesheet.** The County Clerk shall not issue a paycheck to a non-exempt employee if the required employee time sheet(s) is/are not signed and certified by the employee (personally) or are not timely provided to the County Clerk.

(5) **Log Book of County’s Total Overtime Liability.** The County Clerk shall keep a record in a separate log book of accumulated compensatory time, sick leave time, and vacation leave time, showing all such time earned and all such leave time taken by the employees who have earned such leave time.

F. No County Gifts. The Arkansas Constitution prohibits the County from using public money to confer a private benefit. Ark. Const. Art. 12, § 5. County elected officials, department heads, and supervisors shall comply with this constitutional provision and shall not offer or award more paid leave time (holiday, vacation, sick, or compensatory) than authorized by this County Personnel Policy.

6. **Administrative Leave and other Benefits**

A. Group Insurance Programs: The County offers group insurance programs for full-time County employees. The County pays portions of some but not all premiums for group insurance programs. All insurance benefits are subject to change at any time. This Personnel Policy does not guarantee continuation of any group insurance benefits.

B. Holiday Leave. The County will be closed and all County employees (including those still in their probationary period) will be granted paid leave to observe the ten legal holidays listed below. Additional holidays may be proclaimed by the County Judge.

- (1) New Year’s Day—January 1
- (2) Martin Luther King Birthday—January 19
- (3) Presidents Day—3rd Monday in February

- (4) Good Friday- 1st Friday in April
- (5) Memorial Day—Last Monday in May
- (6) Juneteenth Day—June 19
- (6) Independence Day—July 4
- (7) Labor Day—1st Monday in September
- (8) Fall Holliday- Observed the Friday before the local University’s HomeComing game
- (9) Veterans Day—November 11
- (10) Thanksgiving Day—4th Thursday in November
- (11) Christmas Eve—December 24
- (12) Christmas Day—December 25
- (13) New Year’s Eve--December 31

*Friday and Monday

**If a holiday occurs on a Saturday, it will be observed the preceding Friday before the holiday; if the holiday occurs on a Sunday then it will be observed on the following Monday.

C. Vacation Leave. Vacation leave is a benefit like salary that each full-time County employee earns, and that accrues to all eligible employees in accordance with the schedule set out in this section. Vacation leave begins to accrue with the enrollment date of the full-time employee, but employees are not eligible to request vacation leave before completing one year of continuous full-time, regular employment with the County. Paid personal (comp-time) leave time must be taken first, then vacation and finally sick. Vacation leave shall be granted by the employee’s appropriate supervisor in advance of the leave and at such time, or times, as will least interfere with the efficient operation of the County. Vacation leave may be taken in increments of no less than one-half (1/2) day units. No vacation leave may be taken unless earned—employees are not permitted to borrow against leave days to be accrued in the future. Accrued vacation leave may not exceed 80 hours. Any vacation leave above 80 hours at the end of a year will be automatically donated to the Catastrophic Leave Bank Program for the office of the elected County official in which the employee works. Employees will be paid for accrued but unused vacation leave (up to the maximum accrual of 240 hours) following termination of employment. Vacation leave shall accrue as follows:

Service Time Minimum	Accrued Vacation Leave
1 year	5 days
2-10 years	10 days (beginning the 2 nd full year of employment)
11-19 years	15 days (beginning the 11 th full year of employment)
20+ years	20 days (beginning the 21 st full year of employment)

NOTE: Accrued Vacation is calculated bi-monthly based on service time and twenty-four (24) pay periods.

Vacation time will not be exchanged for cash except in the following circumstances:

- A. The surviving members of a deceased employee’s family will be paid his/her accrued

leave. Such payment shall be made first to the deceased's surviving spouse; second, to another person designated by him/her in writing and filed with the County Clerk; and third, in the absence of surviving spouse and written assignee, to the estate of the deceased employee.

- B. Full-time employees who have been employed by the county continuously for one (1) year or more, who resign from the job in good standing, shall be compensated for vacation accrued up to the date of resignation. Resigning employees will be paid at their current rate of pay for unused time.

D. Sick Leave. Sick leave is a benefit like salary that each full-time County employee earns and begins to accrue with the enrollment date of the full-time employee, with a maximum of ninety six (96) hours per year, four (4) hours per bi-monthly pay period and eight (8) total hours per month. Earned sick leave can be carried over to subsequent years for a maximum of seven hundred twenty (720) hours. Sick leave will be granted for personal illness, immediate family illness (defined as spouse, child, father, mother, sister, brother, grandfather and grandmother) or physical incapacity resulting from causes beyond the employee's control or due to quarantine of an employee by a physician or officer to comply with community health regulations. Paid personal (comp-time) leave time must be taken first, then vacation and finally sick. Sick leave shall be granted by the employee's appropriate supervisor in advance of the leave whenever possible and at such time, or times, as will least interfere with the efficient operation of the County. Sick leave shall be deducted from the employee's accrued sick leave based on the number of accrued sick leave hours requested and granted. Sick leave may be taken in increments as low as ½ days . No sick leave may be taken unless earned—employees are not permitted to borrow against leave days to be accrued in the future. Employees are not entitled to be paid for any accrued but unused sick leave. Sick leave may be donated between employees as per Jefferson County Ordinance #2019-13. The employee's anniversary date of hire begins the accrual of sick leave benefits. Employees leaving the employment of the county for any reason shall not be paid for accumulated sick time.

