

# Personnel Ordinance

**BUNCOMBE COUNTY**

**North Carolina**



Revised October 3, 2017

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## **ARTICLE I. ORGANIZATION OF PERSONNEL SYSTEM**

### **Section 1. Purpose**

The purpose of this Personnel Ordinance is to establish a personnel system that shall promote a fair and effective means of employee recruitment and selection; develop and maintain an effective and responsible work force; promote understanding, cooperation, equal treatment, and efficiency; and provide the means for removal of unsatisfactory employees. This Ordinance is established under the authority of Chapter 153A, Article 5, and Chapter 126 of the North Carolina General Statutes.

### **Section 2. Coverage**

- A. All employees in the County's service are subject to this Ordinance, except as provided in this section.
- B. County Board of Commission members shall be exempt from the provisions of this Ordinance except for Article VII, Employee Benefits.
- C. The County Manager, the County Attorney, the Finance Director, the Clerk to the Board and the Director of the Board of Elections are exempt from the provisions of this Personnel Ordinance which relate to hiring, disciplinary actions including but not limited to suspension without pay, dismissal, grievances, and appeals.
- D. Consultants, temporary employees, and volunteers are exempt from the provisions of this Personnel Ordinance except where made specifically subject to any provision.
- E. To the extent that this Personnel Ordinance relates to hiring, disciplinary actions including but not limited to suspension without pay, dismissal, grievances, and appeals, these provisions shall not apply to the Sheriff and all employees of the Sheriff, the Register of Deeds and all employees of the Register of Deeds, and the Director of Elections and all employees of the Board of Elections.
- F. Employees subject to the jurisdiction of the North Carolina State Personnel Commission shall be subject to all articles except the provisions regarding appeals and grievances. Additionally, in accordance with Chapter 126 of the North Carolina General Statutes, to the extent that the provisions of this Personnel Ordinance are inconsistent for employees subject to the North Carolina State Personnel Act as well as the North Carolina Administrative Code relative to such employees, the State Personnel Act and the North Carolina Administrative Code will control.
- G. To the extent the provisions of this Personnel Ordinance conflict with federal or state law, the provisions of the federal and state law shall prevail and the provision shall not be applicable to the respective employee.

### **Section 3. Employee Status**

- A. At the time employees are hired, they are classified as either full-time regular, part-time regular or temporary employees and are also told whether they are eligible to earn overtime

pay. In addition, employees hired into a full-time regular or part-time regular position are eligible to earn Covered Employee status.

- B. Unless otherwise specified, the benefits described in this Personnel Ordinance apply only to full-time regular or part-time regular employees in an established regular position of which the duties and responsibilities are required to be performed on a continuous basis.

**1. Full-Time Regular Employees.** Full-time employees who are hired into a regular position and scheduled to work at least 2,080 hours in a year are full-time regular employees. Full-time regular employees are:

- a. Eligible to use accrued earned leave from date of hire;
- b. Eligible to enroll in health insurance benefits pursuant to the terms of the applicable plans after the first thirty days of consecutive employment effective October 3, 2017.
- c. Members in the North Carolina Local Governmental Employees' Retirement System upon date of hire,
- d. Eligible for other benefits in accordance with the terms of the applicable plans after the first six months of consecutive employment;
- e. Granted "Covered Employee" status after the first twelve (12) months of consecutive service.<sup>1</sup>

**2. Part-Time Regular Employees.** Part-time employees who are hired into a regular position and scheduled to work less than 2,080 hours in a year are part-time regular employees. Part-time regular employees are:

- a. Eligible to use pro-rated accrued earned leave from date of hire;
- b. Members in the North Carolina Local Governmental Employees' Retirement System upon date of hire for those employees who are scheduled to work 1000 hours and less than 2080 in a twelve-month period;
- c. Eligible to enroll in health insurance benefits pursuant to the terms of the applicable plans after the first six months of consecutive employment and after thirty days of consecutive employment effective October 3, 2017 for those employees who are scheduled to work at least thirty hours per week;
- d. Eligible for other benefits in accordance with the terms of the applicable plans and eligibility criteria after the first six months of consecutive employment;

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<sup>1</sup> Approved by County Commissioners on 06/21/2016 effective 07/01/2016

e. Granted “Covered Employee” status after the first twelve (12) months of consecutive service.<sup>2</sup>

- 3. Temporary Employees.** Temporary employees are hired for specific periods of time not to exceed a year and are at-will employees. Temporary employees who are hired into a position the duties of which require not less than 1,000 hours in a twelve month period shall be required to join the N.C. Local Governmental Employees’ Retirement System. Temporary employees who work less than 1,000 hours or are hired into a job with the expectation of working less than 1,000 hours in a twelve-month period but due to unforeseen circumstances work more than 1,000 hours but not more than a year will not be required to join the N.C. Retirement System. Temporary employees are not eligible for other benefits.
- 4. Non-Exempt Employee (Fair Labor Standards Act Status).** Full- and part-time employees who have been classified as “Non-Exempt” from the overtime provisions of the Fair Labor Standards Act will be paid for overtime hours worked or given compensatory time off in accordance with the guidelines in this Personnel Ordinance. Overtime is paid or compensatory time off is given to non-exempt employees for hours worked in excess of the standard work periods established by the County.
- 5. Exempt Employee (Fair Labor Standards Act Status).** Full- and part-time employees who have been classified as “Exempt” from the overtime provisions of the Fair Labor Standards Act are paid for the accomplishment of assigned accountabilities rather than being paid for the number of hours worked in a work period. These include executive, administrative and professional staff of the County.
- 6. Covered Employee.** A full-time regular or part-time regular employee occupying a regular position who has completed twelve (12) months of continuous service and has a “Meets Expectations” or higher overall rating on the employee’s performance evaluation will be a Covered Employee with a property interest in his/her job.<sup>3</sup> If an employee does not receive an evaluation before the official review date, the employee will be considered to have performed in a satisfactory manner and be a Covered Employee.

#### **Section 4. Definitions (Listed Alphabetically)**

**Aggregate Service.** The employee's combined total period of countable service of employment within a regular position as an employee of Buncombe County, exclusive of any time allowed as transfer credit from another jurisdiction, for the purpose of determining entitlement to the particular benefit in question.

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<sup>2</sup> Approved by County Commissioners on 06/21/2016 effective 07/01/2016

<sup>3</sup> Approved by County Commissioners on 06/21/2016 effective 07/01/2016

Aggregate service for retirement purposes refers to total length of service under which retirement contributions are paid into the N.C. Local Governmental Employees' Retirement System by the employee. Aggregate service for determining the rates at which longevity and annual leave are earned by an employee is determined from the total years of service with Buncombe County only.

Rehired employees, or new hires from other North Carolina government employers who are within the State retirement system, will be eligible for Annual Leave Accrual at rates commensurate with total years in service of Buncombe County plus other North Carolina government employers who are within the State retirement system consistent with the Personnel Ordinance at the date of rehire or as a new hire as described above.

Except as otherwise provided, rehired employees, and new hires from other North Carolina government employers, will be eligible only for the existing benefits at the time they are rehired, e.g., current health insurance plan, current 401K plan, etc. In addition, rehired employees will be eligible for a longevity rate with said accrual calculated based on the date of rehire (previous years of service will not be counted).

For an employee hired on or after July 1, 2016, the employee shall not be eligible for a pro-rated longevity payment upon separation by retirement if the employee retires before December 1.

**Appeal.** An appeal is a formal process for a Covered Employee to contest a final decision made after a pre-disciplinary hearing involving an involuntary demotion, suspension without pay, dismissal, or a reduction in force.

**Appointing Authority.** Any County official with legal authority to make hiring decisions or elected official with the legal authority to make hiring decisions.

**At-Will Employee.** An individual who is free to resign at any time with or without notice or cause and whose employment may be terminated at any time, with or without notice or cause.

**Classification.** A class or group of job classes having similar duties and responsibilities requiring similar qualifications, which can be properly designated by one title indicative of the nature of work performed, and which carry the same salary range.

**County Whistleblower Hotline.** A toll free number (1-866-908-7236) that is answered by an independent third party source and available to the public and employees to register a complaint or concern anonymously. Anonymous reports are directed to the Internal Auditor to investigate and ensure appropriate follow up action if appropriate.

**Covered Employee.** A full-time regular or part-time regular employee occupying a regular position who has completed twelve (12) months of continuous service and has a "Meets Expectations" or higher overall rating on the employee's performance evaluation and has obtained a property interest in his/her job.<sup>4</sup> If an employee does not receive an evaluation before the official review date, the employee will be considered to have performed in a satisfactory manner and be a Covered Employee. Absences of less than thirty-one days shall not be

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<sup>4</sup> Approved by County Commissioners on 06/21/2016 effective 07/01/2016.

considered a break in service. This definition does not include employees in positions such as temporary, temporary grant, or time-limited employees.

**Demotion.** Demotion is an action that:

- Lowers the salary of an employee within their current pay grade or places the employee in a position at a lower pay grade with or without lowering the employee's salary, and
- The action was involuntary, and
- The action taken was to discipline the employee.

**Employee Protection Hotline.** A toll free number (1-866-908-7236) that is answered by an independent third party source and available to employees as well as the public to register a complaint or concern anonymously. Anonymous reports are directed to the Internal Auditor to investigate and ensure appropriate follow up action if appropriate.

**Exempt Employee (Fair Labor Standards Act Status).** Full- and part-time employees who have been classified as "Exempt" from the overtime provisions of the Fair Labor Standards Act are paid for the accomplishment of assigned accountabilities rather than being paid for the number of hours worked in a work period. These include executive, administrative and professional staff of the County.

**Full-Time Regular Employee.** An employee appointed to a regular position and scheduled to work at least 2,080 hours per year. Employees in these positions are eligible for Covered status as well as specified employee benefits.