E. FMLA Leave. The County complies with the Family and Medical Leave Act (FMLA). The eligibility criteria and general guidelines used in administering this policy are set forth below. Interpretation of circumstances not specifically covered in this policy will be made in accordance with applicable law. The FMLA was designed to promote our country's interest in preserving family unity while accommodating the legitimate interests of employers. The FMLA seeks to minimize the potential for employment discrimination on the basis of gender consistent with the Equal Protection Clause of the Fourteenth Amendment by assuring that leave is available for both women and men.

(1) Employee Eligibility Criteria. To be eligible for FMLA leave, employees must have been employed by the County at least 12 months, whether consecutive or intermittent, and worked at least 1,250 hours during the twelve 12-month period. All absence from work for covered military service is counted in determining an employee's eligibility for FMLA leave. The County will grant up to 12 weeks of unpaid FMLA leave per year to eligible employees.

(2) Qualifying Events for FMLA Leave. FMLA leave may be taken for any one, or a combination of, the following reasons:

- Care of the employee’s child (birth or placement for adoption or foster care);
- Care of the employee’s spouse, dependent child, or parent with a serious health condition;
- Serious health condition that makes the employee unable to perform the essential functions of his/her job;
- A “qualifying exigency” resulting from the covered active duty or the call or order to covered active duty of the employee’s spouse, son, daughter, or parent who is a military member of the National Guard and Reserves or the Regular Armed Forces; and,
- Care of the employee’s spouse, son, daughter, parent, or next of kin, who is a covered service member with a serious illness or injury incurred or aggravated by service in the line of duty. (Employees eligible for this type of leave may be eligible for up to 26 workweeks of leave, rather than the usual 12.)

(3) “Serious Health Condition.” A “serious health condition” is an illness, injury, impairment, or physical or mental condition that requires inpatient care at a medical facility, including any period of incapacity, or any subsequent treatment regarding such inpatient care, or a condition that requires continuing care by a licensed health care provider. This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three consecutive days of incapacity with the first visit to the health care provider within seven days of the onset of the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.

(4) Pay Status During FMLA Leave. FMLA leave is unpaid leave. However, any available paid time off, including qualifying workers’ compensation leave, sick/vacation or comp time, you are required to take and will run concurrently with FMLA leave, until such leave is exhausted. Paid personal (comp-time) leave time must be taken first, then vacation and finally sick. Once an employee’s paid benefits are exhausted, he/she will be in an unpaid status during the remainder of his/her FMLA leave. While on unpaid FMLA, an employee will accrue no additional benefits based on length of service or hours worked or for training missed while on leave.

(5) How Much FMLA Leave May be Taken. An eligible employee taking FMLA leave is entitled to up to 12 workweeks of unpaid leave during a 12-month period for any FMLA qualifying event(s) as listed above. The 12-month period is a rolling 12-month period measured backward from the date an employee uses any FMLA leave. Leave to care for a seriously injured or ill active-duty military member, when combined with other FMLA-qualifying leave, may not exceed 26 weeks in a single 12-month period. When both spouses are employed by the County, they are together entitled to a combined total of 12 workweeks of FMLA leave within the designated 12-month period for the birth, adoption, or foster care placement of a child with the employees, and to care for a parent (but not in-law) with a serious health condition. Each spouse may be entitled to additional FMLA leave for other FMLA qualifying reasons.

(6) Intermittent or Reduced Work Schedule Leave. FMLA leave may be taken intermittently or on a reduced work schedule when medically necessary due to the employee’s or family member’s illness. Leave to care for a newborn or for a newly placed child may not be taken intermittently or on a reduced work schedule. If an employee takes leave intermittently on a reduced work schedule basis, the employee must, when requested, attempt to schedule the leave so

as not to unduly disrupt County operations. When an employee takes intermittent or reduced work schedule leave for foreseeable planned medical treatment, the County may temporarily transfer the employee to an alternate position with equivalent pay and benefits for which the employee is qualified and which better accommodates recurring periods of leave.

(7) Notice. An employee should request FMLA leave by completing required paperwork and submitting it to the employee's supervisor as soon as practicable. When leave is foreseeable, the employee must provide the County with at least 30 days' notice.