**Grievance.** A claim or complaint alleging an event or condition which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established ordinance pertaining to employment conditions. A grievance may involve allegations of bullying, sexual harassment, discriminatory practices, and/or hostile work environment. A grievance is not allowed for Investigatory Suspension with pay or voluntary demotion or a written warning or reassignment that does not involve a reduction in pay. Employees covered under the State Personnel Act should refer to the Appeals and Grievance specific to their Department.

**Hatch Act.** A federal act limiting political activity for state and local government employees whose principal employment is in an activity that is financed either in whole or in part by loans or grants from the federal government in order to limit possible bias and political coercion.

**Hiring Rate.** The salary paid an employee when hired into County service, normally within the first quartile of the salary range.

**Maximum Salary Rate.** The maximum salary authorized by the pay plan for an employee within an assigned salary grade.

**Non-Exempt Employee (Fair Labor Standards Act Status).** Full- and part-time employees who have been classified as "Non-Exempt" from the overtime provisions of the Fair Labor Standards Act will be paid for overtime hours worked or given compensatory time off in accordance with the guidelines in this Personnel Ordinance. Overtime is paid or compensatory

time off is given to non-exempt employees for hours worked in excess of the standard work periods established by the County.

**Part-Time Regular Employee.** An employee appointed to a regular position and scheduled to work less than 2,080 hours per year. Employees in these positions are eligible for Covered status as well as specified employee benefits.

**Pay Plan.** A schedule of pay ranges arranged by sequential rates for each classification assigned to a salary range.

**Position Classification Plan.** A plan approved by the Board of County Commissioners that assigns classes (positions) to the appropriate pay grade.

**Promotion.** The reassignment of an employee to an existing position or classification in the County service having a higher salary range than the position or classification from which the reassignment is made.

**Reassignment.** Reassignment is a change in status resulting from assignment to a position having a lower salary grade based on a mutual agreement between the employee and employer (e.g., choice of the employee; organizational needs, such as reorganization or reduction in force; or other mutually agreed upon arrangement).

**Reclassification.** The change of an existing position's classification from one classification to another based on changes in job or job class content.

**Regular Position.** A group of current duties and responsibilities, the need for which is on-going for an unspecified period of time and requiring the full or part-time employment of one person. Persons assigned to regular positions are entitled to benefits under *ARTICLE VII. ADDITIONAL EMPLOYEE BENEFITS* and eligible for Covered Employee status.

**Salary.** Consistent with North Carolina General Statutes, "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid to a Buncombe County employee.

**Salary Grade.** All positions which are sufficiently comparable to warrant one range of pay rates.

**Salary Plan Revision.** The uniform adjustment of the salary ranges of every grade within the pay plan.

**Salary Range.** The minimum and maximum salary levels for a given classification.

**Salary Range Revision.** The adjustment of the salary range for one or more specific classifications of positions within the classification plan.

**Salary Schedule.** A listing by grade and quartile of all the approved minimum and maximum salary ranges authorized by the Board of County Commissioners for various position classifications of the County.

**Temporary Employee.** Temporary employees are hired for specific periods of time not to exceed a year and are at-will employees. Temporary employees may be hired to perform hourly

work on an as needed basis or to complete a specific job or project. Temporary employees are not eligible for benefits.

**Temporary Position.** A position for which the duties and responsibilities are required for a specified period of time, not to exceed a year.

**Trainee.** An employee designated as such, appointed to a position in any class for which the appointing authority, County Manager, or his/her designee, and/or Human Resources Director has authorized “trainee” appointments. An individual may not be appointed as a trainee if he/she possesses the acceptable training and experience for the regular class, and must be appointed to the regular class when he/she gains the acceptable training and experience. A trainee must be paid at a rate below the minimum of the regular classification.

**Transfer.** The reassignment of an employee from one position or department to another.

**Work-Against Appointment.** When suitable qualified applicants are unavailable, and there is no trainee provision for the classification of the vacancy, the appointing authority may appoint an employee below the level of the regular classification in a work-against situation, provided an appropriate work-against classification is available. A work-against appointment is for the purpose of allowing the employee to gain the qualifications needed for the full class through on the job experience. The appointee must meet the minimum education and experience requirements of the class to which he or she was initially appointed.

For example, an applicant meeting the education and experience requirements for a Social Worker I classification may be hired in work-against status to fill a vacancy for a Social Worker III position for which the County has been unable to recruit a suitable applicant possessing the education and experience requirements of a Social Worker III position. An employee thus hired would be classified and paid as a Social Worker I until such time as the minimum education and experience requirements are met. A work-against appointment may not be made when applicants deemed suitable for the position are available who meet the education and experience requirements for the full class for the position in question.

**Work Day.** Those hours an employee is scheduled to work; for law enforcement a work day is referred to as a shift.

## **Section 5. Merit Principle**

All appointments and promotions hereunder shall be made solely on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range. No applicant for County employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of such individual's race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law.

## **Section 6. Responsibility of Board of County Commissioners**

The Board of County Commissioners shall establish a Personnel Ordinance, including the classification and pay plan, and shall make and confirm appointments when required by law.



Neither the Board of County Commissioners nor any of its committees or members shall direct or request the appointment of any person to or his removal from office by the County Manager or by any head of a department or officer authorized by such Manager to make such appointment, nor shall the Board of County Commissioners or any of its committees or members take any part in the appointment or removal of officers and employees in the administrative service of the County, other than those positions for which the Commissioners are responsible for appointing as set out in Chapter 153A of the North Carolina General Statutes.

Except for the purpose of an internal inquiry, the Board of County Commissioners and its members shall deal with that portion of the administrative service for which the County Manager is responsible through the County Manager and neither the Board of County Commissioners nor any member thereof shall give any directive to any county employee in the administrative service of the County, other than the County Manager, relating to any matter in the line of his or her employment.

### **Section 7. Responsibility of County Manager**

The County Manager shall be responsible to the Board of County Commissioners for the administration of the personnel program subject to his/her authority. The County Manager shall appoint, suspend, and remove all County employees under guidelines established in this Personnel Ordinance, except those elected by the people or whose appointment is otherwise provided for by law. The County Manager shall make appointments, dismissals, and suspensions in accordance with N.C. Gen. Stat. § 153A-82 and this Personnel Ordinance.

An official copy of the Personnel Ordinance and rules shall be available in the County Manager's office and/or Human Resources Department. The appointing authority, County Manager, or his/her designee, and/or Human Resources Director shall provide written procedures and forms necessary for the proper administration of the Personnel Ordinance set forth in this manual, and shall instruct staff in their appropriate use. Any questions concerning the application or interpretation of the Personnel Ordinance's guidelines or rules stated herein shall be directed by employees through appropriate Supervisory channels. Any questions on the part of Department Heads concerning the applicability or interpretation of the Personnel Ordinance's guidelines or rules should be directed to the appointing authority, County Manager, or his/her designee, and/or Human Resources Director before proceeding.

### **Section 8. Responsibility of the Human Resources Director**

- A. Unless otherwise stated in the policies of this Personnel Ordinance, the Human Resources Director or their designee shall be responsible for the following items:
1. The administration of the policies and procedures in this Personnel Ordinance;
  2. Recommending the following types of revisions to this document to the County Manager for approval by the Board of County Commissioners:
    - a. Classification Plan
    - b. Pay plan

- c. Leave policies
  - d. Retirement, health insurance, and other employee benefits
3. Investigating periodically the operation and effect of this document;
  4. Establishing and maintaining a roster of all persons in County services (setting forth the following items);
    - a. Each Supervisor and employee
    - b. Position
    - c. Salary
    - d. Any change in position and status
    - e. Such data as may be deemed desirable or useful
  5. Developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the County.
- B. The Human Resources Director, or their designee, shall be responsible for keeping policies and procedures in conformance with any legal requirements which may be imposed by other levels of government.
- C. The Human Resources Director shall be responsible for furnishing advice, technical direction, and assistance to County Department Heads and administrative staff in effectuating this Personnel Ordinance, including devising and implementing detailed procedures and records.
- D. The Human Resources Director shall designate those employees who are exempt from the Fair Labor Standards Act.
- E. The Human Resources Director shall also be responsible for performing such other duties as may be assigned by the County Manager, not inconsistent with this document.

**Section 9. Responsibility of Employees**

Buncombe County is committed to providing services with an efficient, effective, and professional staff.

- A. County employees are expected to be at work on time and must schedule leave according to agency leave policies. As a service agency, it is essential that our employees be available to serve the public during business hours (unless an employee is working a pre-approved flex schedule). In emergency cases, an employee must notify his or her Supervisor as soon as possible.
- B. County employees are expected to perform ethically, adhering to individual professional code of ethics when applicable. Actions that undermine the credibility of the County such as, but not limited to, lying, falsifying records, or breaches of confidentiality are subject to disciplinary action up to and including dismissal.

- C. County employees must keep a neat and well-groomed appearance and dress according to the specific conditions of the employee's work environment.
- D. County employees must treat county property with care and safeguard all county property from theft and misuse.
- E. County employees should refrain from off-duty conduct which undermines their ability to perform their job and/or undermines the credibility of the County Government such that there is sufficient connection between the employee's conduct and the employee's job.

**In addition to these expectations, staffs' actions should reflect the County's core values, as described in *Appendix A: Buncombe County Core Values for Employee Conduct*.**

## **ARTICLE II. POSITION CLASSIFICATION PLAN**

### **Section 1. Policy Statement**

All positions covered by this Personnel Ordinance are to be classified according to their duties, responsibilities, qualifications needed of incumbent employees, and other related factors. In order to assure its continuing value as a personnel management tool, the Position Classification Plan shall be maintained to reflect the current work assignments and other conditions and requirements which are factors in proper classification and allocation of positions.

### **Section 2. Allocation of Positions**

The Human Resources Director shall allocate each position covered by the Position Classification Plan to its appropriate class and salary grade in the plan. New positions shall be established only with the approval of the Board of Commissioners upon recommendation of the County Manager and/or the Human Resources Director. Any grant application that involves additional staff (independent contractor, temporary, designated grant FTE) must be reviewed and approved at the County Manager/Assistant County Manager level prior to submission of application.

### **Section 3. Administration**

A. The County Manager or Human Resources Director, as designed by the County Manager, shall be responsible for the administration and maintenance of the Position Classification Plan so that it shall accurately reflect the duties performed by employees in the classes to which their positions are allocated. After classification, each position shall be assigned to a pay grade in the Position Classification Plan.

Department Heads shall be responsible for bringing to the attention of the County Manager and/or Human Resources Director (1) the need for new positions, and (2) material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classification of any existing positions.

B. New positions shall be established with the recommendation of the County Manager and/or Assistant County Manager and approval of the Board of County Commissioners after which the Human Resources Director shall either (1) allocate the new position to the appropriate class within the existing Position Classification Plan or (2) recommend that the Board of County Commissioners amend the Position Classification Plan to establish a new class to which the new position may be allocated.

C. When the Human Resources Director finds that a substantial change has occurred in the nature of level of duties and responsibilities of an existing position, the Human Resources Director, upon the County's Manager's and/or Assistant County Manager's recommendation, shall (1) direct that the existing class specification be revised, (2) reallocate the position to the appropriate class within the existing Position Classification Plan, or (3) recommend that the Board of County Commissioners amend the Position Classification Plan to establish a new class to which the position may be allocated.

#### **Section 4. Amendments**

Classes of positions shall be added to and deleted from the Position Classification Plan by the Board of County Commissioners based on the recommendation of the County Manager and/or Human Resources Director.

#### **Section 5. Procedures for Change**

- A. The Position Classification Plan may have additional classes added or have classes deleted from time to time as needs of the County organization requires. The Board of County Commissioners shall approve the creation or deletion of any class.
- B. When a Department Head believes that a new class is needed, either to add a new field of employment or to reflect additional levels of work within an existing series of classes, the Human Resources Director shall be furnished a written statement of proposed duties for the new class and other information as necessary.
- C. A class shall be deleted from the Position Classification Plan when the Board of County Commissioners, with the recommendation of the County Manager and/or Human Resources Director, has determined that it no longer is being used or needed for the positions within the County organization.

#### **Section 6. Reclassification of Positions**

An employee may request that the classification of his/her position be changed, or the position be reallocated to another class.

- A. The employee shall submit the request in writing to the immediate Supervisor.
- B. The Supervisor shall transmit the employee's request to the Human Resources Director, together with his/her recommendations and approval of the Department Head.
- C. The Human Resources Director shall, upon the County Manager's and/or Assistant County Manager's recommendation, approve, disapprove, or reclassify the position to an existing classification or establish a new class for approval by the Board of County Commissioners.

## **ARTICLE III. PAY PLAN**

### **Section 1. Adoption**

The salary schedule, as approved by the Board of County Commissioners, is hereby adopted as the Pay Plan for Buncombe County.

### **Section 2. Maintenance**

The Human Resources Director shall be responsible for the administration and maintenance of the Pay Plan. The Pay Plan is intended to provide equitable compensation for all positions when considered in relation to each other, to comparable rates of pay for similar employment in the private and public sector in the competitive labor market, to changes in the cost of living, to financial conditions of the County, and other objective factors. To this end, the Human Resources Director may, from time to time, conduct comparative studies of all factors affecting the level of salary ranges.

### **Section 3. Administration**

The Pay Plan shall be administered in a fair and systematic manner in accordance with work performed. The pay structure should be externally competitive, and should maintain proper internal relationships among all positions based on relative duties and responsibilities.

### **Section 4. Hiring Rate/Starting Salary**

- A. The minimum rate established for the class is the lowest rate of the first quartile on the salary scheduled.
- B. Appointment may be made anywhere within the first or second quartile upon recommendation of the Department Head and approval of the Human Resources Director.
- C. Appointment in the third quartile and above may be made upon the recommendation of the Department Director and Human Resources Director and approval by the County Manager.
- D. Above the second quartile, appointment shall be based on such factors as the qualifications of the applicant being hiring than the minimum education and/or training for the class, and/or shortage of qualified applicants to accept employment within the first or second quartile on the salary schedule.<sup>5</sup>

### **Section 5. Salary Advancement**

- A. Upon successful completion of the first six months of continuous employment, an employee may receive a pay increase of between zero and four and one-half percent in salary upon recommendation of the Supervisor and approval by the Department Head and Human Resources Director.

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<sup>5</sup> Approved by County Commissioners on 06/21/2016 effective 07/01/2016

- B. The Supervisor shall review the work performance of the employee just prior to the end of the employee's first six months of continuous employment and submit recommendations in writing to the Department Head and Human Resources Director as to whether or not the employee should receive a salary increase using the County's Employee Performance Evaluation.
- C. If a Supervisor has recommended that an employee receive a salary increase, the Department Head shall transmit the recommendations to the County Manager and/or Human Resources Director for his/her consideration and approval.
- D. All salary increases shall be granted subject to availability of funds in the departmental appropriations.
- E. The County Manager has the authority to award bonuses and incentive payments up to one thousand dollars per person subject to availability of funds in the departmental appropriations. These funds are to be used to reward employees and teams who have done work that exceeds the expectations of their job description and is outside their normal job duties, and, impacts the efficiency and effectiveness of the agency. All bonuses and incentive payments shall be reported to the Board at a regular meeting of the Board of Commissioners no later than sixty days from the award.

The majority of the Board of Commissioners shall have the authority to award bonuses and incentive payments to employees in appointed positions subject to availability of funds in the departmental appropriations, and any such bonus or incentive shall be made public at the Board of Commissioner meeting within sixty days of award.

#### **Section 6. Payment at a Rate within the Salary Range**

- A. Employees covered by the salary plan shall be paid at a rate within the salary ranges established for their respective job classes except for employees in a trainee status or employees whose present salaries are above the established maximum rate following transition to a new pay plan or workweek hours.
- B. When an employee attains the maximum rate of a salary range for his/her present position, no further salary increase shall be received unless:
  - 1. The position is reclassified to a higher salary range;
  - 2. The employee is promoted to another position with a higher salary range; or
  - 3. The salary range for the present position is increased.

#### **Section 7. Trainee Salary**

An applicant hired or an employee promoted to a position in a higher class who does not meet all the established requirements of the position, shall be appointed with the approval of the appointing authority, County Manager, or his/her designee, and/or Human Resources Director in a "trainee" or "work-against" status. In either the "trainee" or "work-against" status, employees shall be paid at a lower level position salary grade which does not exceed the minimum of the higher level position for which the employee is training. An employee in a "trainee" or "work-

against” status shall continue to receive a reduced salary until the appointing authority, County Manager, or his/her designee,, and/or Human Resources Director shall determine that the employee is qualified to assume the full responsibilities of the position.

### **Section 8. Pay Rates in Promotion, Demotion, Transfer, and Reclassification**

When an employee is promoted, demoted, transferred or reclassified, the rate of pay for the new position shall be established as follows:

- A. An employee who is promoted may receive a pay increase within the approved salary plan and subject to availability of funds in the departmental appropriations and based upon the recommendation of the Department Director and approval of the County Manager and/or Human Resources Director.
- B. An employee who is demoted may have his/her salary reduced to any rate in the lower grade.
- C. An employee transferring from a position in one class to a position in another class assigned to the same pay range may continue to receive the same salary.
- D. An employee whose position is reclassified to a class having a higher salary range may receive a pay increase within the approved salary plan and subject to availability of funds in the departmental appropriations and based upon the recommendation of the Department Director and approval of the County Manager and/or Human Resources Director. If an employee’s position is reclassified to a lower pay range, then the salary of the employee will be reduced to the average pay for employees in that position’s pay range or upon the approval of the County Manager or Assistant County Manager may be reduced up to the maximum of the pay range for the position’s salary grade.

### **Section 9. Pay Rates in Salary Range Revision**

When the Board of County Commissioners approves a change in salary range for a class of positions, the salaries of employees whose positions are allocated to that class may be affected as follows:

- A. When a class of positions is assigned to a higher pay range, employees in that class may receive a pay increase based within the approved salary plan subject to availability of funds in the departmental appropriations and based upon the recommendation of the Department Director and approval of the County Manager and/or Human Resources Director.
- B. When a class of positions is assigned to a lower pay range, the salaries of employees in that class will be reduced to the average pay for employees in that position’s pay range or upon the approval of the County Manager or Assistant County Manager may be reduced up to the maximum of the pay range for the position’s salary grade.
- C. If the Board of County Commissioners, at its discretion, provides funds through appropriation for an across-the-board increase, then the pay plan shall be revised upward for all grades and ranges, so that employees receive a percentage increase. Each employee’s grade assignment shall remain the same.