(8) Medical Certification. An eligible employee is required to submit medical certification from a health care provider to support a request for FMLA leave for the employee's or a family member's serious health condition. The County may have a designated individual contact the employee's health care provider to clarify or authenticate the initial certification with notice to the employee; and/or require the employee to obtain a second opinion by an independent County-designated provider at the County's expense. If the initial and second certifications differ, the County may, at the County's expense, require the employee to obtain a third, final and binding certification from a jointly selected health care provider. During FMLA leave, the County may request that the employee provide recertification of a serious health condition at intervals in accordance with the FMLA. The employee must provide the County with periodic reports regarding the employee's status and intent to return to work when requested. If the employee gives the County notice of his/her intent not to return to work, the employee will be considered to have voluntarily resigned. Before the employee returns to work from FMLA leave for the employee's own serious health condition, the employee may be required to submit a fitness for duty certification from the employee's health care provider, with respect to the condition for which the leave was taken, stating that the employee is able to resume work. FMLA leave or return to work may be delayed or denied if the appropriate documentation is not provided in a timely manner. Failure to provide requested documentation may lead to termination of employment.

(9) Designation of FMLA Leave. The County will notify the employee whether leave has been designated as FMLA leave and how much leave will be counted against the employee's leave entitlement. The County may provisionally designate the employee's leave as FMLA leave if the County has not received medical certification or has not otherwise been able to confirm that the employee's leave qualifies as FMLA leave. If the employee has not notified the County of the reason for the leave, and the employee desires that leave be counted as FMLA leave, the employee must notify the County within two business days of the employee's return to work that the leave was for an FMLA reason.

(10) Continuation of Benefits. During FMLA leave, the County will continue an employee's group insurance coverage under the same conditions as if the employee were working. An employee on FMLA leave will continue to be responsible for his/her portion(s) of group insurance premiums. Failure to timely pay your portion (within thirty (30) days of due date) may result in loss of coverage. FMLA leave is not a "qualifying" event under COBRA. If the employee does not return to work, the employee shall be liable to the County for repayment of insurance premiums paid by the County during the employee's FMLA leave.

(11) Return from FMLA Leave. Upon return from FMLA leave, the County will place the employee in the same or equivalent position with equivalent pay, benefits, and other terms and conditions of employment. An employee is entitled to reinstatement only if he/she

would have continued to be employed had FMLA leave not been taken. Thus, an employee is not entitled to reinstatement if, because of layoff, reduction in force, or other reasons, the employee would not be employed at the time job restoration is sought. The County reserves the right to deny reinstatement to exempt, eligible employees who are among the highest paid ten percent of the County's employees ("key employees") if such denial is necessary to prevent substantial and grievous economic injury to the County's operations. An employee returning to work must be able to perform the essential functions, with or without reasonable accommodations, of the position the employee held before the leave or an equivalent position with equivalent pay, benefits, and other employment terms. The County may require a fitness for duty report before allowing an employee to return to work. Failure to timely report back from family medical leave will be treated in the same manner as failure to report back from other forms of approved leave.

(12) FMLA Rights and Obligations. The County will not: (1) interfere with, restrain, or deny the exercise of any right provided under the FMLA; or (2) discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA. The FMLA does not affect any federal or state law prohibiting discrimination, or supersede any state or local law providing greater family or medical leave rights.

F. Leave Without Pay. Leave without pay may be granted at the discretion of an employee's supervising elected official or department head. An employee on leave-without-pay retains all earned vacation leave and sick leave, but does not accumulate leave time, does not participate in County group insurance programs (at County expense), and does not receive pay for legal holidays or otherwise. An employee on leave-without-pay shall have the right to reinstatement to the position vacated or an equivalent position upon the conclusion of the approved leave-without-pay period. An employee on leave-without-pay may pay the total cost of any County group insurance program during such leave and be fully reinstated into such program(s) on return, where the program allows this.

G. Military Leave. The County complies with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), which protects applicants and employees who serve in the military from discrimination in the areas of hiring, job retention, and advancement. USERRA provides job and benefit protection for employees who serve in the military, and it provides certain reemployment rights to any employee who has been absent from work due to service in the United States uniformed services. The County will grant a military leave of absence to any employee who is required to miss work because of service in the United States uniformed services in accordance with USERRA. You must notify the County if you receive notice that you will require a military leave of absence unless providing such notice is precluded by military necessity, impossible, or unreasonable. You should provide the County with a copy of your official orders. When you receive notice that you will need a military leave of absence, please contact your supervisor for further information regarding your rights and responsibilities under USERRA.

H. Jury Duty Leave. A County employee called to serve on a jury must notify his/her supervisor immediately upon notice so that his/her work schedule can be modified to accommodate jury duty. A full-time County employee serving as a juror in state or federal court shall be entitled to a leave-without-pay for jury service, and such service or necessary appearances in court shall not be counted as vacation leave or sick leave, though an employee may choose to use vacation leave

or sick leave to be paid for absence necessitated by jury duty.

I. Maternity Leave. Maternity Leave will be treated as any other temporary disability under the Family Medical Leave Act.

J. Funeral/Emergency Leave. Full-time employees who have completed ninety (90) calendar days of employment with the county are allowed excused absences with pay for a death in the immediate family. For funerals that are in-state, three (3) working days not to exceed five (5) calendar days and for funerals out-of-state, five (5) working days not to exceed seven (7) calendar days. Immediate family is defined to mean your spouse, child, mother, father, brother, sister, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, grandchildren, grandparents, and spouse's grandparents.

K. Work Related Injuries. As employees of the county, you are entitled to benefits under the provision of the Arkansas Worker's Compensation Law. If you experience a work-related injury, you are required to report it as soon as you are aware of it. Failure to do so may result in either your claim for compensation being denied or delay in receiving your worker's compensation benefits, or disciplinary action, up to and including termination.

7. Standard of Conduct/Progressive Discipline

A. **Purpose:** Jefferson County has established reasonable rules of conduct and performance. There is rarely a need for severe discipline. Disciplinary action will only be taken after complete consideration has been given to all facts in the case and the best course of action has been decided. Your supervisor will better acquaint you with the rules and policies and their importance to a healthy and stable operation. You will be made aware of amendments or changes, which may occur with respect to these rules as they are made. We recognize our continuing responsibility to develop and administer the necessary regulations and disciplinary measures in a fair and consistent manner. It is the responsibility of all employees working in this department to conform to those rules and regulations.

B. **Warnings:** Whenever an employee violates one or more of the rules of conduct warranting disciplinary action, such action may be taken as listed below, depending on the seriousness of the offence committed and past infractions.

- 1) A **verbal warning** will be issued to the employee, but no formal indication will be made in the employee's personnel file for a first offense.
- 2) A **written warning** will be issued to the employee committing a second offense and a copy of the written warning, signed by the employee and his supervisor will be placed in the employee's personnel file.
- 3) A **suspension** from work without pay for a period not to exceed thirty (30) days may be issued to the employee committing the offense and such fact will be officially noted in the employee's personnel file.

- 4) A **termination** of the employee may occur due to the nature of the offense or as a result of the receipt of other disciplinary actions indicating a continuing disregard for the rules and regulations of this department.

All disciplinary actions taken are subject to the grievance procedure as hereinafter set forth. There are certain rules and regulations that are so inherently necessary in public service that common sense and good judgment would require that infractions thereof may be sufficient grounds for **termination** or **suspension** without giving notice or warning. Your cooperation in observing the following rules and regulations is required.

- 1) Fraud in securing employment.
- 2) Insubordination.
- 3) Inefficiency.
- 4) Neglect of duty.
- 5) Dishonesty.
- 6) Discourteous treatment of the public.
- 7) Disclosure of confidential information.
- 8) Knowingly engaging in employment or other activities, which create a conflict of interest. The acceptance of anything of value for the purpose of influencing official conduct or decisions.
- 9) Willfully abusing, damaging, or defacing county property.
- 10) Utilizing county property for other than officially approved activities.
- 11) Excessive absenteeism or tardiness.
- 12) Falsifying records or other official documents.
- 13) Misuse of sick leave benefits.
- 14) Possession or use of alcohol beverages or illegal narcotics or being under their influence during working hours is prohibited, unless performed in the line of duty.
- 15) Violation of Speech Policy.

C. Speech Policy

1. Introduction: The purpose of this policy is to state employees' speech rights and speech obligations. The central themes of this policy are: 1) encouragement of responsible criticism and "whistleblowing," 2) preservation of county's officials' prerogatives to maintain order and discipline employees for misconduct, 3) establishment of an effective mechanism to resolve conflicts including, if possible, an appropriate official to coordinate employee criticisms and work-related concerns, and 4) provide special protection and guidance for employee whistleblowers.

2. Knowledge of Wrongdoing: Employees are required to report immediately any evidence of a county official's wrongdoing to the Prosecuting Attorney. Officials and employees are required to report immediately any evidence of an employee's wrongdoing to the appropriate elected official. Employees are subject to employment termination for any activity that interferes with or hinders the successful prosecution of criminal misconduct. Employees are not subject to retaliatory disciplinary action for reporting under this rule. Employees are subject to discipline for making frivolous reports.