## Section 10. Overtime

- A. The County abides by all applicable sections of the Fair Labor Standards Act and any Fair Labor Standard Amendments. The County shall properly record all applicable overtime accrued for each Covered Employee. This overtime policy is applicable only to employees of Buncombe County who are “Non-Exempt” under the Fair Labor Standards Act. If any area of this section is in conflict with the FLSA, then the FLSA shall supersede.
- B. Every employee must record his/her time card accurately to reflect all time worked. Failure to do so may result in disciplinary action up to and including dismissal. Should an employee be aware of any violation of this requirement or of any practice that discourages an employee from accurately recording his/her time, then the employee should report such concerns to the employee’s Department Head or County’s Human Resource Director or anonymously through the County Whistleblower Hotline (1-866-908-7236).
- C. Employees are expected to work during all assigned periods except mealtimes. Employees are not to perform work during any time that they are not scheduled to work unless they receive approval from their Supervisor, Department Head, County Manager, or his/her designee, or appointing authority except in cases of emergency. An emergency exists if a condition arises that could reasonably result in damage to property or persons or that requires the immediate attention of the employee. Employees who work excess hours because of an emergency shall advise their immediate Supervisor of the overtime worked as soon as practical following completion of the work.
- D. Department heads are responsible for ensuring that overtime hours are authorized, recorded, and properly documented for compensatory time off or overtime pay in accordance with the established record keeping forms and instructions.
- E. Computation for overtime shall include actual work hours worked over and above forty hours in any work week for non-law enforcement employees. For non-law enforcement personnel, computation for overtime hours shall be at the standard rate of one hour per hour worked up to forty hours per week, and at one and one-half hours per hour worked above forty hours per week.
- F. Computation for overtime shall include actual hours worked over and above the scale set for EMS and Sheriff’s employees in accordance with FLSA.
- G. Any form of leave taken such as sick leave, holidays, annual leave, and compensatory time off in a work period shall not count toward computing overtime hours.
- H. It is the goal of Buncombe County to provide a work load that can be processed within the normal working day. Work in excess of the regular schedule is discouraged unless absolutely necessary. Compensatory time is earned by all non-exempt employees who work additional time in conducting County business. The Human Resources Director's Office maintains a listing of all non-exempt and exempt positions.
- I. Non-exempt personnel scheduled to work on an on-call basis shall earn one and one-half hours compensatory time for each hour actually worked during on-call duty outside of normally scheduled work hours and beyond forty hours of actual time worked within a work

week. The time these employees work should be recorded daily on their time sheets. If work is conducted outside of regular hours, the nature of work should be recorded on the time sheet.

- J. Department heads shall be responsible for administering their compensatory policies by allowing employees to take accrued compensatory time in a timely manner so that compensatory hours shall not accrue to excessive levels. In situations in which compensatory time off is not practical, non-exempt employees shall be paid monetary compensation included in the employee's regular paycheck for overtime; however, overtime monetary compensation must be approved by the immediate Supervisor and/or Department head.
- K. All non-exempt employees may accrue not more than eighty hours of compensatory time for overtime hours worked.
- L. On-Call Time spent by an employee who is engaged to wait and unable to use the time for his/her own purposes is considered working time. Employees who are waiting to be engaged and merely required to be able to be contacted to come into work and are free to use their time as they choose are not considered to be working during their on-call time.
- M. Employees who work on a holiday shall receive either payment for two days of work or payment for one day and receive a compensatory day off with pay at a later date. This choice shall be the employees' with the approval required from the Department Head.
- N. An employee who is "Called Back" to work for a Call-Back Emergency situation, outside his/her regularly scheduled hours, shall be paid a minimum of three hours base hourly pay for the first call and a minimum of two hours for the second call. For Sheriff's department employees with issued vehicles, a minimum of one hour of base pay for the first and second call shall be allowed. If further calls back to work are made during the same twenty-four hour period, the employee shall receive actual (portal to portal) time for these calls.
- O. Law enforcement on-call periods should not be counted for the purpose of computing work hours. On-call is considered to be a back-up position for an emergency situation. Individuals that are assigned to be on-call are not restricted to the employer's premises or their own residences, but must remain in their respective response area and must keep the County Communications Center or their Supervisor informed of their location and telephone number. Since the employee can use this time for their own purposes it is not work time.

### **Section 11. Payroll Deductions**

Federal and state income taxes, Social Security tax, withholding for court-ordered child support payments (upon receipt of appropriate notices to withhold or by other order of a court of competent jurisdiction), and retirement contributions shall be deducted as authorized by law and the Board of County Commissioners. Credit Union deductions, insurance premiums and other deductions requested by the employee and not paid by the County may also be deducted. In addition, in accordance with the appropriate federal, state or local law, the County may have to garnish an employee's wages. Because these deductions are calculated on the basis of information provided by the employee, it is mandatory that the employees keep the County informed of their personal status for withholding purposes.

## **Section 12. Payroll Procedure**

All employees shall be compensated bi-weekly and must utilize direct deposit at the bank of his/her choice as the payment method.

## **Section 13. Consumer Price Index Salary Adjustment**

Each year, effective during the month of April, employees occupying a regular position shall receive an annual salary percent increase equal to the percentage increase in the annual consumer price index for the prior calendar year. The pay plan shall be revised upward for all grades and ranges to reflect an increase in the consumer price index.

The index to be used is the Consumer Price Index, Urban Wage Earners and Clerical Workers, U. S. City Average, All Items, published by the United States Department of Labor, Bureau of Labor Statistics **and in effect as of December 31<sup>st</sup> next preceding the date of the salary adjustment.** Seasonally adjusted data will not be used.

## ARTICLE IV. RECRUITMENT AND SELECTION

### Section 1. Policy Statement

The Directors of the departments of Social Services, Public Health, Sheriff, Register of Deeds, and Board of Elections shall have authority over and be responsible for the recruitment, application submission, employment, selection, appointment, supervision, and discharge of employees in their respective departments with the County Manager and/or Human Resources Director approving the salary and classification of the new employees.

### Section 2. Statement of Equal Employment Opportunity Policy

- A. Buncombe County is committed to the principles of equal employment opportunity. It is the policy of the County to maintain a systematic, consistent recruitment program, to promote equal employment opportunities, and to identify and attract the most qualified applicants for employment with the County.
- B. Firm practices and employment decisions regarding recruitment, hiring, assignment, promotion, and compensation shall not be based on any individual's race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law.
- C. Any person with concerns or suggestions about our hiring process should contact to the Buncombe County Human Resources Director, any member of senior management, or anonymously through the County Whistleblower Hotline (1-866-908-7236). For further information on Buncombe County's nondiscrimination policy, see *Appendix F: Unlawful Workplace Harassment*.

### Section 3. Recruitment

- A. The Human Resources Director is responsible for an active recruitment program to meet current and projected staffing needs, using procedures that shall ensure equal employment opportunities based on job-related requirements.
- B. Recruitment efforts shall be coordinated in a timely manner.
- C. The Human Resources Director and the Department Head may jointly determine whether a position vacancy shall be filled by outside recruitment or promotion.
- D. In case of disagreement, determination shall be made by the appointing authority or County Manager, or his/her designee.

### Section 4. Position Vacancy Announcements

- A. Vacant positions shall be reviewed by the applicable Department Head and the County Manager and/or Human Resources Director to determine whether they should be filled.

- B. Applicants shall be recruited for vacant positions which are to be filled by posting position vacancy announcements for a minimum of five working days on the Buncombe County website and the local office of the Employment Security Commission if external candidates are being sought and/or at the Human Resources Department and within each County Department should internal applicants be sufficient.
- C. Optional recruiting publicity may be carried out through the media, as appropriate.
- D. Position vacancy announcements shall contain, at a minimum:
  - 1. The title and the hiring range;
  - 2. The closing date of the announcement;
  - 3. A summary of the duties of the position;
  - 4. A summary of the minimum qualifications;
  - 5. The procedures for making application; and
  - 6. A statement of equal employment opportunity.

### **Section 5. Application Submission**

- A. The Buncombe County Electronic Employment Application shall be the standard application accepted for any and all position listings.
- B. Applications are accepted through the Buncombe County website ([www.buncombecounty.org](http://www.buncombecounty.org)).

### **Section 6. Application for Employment**

- A. All persons expressing interest in employment with the County are given an opportunity to file an application for employment with the Human Resources Department. For most positions, applications are accepted for publicized vacancies only. A separate application must be submitted for each position applied. Copies are not accepted.
- B. Applications are logged according to job classification and remain in active status for six months.

### **Section 7. Qualification Standards**

- A. All applicants considered for employment or promotion shall meet the qualification standards established by the class specifications and/or job description for the vacant position.
- B. All appointments shall be made on the basis of merit and in accordance with the Statement of Equal Employment Opportunity Policy. See *ARTICLE IV. RECRUITMENT AND SELECTION, Section 2. Statement of Equal Employment Opportunity Policy.*
- C. Consideration may be given to “Trainee” appointments or “Work-Against” appointments when there is an absence of suitable qualified applicants from which to make a selection. In

this instance, the deficiencies may be eliminated through orientation and on-the-job training and experience, and the employee is designated a “Trainee” or a “Work-Against” appointment by the Human Resources Director and/or appointing authority.

In either event, the appointee must meet the minimum education and experience standard of the class to which initially appointed. When an applicant is selected to a “Work-Against” or “Trainee” appointment to fill a vacancy for which one or more other applicants met the minimum qualifications on the basis of education and experience, documentation must be provided to support the selection decision which includes findings determining other applicant(s) qualified on the basis of education and experience to be unsuitable for the position.

### **Section 8. Selection**

After applicants have been properly recruited for by the Human Resources Department, the applications are forwarded to the Supervisor. The Supervisor makes the decision as to employment, subject to the approval of the Department Head, Human Resources Director, and/or the County Manager.

- A. All persons who have applied for employment are considered on the basis of bona-fide occupational qualifications. All applicants must meet the minimum training, education and experience, certification or license requirements established for the position, except for established trainee positions. In addition, applicants must meet other minimum standards as to character, aptitude, ability to meet the public, and the ability to perform the essential job functions with or without accommodation, as may be required by the position.
- B. If training and experience are among the criteria for employment in a job, the Department Head shall determine a procedure for the evaluation of the training and experience of the various applicants. This procedure shall give due regard to recentness, quality, and quantity of the applicant’s experience and training.
- C. Applicants will generally not be notified of the outcome of their application for employment unless they are interviewed by a Supervisor or Department Head. Notification shall be from the department with the vacancy or from the Human Resources Department. Concerned applicants may check the status of their application by contacting the Human Resources Department or appointing authority.
- D. Provided qualified applicants are available, a minimum of three applicants should generally be interviewed for each position.
- E. At the end of the selection process of each vacancy, the Supervisor is responsible for completing an Application Selection/Rejection Data Form. The original copy must be submitted to the Human Resources Department at the time of selection. The Application Selection/Rejection Data Form provides documentation for EEO purposes and is a record of those applicants to be notified of the outcome of the selection process.