3. Public Criticism: Constructive criticism is encouraged. Employees will not be disciplined for responsibly expressing their criticism to their immediate supervisor or the appropriate elected official, or, thereafter, responsibly expressing their criticism publicly. Public criticism of county operations or personnel can undermine the public's confidence in county government and adversely affect morale. Accordingly, absent emergency or exigent circumstances, employees are required to follow the chain-of command grievance procedure established by this Speech Policy and thereby to express any work-related criticism to their immediate supervisor and the appropriate elected official prior to expressing that criticism publicly. While it is not possible to list all of the factors that will be evaluated in deciding whether an employee should be disciplined for public criticism, the presence of one or more of the following factors will be considered as grounds for disciplinary action: a) the employee personally criticized another person in a way that undermined discipline or a close working relationship; b) the employee failed without justification to use the chain-of-command grievance procedures prior to engaging in public criticism; c) the speech related only to a personal internal grievance of the employee and did not concern a matter of significant public interest, such as serious mismanagement, a gross waste of funds, the abuse of authority, or a specific and substantial danger to public health; d) the speech was delivered in an intemperate, offensive, or unprofessional manner; or, e) the speech violated a specific provision of county policy.

4. On-Duty Speech Restrictions: The need for esprit de corps, discipline, and harmony necessitates some restrictions on employee speech when employees are on duty. The failure or deliberate refusal to obey a lawful order or command of a superior constitutes insubordination and is grounds for employment termination. Employees who feel a particular order is unfair or unwise are required to timely obey that order to the best of their ability. Employees are encouraged to timely express objections to orders to their immediate supervisor or the appropriate elected official for processing as a grievance through the appropriate chain-of-command. Employees on-duty or in uniform shall: a) refrain from using indecent or profane language, b) be courteous to citizens, c) maintain command of their temper, d) refrain from coarse, boisterous, or insolent language, e) treat superiors, subordinates, and associates in a respectful manner, f) not make personal attacks that ridicule, belittle, or defame the county or county personnel, g) not use epithets or terms that

tend to denigrate a particular race, religion, sex, or ethnic group, and; h) provide citizens their name and any badge number.

5. Off-Duty Speech Unrelated to Employment: Employees enjoy the same speech rights as other citizens with respect to off-duty speech unrelated to county employment, except for restrictions imposed by law.

6. Confidential Information: Employees shall not disclose or divulge any "confidential" information obtained by virtue of their employment to persons not specifically authorized to receive such information. "Confidential" information includes information not subject to release by the state's freedom of information laws. Uncertainty over whether particular information is "confidential" should be resolved by consultation with the appropriate elected official. Employees are required to submit to the appropriate elected official for review any writing relating to county government intended for publication of the ordinary course of the employee's county employment. This prepublication review in no way serves to censor an employee's writing; rather, it is designed to prevent the improper disclosure of confidential information to avoid county liability and to alert employees to the possible consequences of their intended publication.

7. Impartiality Requirement: Officials and employee shall not recommend or suggest in any manner, except in the transactions of personal business, the employment or procurement of a particular product, a professional service, or a commercial service including but not limited to the services of an attorney, bondsman, funeral director, ambulance service, or towing service. Officials and employees are prohibited while on duty or in uniform from making political endorsements or expressions of favoritism toward a particular political issue or candidate. Officials and employees are prohibited from using their official capacity to influence or interfere with the results of any political election except as authorized by law. Any exception to the above must be authorized by the appropriate elected official.

8. Public Appearances Representing the Department: Employees must receive the prior permission of the appropriate elected official before making any public appearance officially representing the county or a county office or one that gives the impression they are officially representing the county or a county office. Employees in county uniform, whether on or off-duty, shall not make speeches or presentations to any civic club, religious gathering, private or public organization, or other organized gathering without the prior approval of the appropriate elected official. The off-duty expressions of personal views by employees in their capacity as private citizens is not covered by this rule.

9. Contact With The Media: All inquiries by the public or the news media concerning information under the control of a county department (e.g. computerized information or the status of either a closed or pending investigation) should be referred to the elected county official in charge of that office of county government. All requests for

press releases or interviews must be coordinated with the appropriate elected county official or the employee in charge of that office of county government.

10. Speech Unprotected as a Matter of law: Employees are subject to employment termination for speech constituting treason, libel, slander, perjury, incitement to riot, or false statements regarding county operations or personnel when such speech is known to be factually inaccurate or is made with a reckless disregard for its truth or falsity.

11. "Appropriate Elected Official:" The "appropriate elected official", as used in this policy, shall mean: 1) for employees, the elected official responsible for managing the day-to-day affairs of the office of county government in which the speaking employee is employed and; 2) for officials, the prosecuting attorney. Employees are not prohibited from any direct contact with the prosecuting attorney at any time.

12. The Chain-Of-Command Grievance Procedure: A chain-of-command is hereby established to provide for the orderly and effective resolution of employee problems and concerns. Employees are to express their work-related criticisms and complaints to their immediate supervisor and then to the appropriate elected official. If not satisfactorily resolved by the immediate supervisor, employees must submit a written summary of any personal internal grievance to the appropriate elected official for a written response from the office of the appropriate elected official within ten working days. Any questions concerning the meaning or implementation of the county's employee speech policies should be directed to the appropriate elected official. Employees must obtain permission from the appropriate elected official to circulate while on duty or on department property any petitions, questionnaires, or other material relating to employee grievances or conditions of employment.

13. Use of The Elected Official's Stationary: If a personal opinion is to be expressed, the Elected Official's stationary should not be used. If an official opinion (one made in the employee's capacity as a county employee) is to be expressed, criticizing official, employee, or agency outside the Elected Official's Office, then the employee must give the Elected Official the opportunity to review and approve the official opinion before that official opinion is to be written on the Elected Official's stationary (which means that it is written on behalf of the Elected Official)

8. Informal Procedure for Reporting/Resolving Perceived Harassment and other Job-Related Complaints

A. **Purpose.** The purpose of this section is to provide a procedure for reporting any conduct or condition perceived to be discrimination, harassment, retaliation, violation of state or federal law, or other job-related complaints and to enable the County to act affirmatively, if needed, to assure compliance with the law. Any County employee may also utilize the Grievance Hearing Procedure below to bring such a matter before the County Grievance Committee. Any County employee may also informally raise a grievance with the County Judge as a mediator—if the

County employee is dissatisfied with the County Judge's informal resolution, the County employee may still utilize the Grievance Hearing Procedure. The County may, in its discretion, hold a hearing prior to any decision or deprivation.

B. Affirmative Duty to Report. If a County applicant or employee considers the conduct of a County official, agent, or employee, or a workplace condition, to constitute prohibited discrimination, harassment, or retaliation, or a violation of state or federal law, the applicant or employee has a duty to report it immediately to the applicant or employee's supervisor, supervising elected official, or the County Judge. If the conduct or condition allegedly involves the employee's supervisor, supervising elected official, and/or the County Judge, the employee shall report the conduct or condition to the County Grievance Committee. If the person reporting the alleged harassment or other condition is not satisfied with the action taken or if the alleged harassment or other condition continues, the person shall report the matter to the County's Prosecuting Attorney or a Deputy Prosecuting Attorney.

C. Affirmative Duty to Act. Any County supervisor, elected official, or the County Judge receiving any report of discrimination, harassment, retaliation, or violation of state or federal law has a duty to take appropriate action and report the matter to either the supervising elected official, the County Judge, or the County Grievance Committee so that appropriate action can be taken and the person originating the report can be informed of the action taken.

D. Continuing Duty to Report. If the person reporting the alleged discrimination, harassment, retaliation, or violation of state or federal law is not satisfied with the action taken or if the alleged discrimination, harassment, retaliation, or violation of law continues, the reporting person shall report the matter to the County Grievance Committee.

E. Confidentiality. Except to the extent necessary to implement this policy and remedy the alleged discrimination, harassment, retaliation, or violation of law, the identification of the person reporting the conduct or condition shall remain confidential.

F. No Adverse Employment Action. The County shall not take adverse action against a person for reporting conditions or conduct reasonably believed to be prohibited discrimination, harassment, or retaliation, in violation of the law or the state or federal Constitution, or in violation of state public policy.

8. **Grievance Hearing Procedure**

A. **Purpose**

(1) The purpose of this Grievance Hearing Procedure is to establish a procedure for resolving grievances of County applicants and County employees to enable the County, through its Grievance Committee, to: (i) hear about alleged violations of the law, the state or federal Constitution, or state public policy, and (ii) have the opportunity to take affirmative action to

enable the County to voluntarily conform the conduct of County officials and County employees to the requirements of the law, the state or federal Constitution, and state public policy.

(2) If an applicant or employee does not follow this affirmatively required Grievance Hearing Procedure, the County will raise waiver and estoppel as affirmative defenses to any claims against the County filed by the applicant or employee via any administrative or judicial procedures otherwise available for redress of grievances.

(3) Any decision of the Grievance Committee regarding an employee hired by the County Judge shall be advisory to the County Judge, but not binding on the County Judge. Any decision of the Grievance Committee regarding an employee hired by any other County official shall constitute the decision of the County and shall be binding.

B. County Grievance Committee.

(1) The membership of the County Grievance Committee is the standing Human Resource Committee—such appointment of the Grievance Committee membership must be done by ordinance, and members of the Grievance Committee must be designated by position (not by name). The persons to serve for any hearing will be the persons holding the committee position at the time the discipline or dismissal decision was made for which a hearing is requested.

(2) If the Grievance Committee determines that an executive decision or action of a County official violates the law or the Constitution, the Grievance Committee shall declare the decision or action to be illegal or unconstitutional and direct the County official (or advise the County Judge) to modify the decision or action to conform to the law, the state or federal Constitution, or state public policy.

(3) The Grievance Committee shall not substitute its operational judgment for that of a County elected official if the official's decision or action does not violate the law.

(4) With respect to employees hired by the County Judge, the decision of the County Grievance Committee shall be only advisory as required by Ark. Const. Amend. 55, section 3. For all other employees, the decision of the County Grievance Committee shall be the decision of the County as permitted by Ark. Const. Amend. 55, section 1.