## **Section 9. Applicant Drug Screening through Urinalysis**

- A. As a public employer, the County of Buncombe is entrusted with the health and safety of its citizens. In keeping with this obligation and as a condition of employment, prior to the offer of employment, the applicant shall be required to submit to a urinalysis drug screening procedure for the purpose of screening for the presence of illegal drugs or an abusive level of prescribed medication. It shall be the policy of the County of Buncombe that a negative result from this screening is a condition of employment. A confirmed positive test result indicating the presence of illegal drugs or an abusive level of prescribed medication, shall result in a rejection of the applicant for employment and shall bar the applicant from securing employment with the County of Buncombe for at least one year from the time of the drug screen.
1. Drug screening results shall be held in the strictest confidence. Applicants who are tested shall be provided with a copy of the test results if requested. Specimens shall be checked by a lab utilizing strict chain of custody procedures.
  2. Drug screen testing shall be limited to the top finalist upon completion of the employment selection process.
  3. All individuals applying for employment with the County of Buncombe must sign the Drug Screening through Urinalysis Applicant Consent Form for drug screen testing.
  4. Applicants who refuse to sign the Drug Screening through Urinalysis Applicant Consent Form shall not be considered for employment.
  5. This applicant drug testing through urinalysis policy shall be posted and prominently displayed in the Human Resources Department where applications are obtained and processed.
- B. Applicants who have a positive result or for other details see *Appendix I: Buncombe County Drug and Alcohol Testing Policy*.

## **Section 10. Background Records Check.**

The finalist for a position will be asked for information so that a full and complete disclosure of records pertaining to the applicant's education, previous employment, and criminal records background check may be verified.

## **Section 11. Valid Driver's License Requirement.**

If the duties of the position include operation of County-owned or County-insured vehicles, or driving is a requirement of the employee's job duties, the Department Head shall, before issuing an offer of employment conduct a review of the driving record of the person to be hired, which record shall become a part of the personnel file. All employees required to drive as a function of their job responsibilities must maintain a valid driver's license and car insurance and notify their Supervisor of any change in status immediately. For more information on requirements, see *Appendix H: Buncombe County Vehicle Usage Policy*.

## **Section 12. Appointments**

The Board of County Commissioners shall approve the appointment by the Sheriff, or Register of Deeds of a relative by blood or marriage of nearer kinship than first cousin, or of a person who has been convicted of a crime involving moral turpitude as required by N.C. Gen. Stat. § 153A-103(1).

## **Section 13. At-Will Periods of Employment**

- A. An employee appointed to a regular position will be an employee at-will with no property interest in his or her position from the time of the appointment to the position until the employee has successfully completed twelve (12) months of continuous service.

Once an employee has achieved Covered Employee status then the employee may only be disciplined as provided in *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS*.

During the at-will period an employee may be separated upon the approval of the Department Head, with concurrence by the Human Resources Director, or appointing authority without the right of appeal.

- B. The work of a new employee shall receive a special performance rating at six months and twelve months. An overall rating of “Meets Expectations” or better must be received to continue employment. Should an employee receive a rating below a “Meets Expectations” in any portion of the six- or twelve- month appraisal, continued employment must be approved by the Department Head and a timeframe must be set to reassess the employee’s performance not to exceed three months so that a final decision of continued employment may be made.<sup>6</sup>

## **Section 14. Promotion**

Candidates for promotion shall be chosen on the basis of their qualifications and in accordance with the in accordance with the Statement of Equal Employment Opportunity Policy in *ARTICLE IV. RECRUITMENT AND SELECTION, Section 2. Statement of Equal Employment Opportunity Policy*. Current employees may be given preference for certain promotional opportunities. If a current County employee is chosen for promotion, the Department Head shall forward information to the Human Resources Director with recommendations for salary rate.

## **Section 15. Demotion and Reassignment**

- A. A Covered Employee whose work is unsatisfactory may be demoted, provided that the employee shows promise of becoming a satisfactory employee in another position. Such a demotion shall be made in accordance with procedures in *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS* for Covered Employees only.

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<sup>6</sup> Approved by County Commissioners on 06/21/2016 effective 07/01/2016



The Covered Employee shall be provided with written notice citing the recommended effective date of the demotion, the reasons for the demotion, the impact on his/her annual income and bi-weekly payments, and the appeal rights available to the Covered Employee as stated in *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS, Section 13. Employee Appeal Procedure.*

- B. An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a voluntary reassignment. If the reassignment results in a salary reduction, the employee will be notified in writing of the impact on his/her annual income and bi-weekly payments. A voluntary reassignment is not a disciplinary action and the employee has no right to appeal said decision, pursuant to *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS.*

### **Section 16. Transfer**

- A. If a vacancy occurs and an employee eligible for transfer from another department wishes to be considered for the appointment, a written request and application must be forwarded to the Human Resources Department during the recruitment period for the position. The request for transfer shall be subject to approval of both affected Department Heads, and approval by the Human Resources Director. An employee transferred without request may file a grievance in accordance with *ARTICLE IX. GRIEVANCE PROCEDURE.*
- B. A Covered Employee transferring from one department to another within the County is required to serve a six month period during which time the employee's status is at-will. This change to at-will status does not affect any other condition of the employee's employment such as benefits.

## **ARTICLE V. CONDITIONS OF EMPLOYMENT**

### **Section 1. Workweek**

#### **A. Standard Workweek**

1. The standard workweek for Buncombe County regular employees shall be from 8:00 A.M. until 5:00 P.M., Monday through Friday with one hour permitted for lunch.
2. Law enforcement employees shall have an assigned shift with accumulation of those hours required in an approved FLSA work schedule with time permitted for meals during the respective shift.
3. When the activities of a particular department require some other schedule to meet the work needs, the Department Director or appointing authority may authorize a deviation from the established standard schedule.

#### **B. Flex-time Workweek**

1. County employees have the ability to deviate slightly from the Standard Workweek as established in *ARTICLE V. CONDITIONS OF EMPLOYMENT, Section 1. Workweek, Subsection A.*
2. Regular employees may initiate a flexible daily work schedule. Employees who elect a flex-time schedule must do so with Department Head approval and must exercise a consistent schedule for no less than three month intervals.
3. Flex time is a privilege and may be revoked at any time by the Supervisor or Department Head.

### **Section 2. Gifts and Favors**

- A. No official or employee of the County shall accept any gift, whether in the form of a service, a loan, a thing of value, or a promise from any person, firm, or corporation that, in the employee's knowledge, is interested directly or indirectly in any manner whatsoever in business dealings with the County.
- B. No official or employee shall accept any gift, favor, or thing of value that may tend to influence that employee in the discharge of duties.
- C. No official or employee shall grant any improper favor, service, or thing of value in the discharge of duties.

### **Section 3. Conflict of Interest Policy**

- A. It shall be the duty of all Buncombe County employees to recognize and report to the County Manager, or his/her designee, and/or Human Resources Director or appointing authority, any and all part-time employment opportunities or formal interest in any outside undertaking that may be considered a conflict of interest in their employment with Buncombe County Government.

1. All requests for employment opportunities outside of employees' normal County jobs, or any financial interest or relationship an employee may have in any outside venture, should be approved in advance by the County Manager, or his/her designee, and/or Human Resources Director or appointing authority.
  2. Other incompatible activities include, but are not limited to, acceptance of a favor, pay, gift, payment of expenses, or any other thing of monetary value under circumstances in which acceptance may result in or create the appearance of conflicts of interest.
- B. It shall be the policy of Buncombe County that no manager, Department Head, Supervisor, or any employee may use their position, or the knowledge gained therein, in such a manner that a conflict between Buncombe County's interests and their personal interests should arise. Both the fact and the appearance of the conflicting interests are to be avoided.
1. An employee is prohibited from having a direct or indirect formal interest that conflicts substantially with his/her Government duties and responsibilities; or, from joining in, directly or indirectly, a formal transaction as a result of, or primarily relying upon, information obtained through his/her Government employment.
  2. Employees should refrain from transmitting any knowledge learned as a result of their employment with the County to any person other than in connection with the discharge of their official responsibilities.
- C. Adherence to this policy, as herein above set out, is a condition of employment. Failure to comply may result in disciplinary action, up to, and including termination of employment.

#### **Section 4. Political Activity Restricted**

- A. Every employee of Buncombe County has a civic responsibility to support good government by every available means and in every appropriate manner. Any employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and the laws of the State of North Carolina and by the Constitution and the laws of the United States of America. However, while on duty, no employee of Buncombe County shall:
1. Engage in any political or partisan activity;
  2. Use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;
  3. Be required as a duty or a condition of employment, promotion, or tenure of office to contribute funds for political or partisan purposes;
  4. Coerce or compel contributions for political or partisan purposes by another employee of the County; or
  5. Use funds, supplies, or equipment of the County for political or partisan purposes.

- B. Employees subject to the Hatch Act (see *ARTICLE I. ORGANIZATION OF PERSONNEL SYSTEM, Section 4. Definitions* (Listed Alphabetically)) may not be candidates for elected office in a partisan election.
- C. Any violation of this section may subject such employee to dismissal or other disciplinary action.

### **Section 5. Employee Protection and No Retaliation**

Buncombe County is committed to a safe workplace where employees are able to responsibly voice their concerns regarding business operations, the use of resources and assets, the adherence to workplace practices and policies, unethical behavior, and unsafe work practices and to do so without fear of reprisal, intimidation and/or retaliation. There are different ways that employees can voice their concern. These include:

- Addressing concerns with the appropriate member of management,
- Using the Grievance Procedure when applicable (See Article IX. Grievance Procedure), or
- Using the Employee Protection Hotline: a toll free number (1-866-908-7236) that is answered by an independent third party source and available to employees as well as the public to register a complaint or concern anonymously. Anonymous reports are directed to the Internal Auditor to investigate and ensure follow up action if appropriate.

Buncombe County is committed to ensuring that every employee is treated fairly who lodges a concern, and the County will handle all concerns swiftly and confidentially to the extent possible in light of the need to take appropriate corrective action. Lodging a concern will in no way be used against the employee or have an adverse impact on the individual's employment status. However, filing groundless or malicious concerns is an abuse of this policy and will be treated as a violation. (For full policy see Employee Protection and No Retaliation Policy – Appendix N.)