(5) If a County official refuses to abide by the Grievance Committee's decision, the Grievance Committee must access the courts to seek an order enjoining the supervisory official from acting contrary to the law, the state or federal Constitution, or state public policy—if the Grievance Committee fails to seek a court injunction, the Grievance Committee may be deemed to have acquiesced to the decision of the supervisory official and the decision of the supervisory official may be deemed the County's final decision with respect to the employment action taken.

C. Timely Grievance Hearing Request Required. A grieving applicant or employee must submit a written grievance hearing request after any claimed deprivation of the applicant or employee's property, liberty, or statutory/constitutional rights. A written grievance hearing request must be delivered to the County Grievance Committee in care of the County Judge no later than the

close of business on the third full business day (weekends and holidays excluded) after any claimed deprivation for which a hearing is requested. The written grievance hearing request must state: (1) the grievance for which a hearing is requested; (2) the alleged factual basis of the grievance; and (3) the relief sought. If an applicant or employee fails to submit a timely hearing request as required under this section, the County will raise waiver and estoppel as affirmative defenses to any claims against the County filed by the applicant or employee via any administrative or judicial procedures otherwise available for redress of grievances.

D. Automatic Suspension with Pay for Terminations. Any termination of employment shall automatically be a suspension with pay for three full business days (weekends and holidays excluded) during which the terminated employee may request a pre-deprivation grievance hearing, which shall be granted if requested. If the employee requests a hearing under this section, the suspension with pay shall continue until the conclusion of the hearing before the County Grievance Committee. If the employee requests a continuance of the pre-deprivation grievance hearing under this section, a continuance may be granted at the discretion of the Grievance Committee, but the employee will not be paid for the period of the continuance. In no event shall a suspension with pay status continue for more than 14 days unless extended by decision of the Grievance Committee. All accrued but unpaid leave time (vacation leave, compensatory time, etc.) will automatically run concurrent with the period of suspension with pay, unless the employee prevails in his or her grievance, in which case the employee will not forfeit any unpaid leave time during the period of suspension with pay.

E. Written Response to Hearing Request Required. The County Grievance Committee shall provide a written response to all timely grievance hearing requests. If the hearing request is granted, the Committee's response shall state the date, time, and location of the hearing. If the hearing request is denied, the Committee's response shall state the reason(s) for the denial.

F. Mediator Role of County Judge. Upon receiving notice of a request for a hearing before the County Grievance Committee, the County Judge may choose to conduct an informal hearing of the dispute to mediate a solution acceptable to both the grieving applicant or employee and the supervising County official(s). The mediation will be concluded by the County Judge before the hearing before the County Grievance Committee begins. The mediation may be conducted in any manner the County Judge believes will offer the best opportunity for resolving the dispute informally and by agreement.

G. Hearing Procedure.

(1) The hearing shall be held in public if required by law (such as under the FOIA). The employee may, at any time, decline or end the hearing and accept the intended discipline or termination.

(2) The hearing shall be transcribed by a court reporter (not merely a tape recorder) upon request by the grieving employee or the employee's supervising elected official at the expense of the requesting party. At the hearing, on the record, the parties shall suggest any desired hearing procedures and state any complaints regarding: (i) the notice; (ii) the date, time, or

location of the hearing; (iii) the opportunity to refute charges; and (iv) the impartiality of any decisionmaker(s).

(3) Informal rules of procedure and evidence shall be followed at hearings: (i) witnesses shall testify under oath; (ii) parties shall be allowed to be represented by legal counsel at their own expense; (iii) parties shall be allowed to examine and cross-examine witnesses; (iv) parties should be granted a reasonable continuance if requested prior to the hearing in writing and if reasonably necessary for stated reasons to prepare adequately for the hearing.

(4) The Grievance Committee will hear the evidence and argument offered by the parties and vote without public discussion or deliberation. Only the Grievance Committee's decision, but not the factual or legal reasoning, shall be announced publicly.

(5) Public access to applicant or employee grievance records is authorized only if approved by the applicant or employee or authorized by the Arkansas FOIA.

9. Grievance Hearing Issues and Burdens of Proof

A. Property Interest Hearing—Claim of Property Interest in Employment. The grieving employee has the burden of proving by a preponderance of the evidence that he or she has a legitimate claim of entitlement to his or her employment—despite the County's at-will employment policy—and not a mere subjective or unilateral expectancy of continued employment. If the employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that there is just cause for the intended discipline or dismissal.

B. Liberty Interest Hearing—Claim of Unconstitutional Retaliation. The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she has engaged in constitutionally-protected conduct that was a substantial or motivating factor in an adverse employment decision, discipline, or dismissal. If the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the adverse employment decision, discipline, or dismissal would have occurred in the absence of the constitutionally-protected conduct.