### **Section 6. Unlawful Workplace Harassment**

- A. Buncombe County is committed to a work environment that is free from harassment and discrimination. Harassment based on an individual's race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law will not be tolerated. All employees, including Supervisory and management personnel, are expected and required to refrain from any activity or action that contributes to harassment in the workplace. Harassment of employees by Supervisors or co-workers is forbidden in any form.
- B. Definitions

**Unlawful Workplace Harassment.** This is specifically defined as unwelcome or unsolicited speech or conduct based upon race, color, religion, sex, national origin, political affiliation, physical, or mental disability, age, veteran status, genetic information, <sup>1</sup>sexual orientation,

gender identity or any other legally protected class under federal or NC State law that creates a hostile work environment or circumstances involving quid pro quo.

**Hostile Work Environment.** This is an environment that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with an employee's performance.

**Quid Pro Quo Harassment.** This consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when (1) submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

- C. Employees who believe they have been harassed in violation of this policy should make a report to their immediate Supervisor, or the Department Head, or the Assistant County Manager, or the County Manager, or the Human Resources Director or to the County Employee Protection Hotline (1-866-908-7236). If the complaint is against the County Manager or an elected official, the complaint can be filed with the Chairman of the Board of County Commissioners. All complaints of harassment will be promptly investigated and appropriate corrective action where necessary will be taken based upon the findings of the investigation.
- D. Substantiated claims of harassment may result in disciplinary action, up to and including dismissal. For additional information regarding harassment and the methods to report harassment, employees should see *Appendix F: Unlawful Workplace Harassment*.

## **Section 7. No Retaliation Policy for Workplace Discrimination or Harassment**

- A. No person will be adversely affected in employment with the employer because of bringing complaints of discrimination and unlawful harassment or participating in a discrimination and unlawful workplace harassment investigation or concerns or complaints under the Workplace Violence Policy (see *Appendix E: Workplace Violence Policy*).
- B. Other protected activity includes, but is not limited to:
  - 1. Initiating an internal complaint or report of discrimination or harassment;
  - 2. Filing a claim of discrimination;
  - 3. Requesting an accommodation for a disability;
  - 4. Filing a Workers' Compensation claim following a work-related injury;
  - 5. Requesting leave under the Family and Medical Leave Act; or
  - 6. Filing a safety or environmental related complaint with state and/ or federal oversight agencies.

- C. An employee who believes they are the subject of retaliation should follow *Appendix G: No Retaliation Policy* or call the Employee Protection Hotline (1-866-908-7236) to report the situation.

### **Section 8. Outside Employment**

The work of the County shall take precedence over other employment interests of employees. All outside employment for salaries, wages, or commission, and all self-employment must be reported in writing to the employee's Department Head before such work is to begin. The Department Head, appointing authority, or the Human Resources Director shall determine whether the outside work would create a conflict of interest or otherwise be incompatible with County service. The assumption of outside employment without prior approval by the Department Head maybe deemed improper conduct and subject the employee to disciplinary action, up to and including dismissal.

### **Section 9. Limitation of Employment of Relatives**

- A. As a large employer, Buncombe County does have members from the same family who work for the County. Our goal is to have in place safeguards that address concerns regarding conflict of interest, favoritism and/or the perception of these being present.

No County employee shall serve in a position that results in one family member supervising the other or in one family member occupying a position that has influence over the other's employment, promotion, salary administration or related management, or personnel considerations. In addition, if there is a situation that would result in the perception of or the possibility of a conflict of interest in carrying out the duties of a position then satisfactory safeguards shall be enacted that remove the possibility of conflict, and shall be approved by the County Manager. This includes situations where there are relationships that exist where an employee is in the chain of command but not otherwise supervised directly by a person with whom they are related (as defined in Section B).

- B. The term "immediate family" means an employee's wife, husband, domestic partner, mother, father, guardian, son, daughter, brother, sister, grandchild, and grandparent, as well as the various combinations of half, step, in-law, and adopted relationships that can be derived from the family members named herein or other relationships that would suggest a familial bond such as loco parentis.
- C. For those situations where the circumstances of employment change due to marriage or a domestic partner relationship, those involved shall notify the human resources department immediately. In response, the Human Resources Department will take such actions as are necessary to remedy the situation.
- D. The Board of County Commissioners shall approve the appointment by the Sheriff, or Register of Deeds of a relative by blood or marriage of nearer kinship than first cousin, as required by N.C. Gen. Stat. § 153A-103(1).

- E. If the County Manager should desire to appoint or hire any member of his/her immediate family then such appointment or hire shall require prior approval of the Board of County Commissioners. Further the Board of County Commissioners shall approve any existing employment relationship for which the County Manager has direct or indirect authority over a family member as defined in Section B.

### **Section 10. Limitations of Consensual or Sexual Relationships**

Buncombe County prohibits romantic or sexual relationships between a manager or other supervisory employee and his or her staff (an employee who reports directly or indirectly to that person) because such relationships create compromising conflicts of interest or the appearance of such conflicts. In addition, such a relationship may give rise to the perception by others that there is favoritism or bias in employment decisions affecting the staff employee. Moreover, given the uneven balance of power within such relationships, consent by the staff member is suspect and may be viewed by others or, at a later date, by the staff member as having been given as the result of coercion or intimidation. The atmosphere created by such appearances of bias, favoritism, intimidation, coercion or exploitation undermines the spirit of trust and mutual respect that is essential to a healthy work environment. If there is such a relationship, the parties need to be aware that one or both may be moved to a different department, or other actions may be taken.

If any employee of Buncombe County enters into a consensual relationship that is romantic or sexual in nature with a member of his or her staff (an employee who reports directly or indirectly to him or her), or if one of the parties is in a supervisory capacity in the same department in which the other party works, the parties must notify the human resource director or other appropriate management staff. Because of potential issues regarding quid pro quo harassment, Buncombe County has made reporting mandatory. This requirement does not apply to employees who do not work in the same department or to parties who do not supervise or otherwise manage responsibilities over the other.

Once the relationship is made known to the human resources director or a member of the management team, the Human Resources Department will take such actions as are necessary to remedy the situation.

### **Section 11. Drugs at the Workplace Prohibited**

- A. Any location at which County business is conducted is declared to be a drug-free environment. Workplace is defined as the site for the performance of work done and includes, but is not limited to, any Buncombe County building, premises, or vehicle.
- B. All employees are prohibited from unlawfully manufacturing, distributing, dispensing, partaking, possessing, or using any controlled or uncontrolled substance or alcohol in the workplace, or reporting to work under the influence of any controlled substance or alcohol, except medications prescribed by a licensed health care provider and taken in the prescribed dosage and certified by said provider not to constitute a workplace hazard.

- C. As a condition of employment, all employees are required to follow the Buncombe County Drug Policy and may be tested in accordance with this policy (see *Appendix I: Buncombe County Drug and Alcohol Testing Policy*).

### **Section 12. Workplace Violence**

- A. Buncombe County is committed to preventing workplace violence and to maintaining a safe work environment. Toward that end, Buncombe County has adopted a Workplace Violence policy (see *Appendix E: Workplace Violence Policy*). The intent of the policy is to ensure that our employees are free from intimidation, harassment or other threats of or actual violence that may occur on-site or off-site during work-related activities. Additionally, the policy makes employees aware of their responsibility to report any concerns so that these concerns may be addressed in a timely and effective manner. Employees are protected against retaliation for making in good faith a report of workplace violence.
- B. Employees seeking to report a concern regarding the Workplace Violence policy should consult the policy in *Appendix E: Workplace Violence Policy*.

### **Section 13. Tobacco Product Policy**

- A. No person shall use any tobacco product, including but not limited to: snuff, chewing tobacco, smokeless tobacco, smoking, carrying or possessing a lighted cigar, cigarette, pipe or other lighted smoking equipment/paraphernalia while in any Buncombe County buildings, on Buncombe County grounds, or in Buncombe County vehicles.
- B. Should a County employee violate the tobacco ban, they shall be subject to disciplinary action, up to and including dismissal.

### **Section 14. Information Technology Acceptable Usage Policy**

Employees must use all IT equipment and IT resources in an acceptable manner. For further information on the use of technology, see *Appendix J: Buncombe County IT Acceptable Usage Policy*.

### **Section 15. Social Media**

Social media should never be used in a way that violates any County policies or employee obligations. If an employee's post would violate any of the County's policies in another forum, it will also violate them in an online forum. For further information on the use of technology, see *Appendix J: Buncombe County IT Acceptable Usage Policy*.



## ARTICLE VI. HOLIDAYS AND LEAVE

### Section 1. Paid Holidays Observed

A. The following days and such other days as the Board of Commissioners may designate are holidays with pay for full-time regular employees and officers of the County working the standard workweek.

- New Year's Day
- Martin Luther King Jr. Birthday (Observed)
- Easter
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving (2 days: Thanksgiving and the following Friday)
- Christmas (3 days)

B. Part-time regular employees receive holidays on a pro-rata basis.

C. Temporary employees are not eligible for paid holidays.

### Section 2. Effect of Work on Holidays and Other Types of Paid Leave

Regular holidays that occur during a vacation, sick or other paid leave period of any officer or employee of the County shall not be charged as vacation, sick, or other paid leave.

### Section 3. Holidays—When Work Is Required

Regular employees required to work on an observed holiday may be granted compensatory time off at the rate of one hour off for each hour worked on the holiday. Compensatory time for holiday hours worked shall be granted within three months of the time it is earned. If it is not feasible to allow compensatory time off within the three-month period, employees may receive monetary compensation in lieu of time off calculated at their standard hourly rate.

### Section 4. Annual Leave

A. Annual leave shall be used for rest and relaxation and may be used for medical appointments.

B. Annual leave may be taken only with the prior approval of the employee's immediate Supervisor.

**Section 5. Transfer of Annual Leave Time**

The County shall not transfer annual leave from another county, municipality, or state government.