C. Liberty Interest Hearing—Claim of Disability Discrimination. The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she is a qualified individual with a disability who, because of the disability, has been treated or affected differently than another person regarding job application, procedures, advancement, dismissal, compensation, training, or other terms, conditions, or privileges of employment. If the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the difference in treatment or effect is job-related and necessary to effectuate a legitimate County objective, that performance of the job cannot be accomplished by reasonable accommodation, or that the needed accommodation would cause the County undue hardship.

The following definitions apply to claims of disability discrimination:

(1) “Disabled” or “disability”: A physical or mental impairment that substantially limits one or more major life activities of an individual; having a record of such impairment; or being regarded as having such an impairment. Being “regarded as having such an impairment” may include individuals with conditions such as obesity or cosmetic disfigurement and individuals perceived to be at high risk of incurring a work-related injury.

(2) “Discrimination” includes: (i) limiting, segregating, or classifying a job applicant or employee in a manner that adversely affects his or her opportunities or status; (ii) participating in contractual or other arrangements that have the effect of subjecting individuals with disabilities to discrimination; (iii) using standards, criteria, or methods of administration in such a manner that results in or perpetuates discrimination; (iv) imposing or applying tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the test or selection criteria are job-related and consistent with County necessity; (v) failing to make reasonable accommodations to the known limitations of a qualified individual with a disability unless an accommodation would impose an undue hardship on the operation of the County; or (vi) denying employment opportunities because a qualified individual with a disability needs reasonable accommodation.

(3) “Reasonable accommodation” examples include: (i) making existing facilities used by County employees readily accessible to the disabled; (ii) restructuring non-essential elements of the job; (iii) flexible or modified work schedules/locations; (iv) reassignments to other positions; (v) acquisition or modification of equipment or devices; and (vi) permitting the use of vacation or an unpaid leave of absence.

(4) “Undue hardship” is an action requiring “significant difficulty or expense,” considering: (i) the overall size of the County with respect to the number of employees, number and type of facilities, and size of the budget; (ii) the type of operation maintained by the County including the composition and structure of the workforce; and (iii) the nature and cost of the accommodation needed.

(5) “Qualified individual with a disability”: An individual with a disability who, with or without reasonable accommodation, can perform the “essential functions” of the employment position held or desired.

(6) “Essential functions”: Job tasks that are fundamental but not marginal (not every job task is to be included in determining the essential functions).

D. Liberty Interest Hearing—Claim of No Rational Basis for Different Treatment. The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she has been treated differently than another similarly-situated person. If the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the different treatment is rationally related to the effectuation of a legitimate County objective.

E. Liberty Interest Hearing—Claim Arbitrary Decision—No Legitimate County Objective. The grieving applicant or employee has the burden of proving by a preponderance of the evidence that the action taken against him or her is not rationally related to the effectuation of

any conceivable legitimate governmental objective of the County. If the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the action taken is rationally related to the effectuation of a conceivable governmental objective of the County.

F. Liberty Interest Hearing—Claim Arbitrary Decision—Violation of State Public Policy. The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she is being treated in a manner that violates the public policy of the State of Arkansas as established by the Arkansas General Assembly or the Arkansas Supreme Court. If the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the adverse employment decision, discipline, or dismissal is not in violation of the established public policy of the State of Arkansas.

G. Name Clearing Hearing—Claim of Deprivation of Liberty Interest in Future Employment. The grieving applicant or employee has the burden of alleging that a “stigmatizing charge” has been publicly communicated by the County or a County official or employee and requesting an opportunity to publicly clear his or her name. If the applicant or employee meets his or her burden, the County shall provide the applicant or employee a public hearing opportunity to clear his or her name.

H. Records of Disciplinary Action

10. Issues Not Addressed in the Personnel Policy

Questions or issues may arise that are not specifically addressed in the County’s Personnel Policy. As explained above, the County elected officials and County Judge have discretion to determine the application, meaning, and intent of the provisions of the Personnel Policy as they relate to the employees of that County elected official’s office. Consistent with that discretion, the County elected officials and County Judge may issue policy memorandums to County staff to address questions or issues that are not addressed in the County Personnel Policy.

ACKNOWLEDGMENT AND RECEIPT

I hereby acknowledge receipt of the County Judge's Personnel Policies. I understand that the policies and the handbook are not to be construed as an employment contract.

I understand the County Judge reserves the right to unilaterally revise these policies in whole or in part at any time.

I further understand that my employment is **at-will** and that no representative of the county has the authority to change that relationship.

All county-owned equipment entrusted to me must be kept in reasonable condition given normal wear and tear. This equipment must be turned in before a final paycheck is issued if my employment has ended for any reason.

My signature below indicates that I have read and understood the above statement. I have received a copy of the personnel policies and also realize **I will be subject to random drug testing**. I may also be subject to random alcohol testing if I operate commercial equipment or drive a county vehicle.

DATE

EMPLOYEE'S SIGNATURE

Revised July 1, 2021