**Section 6. Annual Leave–Manner of Accumulation**

A. Any full-time regular employee working within the basic work week (forty hours) or on paid leave shall earn annual leave at the following rates, accrued pro-rata on a bi-weekly basis:

YEARS OF SERVICE	DAYS EARNED PER YEAR IF HIRE DATE IS		
	BEFORE 8/1/2002	ON OR AFTER 8/1/2002	ON OR AFTER 2/15/2011
Less than 2 years	12 days	10 days	10 days
2 but less than 5 years	14 days	12 days	12 days
5 but less than 10 years	18 days	16 days	14 days
10 but less than 15 years	21 days	19 days	16 days
15 but less than 20 years	24 days	22 days	18 days
20 or more years	27 days	25 days	20 days

B. An employee must work one-half or more of the scheduled work days in a payroll period in order to earn annual leave.

C. Part-time regular employees annual leave:

1. A part-time regular employee shall earn annual leave on a pro-rata basis if he/she works one-half or more of the scheduled work days in a payroll period.
2. The leave shall be computed as a percentage of total amounts earned by a full-time regular employee.

D. Maximum accumulation:

1. Any employee with more than two years of annual leave at their existing accrual rate shall have the excess accumulation converted to sick leave once per year.<sup>7</sup>
2. On February 1 of each year, any balance of annual leave over the two-year maximum shall be converted to sick leave.

### **Section 7. Annual Leave–Manner of Taking Leave**

- A. Departmental annual leave schedules shall be governed by employee seniority within the department.
- B. Annual leave should be scheduled at a time consistent with the operating needs of the department.
- C. Employee annual leave schedules must be approved in advance by the employee’s immediate Supervisor.

### **Section 8. Annual Leave–Separation Pay**

- A. Employees shall receive pay for their accumulated annual leave upon resignation, dismissal, retirement, or layoff unless the employee elects to transfer the leave balances to another accepting jurisdiction. Should an employee die, payment of annual leave credit shall be made to the employee’s estate. No more than two years of earned annual leave accumulation at the existing rate will be paid.
- B. Should an employee die, resign, retire, or be laid off with a debt to the County, the County may withhold the amount of the debt from the employee or his/her estate in its final payment to the employee or estate.

### **Section 9. Sick Leave**

- A. Sick leave with pay is not a right which an employee may demand, but instead a privilege granted by the Board of County Commissioners for the benefit of a regular employee when sick.
- B. Sick leave shall be used by an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, pregnancy, childbirth and postpartum care, or exposure to a contagious disease when continuing to work might jeopardize the health of others. Sick leave may also be used for illness or injury of a member of the employee’s immediate family which requires that the employee to provide care to the family member. See definition of “Immediate Family” in *ARTICLE VI. HOLIDAYS AND LEAVE, Section 20. Funeral Leave.*
- C. Full-time regular and part-time regular employees following initial appointment may accumulate sick leave and shall be permitted to take available sick leave immediately.

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<sup>7</sup> Approved by County Commissioners on 06/21/2016 effective 07/01/2016

- D. Employees who leave the employment of the County under any circumstance shall receive no monetary compensation for unused sick leave.

**Section 10. Notification to Take Sick Leave**

The employee’s Supervisor shall be promptly notified, no later than thirty minutes and, if possible, before the beginning of the work day, when an employee proposes to take sick leave. Failure to do so may constitute a basis for denial of sick leave. For Emergency Medical Service personnel, notification to take sick leave must be given at least one and one-half (1½) hours prior to the beginning of the employee’s next assigned work shift.

**Section 11. Sick Leave Amount Earned**

- A. All full-time regular employees working or on paid leave for one-half or more of the regularly scheduled work days in any payroll period shall earn sick leave accrued on a pro-rated basis at the following rates:

**Days Earned/Year**

12 days

- B. A part-time regular employee shall earn sick leave on a pro-rata basis if one-half or more of the scheduled work days in a payroll period are worked. The leave shall be computed as a percentage of the total amount earned by a full-time regular employee.

**Section 12. Sick Leave Accumulation**

Sick leave is cumulative indefinitely.

**Section 13. Sick Leave Advancement**

- A. A regular employee who does not have sick leave days available may, at the discretion of their Supervisor and with the approval of the Department Head, be allowed to borrow a maximum of ten days if necessary.
- B. If the regular employee leaves County service before earning back such leave, payment shall be deducted from the employee’s final paycheck.

**Section 14. Sick Leave Verification**

- A. If an employee takes sick leave due to the employee’s own illness or medical condition, the Department Head may require medical certification from a physician for absences of three days or more in duration.
- B. In addition, employees who have a pattern of absences such as absent from work on multiple Friday or Monday may be required to provide medical certification.

**Section 15. Sick Leave Transferable**

- A. After completion of the first six months of continuous employment, the County of Buncombe may allow a new County regular employee to transfer all days of previously accumulated sick leave accrued while employed by a State of North Carolina, County, or Municipal jurisdiction.
- B. Sick leave is allowed creditable service at the time of retirement to employees who are members of the N.C. Local Governmental Employees’ Retirement System.
- C. One month of credit is allowed for each twenty days of unused sick leave when the employee retires and an additional month for any part of twenty days left over.

**Section 16. Calculation of Annual Leave and Sick Leave**

- A. Annual leave and sick leave earned by full-time regular or part-time regular employees in regular positions having a workweek with fewer hours than the basic workweek shall be determined in accordance with the following parameters.
- B. The number of hours worked by such employees shall be divided by the number of hours in the basic workweek.
- C. The proportion obtained in step B., Section 16, shall be multiplied by the number of hours of leave earned annually by employees working the basic workweek.
- D. The number of hours in step C., Section 16, divided by twenty-six, shall be the number of hours of leave earned each payroll period by the employee concerned.

**Section 17. Annual Leave–Emergency Medical Service Annual Leave Earned**

Emergency Medical Service Annual Leave Earned is calculated based on a twelve-hour workday being equivalent to one shift.

YEARS OF SERVICE	SHIFTS EARNED PER YEAR IF HIRE DATE IS	
	BEFORE 8/1/2002	ON OR AFTER 8/1/2002
	Less than 2 years	12 shifts
2 but less than 5 years	14 shifts	12 shifts
5 but less than 10 years	18 shifts	16 shifts
10 but less than 15 years	21 shifts	19 shifts

15 but less than 20 years	24 shifts	22 shifts
20 or more years	27 shifts	25 shifts

**Section 18. Sick Leave–Emergency Medical Service**

**Shifts Earned/Year**

12

**Section 19. Holiday Leave–Emergency Medical Service**

Each holiday is equivalent to one shift.

**Section 20. Funeral Leave**

- A. In case of death of a member of the regular employee’s immediate family or household, special leave with pay of up to three days shall be permitted.
- B. Leave exceeding this may be charged to sick leave or leave without pay.
- C. Immediate family is defined as wife, husband, mother, father, son, daughter, sister, brother, grandfather, grandmother, grandson, granddaughter, and also included are in-law and step relationships as appropriate based on the above listing, (excluding in-law grandparents).
- D. Leave for death of other relatives may be charged to sick leave or leave without pay.

**Section 21. Mandatory Court Appearances**

- A. Jury Duty. A regular employee called for jury duty in State or Federal Court shall receive leave with pay for such duty during the required absence without charge to accumulated annual leave or sick leave. All fees and allowance received by the employee for jury duty must be turned over to the County upon receipt.
- B. Witness. A regular employee subpoenaed as a witness in a case in State or Federal Court in connection with his/her official duties shall receive regular compensation for said court appearance. All witness fees and travel allowances received by the employee must be submitted to the County upon receipt.
- C. A regular employee subpoenaed as a witness in State or Federal Court in a case which is unrelated to his/her official duties shall not receive leave with pay during his absence but same shall be charged to accumulated annual leave or leave without pay. Witness fees and travel expenses are to be retained by the employee.
- D. While on jury duty or when subpoenaed as a witness in connection with his/her official duties, benefits and leave shall accrue as though the employee were on regular duty.

## **Section 22. Conference Attendance**

A regular employee may be permitted leave with pay for the purposes of attending professional conferences, workshops, or educational meetings or classes when directly related to the employees' field of work.

- A. Request for such leave shall be submitted in writing to the Supervisor for his/her approval and final approval by the Department Head prior to the leave being taken.
- B. The County shall reimburse the employee for approved fees of the conferences, provided the employee submits the proper receipts.

## **Section 23. Parental Leave**

- A. Regular employees of school-aged children may take up to four hours of unpaid leave a year for participation in their child's school events and conferences.
- B. Such leave must be planned with the Supervisor in advance.
- C. The Supervisor may ask for written confirmation that the employee has attended the school event as planned.

## **Section 24. Leave Without Pay**

- A. Regular employees may be granted a leave of absence without pay for compelling personal reasons for up to thirty working days per year. Such leave must be approved by the Department Head and Human Resources Director. If leave without pay is requested by a Department Head it shall be recommended by the Human Resources Director and approved by the County Manager. Approval of leave will be based on many factors, including but not limited to, agency needs, staffing levels, reason for the leave, and employee's use of previous leave, performance and tenure with the agency. In extenuating circumstances, additional leave without pay may be requested and approved by the County Manager.
- B. The employee shall apply in writing to the Supervisor for leave without pay. The employee is obligated to return to duty within or at the end of the time determined appropriate by the appointing authority. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay.
  - 1. If the employee decides not to return to work, the Supervisor should be notified immediately. The Supervisor shall report this decision to the Department Head and Human Resources Director.
  - 2. Failure to report at the expiration of a leave of absence, unless an extension has been requested, shall be considered resignation.
- C. Employees on leave without pay shall not earn leave of any kind.

## **Section 25. Leave Without Pay–Retention and Continuation of Benefits**

An employee ceases to earn leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the County’s group insurance plans, subject to any regulations adopted by the Board of County Commissioners and the regulations of the respective insurance carriers.

## **Section 26. Absence from Duty**

- A. An employee shall promptly, and no later than thirty minutes prior to the start of the work day, notify his Supervisor when planning to be absent from duty for any reason other than sick leave. Failure to do so without good reason may be cause for disapproval of leave for which the employee might have been eligible and for disciplinary action.
- B. An employee who is absent from duty for three days without notification to the immediate Supervisor shall be considered to have resigned, unless failure to notify was demonstrably beyond the employee’s control.

## **Section 27. Military Leave**

- A. Regular employees who are members of the National Guard or Armed Forces Reserve shall be allowed fifteen work days military training leave annually with partial compensation.
- B. If the compensation received while on military leave is less than the salary that would have been earned during this same period as a County employee, the employee shall receive partial compensation to equal the difference in the base salary earned as a reservist or a guardsman and the salary that would have been earned during this same period as a County employee. The effect shall be to maintain the employee’s salary at the normal level during this period.
- C. If such military duty is required beyond the fifteen work day period, the employee shall be eligible to take accumulated leave or be placed in a leave without pay status.
- D. Additionally, Buncombe County complies with all requirements of the Uniformed Services Employment & Reemployment Rights Act.

## **Section 28. Educational Leave with Pay**

- A. A leave of absence at full or partial pay during regular working hours may be granted to a regular employee to take a course or courses which shall better equip the employee to perform assigned duties upon the approval of the Department Head.
- B. The County shall reimburse the employee for tuition and fees for the course, provided the employee submits a receipt of course expenses and a notice of successful completion (passing grade or better) of the course.
- C. An employee on educational leave with full pay shall continue to earn leave credits and any other benefits to which the employee is entitled.



## **Section 29. Notification of Leaves of Absence**

Each department shall notify the Human Resources Department in a timely manner of **all** leaves of absences **without pay** and employee medical absences that exceed three days. In addition, those employees who have a pattern of unexplained absences such as frequent Friday or Monday absences should be reported.

## **Section 30. Leave—Adverse Weather Conditions and Disasters**

If employees are unable to report to work, or feel it necessary to leave work due to severely inclement weather, road conditions and natural or manmade disasters, they may elect to take the day off as a day of vacation, compensatory time or if all applicable leave balances have been exhausted a day off without pay. This section shall not be applicable to Emergency Services personnel or other personnel in key positions needed to maintain County services.<sup>8</sup>

## **Section 31. Family and Medical Leave Act**

It is the policy of Buncombe County to comply with the Family and Medical Leave Act and Amendments. Buncombe County posts the mandatory FMLA Notice and upon hire provides new employees with notices required by the U.S. Department of Labor (DOL) on Employee Rights and Responsibilities under the Family and Medical Leave Act. See *Appendix B: Buncombe County Family and Medical Leave Act of 1993*.

## **Section 32. Lactation Support at Work for Nursing Mothers**

As part of our family-friendly policies and benefits, Buncombe County supports breastfeeding mothers by accommodating the mother who wishes to express breast milk during her workday when separated from her newborn. These provisions will meet the requirements of the Fair Labor Standards Act as it relates to breaks for nursing mothers. See *Appendix C: Lactation Support at Work for Nursing Mothers Policy*.

## **Section 33. Personal Time Off (PTO)**

- A. Full-time regular employees shall receive two days per calendar year for PTO. Any unused PTO at the end of the calendar year shall be forfeited
- B. Part-time regular employees shall receive PTO on a pro-rata basis computed as a percentage of the total amount received by a full-time employee.
- C. Employees may use PTO for rest and relaxation, medical/dental appointments for themselves or immediate family members or any other reason for time off.
- D. PTO may be taken only with the prior approval of the employee's immediate Supervisor. The leave should be scheduled at a time consistent with the operating needs of the department.

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<sup>8</sup> Approved by County Commissioners on 06/21/2016 effective 07/01/2016

If PTO is used in place of sick leave, the employee's Supervisor shall be promptly notified, certainly no later than thirty minutes and, if possible, before the beginning of the work day.

- E. The County shall not transfer PTO from another county, municipality, or state government.
- F. Upon an employee's resignation or termination, no payment shall be made for any remaining PTO and such PTO is forfeited.

**Section 34. Annual Leave–Cash Conversion**

Upon approval of the Departmental Director, regular employees may convert a minimum of 8 annual leave hours to cash.

**Section 35. Voluntary Shared Leave**

In catastrophic cases where employees are without leave due to a prolonged medical condition, the employee may petition their department director to be considered for Voluntary Shared Leave. If the department director approves the request, then final approval will be given by the County Manager. Factors to consider when considering approval will be the circumstances of the employee and the current organizational needs of the department. Employees who are approved for Voluntary Shared Leave must follow the Voluntary Shared Leave policy in Appendix L.

## **ARTICLE VII. ADDITIONAL EMPLOYEE BENEFITS**

### **Section 1. Social Security**

Employment with Buncombe County is covered under the Federal Social Security System. Further information about Social Security benefits can be obtained from the local office of the Social Security Administration.

### **Section 2. Unemployment Compensation**

Employees are covered for unemployment compensation benefits as provided under North Carolina State Law. The purpose is to provide temporary income to employees who, through no fault of their own, are unemployed. Applications for benefits are made through the State Division of Employment Security.

### **Section 3. Worker's Compensation**

All County employees are covered by the North Carolina Workers' Compensation Act. Employees must notify their Supervisor as soon as possible and no later than twenty-four hours of any on-the-job injury.

### **Section 4. Deferred Compensation**

#### **A. Local Government Retirement**

1. Every full-time and part-time employee who works at least 1,000 hours per year becomes a member of the N.C. Local Governmental Employees' Retirement System.
2. All employees will be enrolled upon date of hire into the N.C. Local Governmental Employees' Retirement System or the N.C. Local Governmental Employees' Retirement System for Law Enforcement Officers.
3. After five years of creditable service in the N.C. Local Governmental Employees' Retirement System, employees are vested for purposes of retirement benefits in accordance with the eligibility requirements established by the State Department of the Treasurer, Retirement Systems Division.

#### **B. Supplemental Retirement Income Plan, 401(k)**

1. As a supplement retirement plan all regular employees who are members of the N.C. Local Governmental Employees' Retirement System may participate in the Supplemental Retirement Income Plan of North Carolina or as it is sometimes referred to, the 401(k) program.
2. The plan is designed to supplement the regular employee's retirement income. It allows the regular employee to contribute by payroll deduction to an investment program which shall defer income taxes on both the employee's investment and the income in the investment until a later date. Employees may select from a variety of investment plans.

Buncombe County contributes an eight percent amount of the regular employee's salary to the plan. Additional employee participation is voluntary.

3. Employees are not eligible until after successful completion of the first six months of continuous employment. All sworn Law Enforcement Officers begin in plan upon date of employment. All amounts contributed are vested immediately.

#### **C. 457 Plan**

1. Through payroll deduction, employees may defer a portion of their salary on a regular basis through the 457 Plan. The program provides a tax shelter and investment opportunity.
  - a. Taxes on the deferred amount and earnings are deferred until they are withdrawn, usually at retirement or termination.
  - b. Deferred amounts may be invested in one fund or in a combination of funds to maximize the investment return.
  - c. Gross wages are deferred to the program. The result is a smaller net income on which to pay federal tax, reducing current taxes.
  - d. Both the amount deferred and what it earns are permitted to accumulate tax deferred in the employee's account.
  - e. Federal income taxes on the deferred amount and earnings are not payable until payments are received from the accumulated account.
2. Buncombe County contributes eight percent of the County Commissioner's salary to the plan. Additional Commissioner Participation is voluntary.

#### **D. Longevity Compensation**

Buncombe County does not have a merit pay system; instead, regular employees are rewarded for their increasing depth of knowledge and skills acquired through years of service with longevity compensation. Longevity pay serves to place a positive pressure to retain and reward high-performing seasoned employees for continued employment and thereby avoid expenses involved in recruiting and training replacement workers. Longevity shall be paid to all full-time regular and part-time regular employees as follows.

1. Time and Method of Pay
  - a. Longevity pay is automatic; payment shall be made when all eligibility requirements are met as specified in the following criteria.
  - b. Longevity payment shall be made in a lump sum each year on or before December 31.
  - c. Payment shall be made to otherwise eligible employees who are on military leave, worker's compensation and approved medical leave of absence without pay.

- d. Eligibility for payment shall be based on full years of service as of December 1 of each year.
  - e. Employees working in a regular part-time position, but otherwise meeting eligibility requirements shall receive a pro rata payment based on the percentage of hours actually worked divided by full-time hours for the position.
  - f. Pro rata payments for partial year service shall not be made. Eligibility is dependent upon employee status on December 1 except for individuals who are separated by retirement or death. Pro rata payment in these cases shall be made based on the date of retirement or death and computed on the longevity pay scale then in effect. If deceased, payment shall be made to the estate. For an employee hired on or after July 1, 2016, the employee shall not be eligible for a pro-rated longevity payment upon separation by retirement if the employee retires before December 1.<sup>9</sup>
  - g. Payment shall be made to the nearest cent rather than the nearest dollar.
2. Amount of longevity pay

Annual longevity pay amounts are based on the length of aggregate total service to Buncombe County. The amount of payment shall be based on length of service and the annual salary of the employee in existence on the eligibility date of December 1.

The following table shall be in effect for longevity purposes.

<b>TOTAL YEARS AGGREGATE LONGEVITY COUNTY SERVICE</b>	<b>PAY RATE</b>
Less than 1 year	\$100.00
1 year but less than 2 years	1.00%
2 years but less than 5 years	3.00%
5 years but less than 10 years	4.00%
10 years but less than 15 years	5.00%
15 years but less than 25 years	6.00%
25 years plus	7.00%

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<sup>9</sup> Approved by County Commissioners on 06/21/2016 effective 07/01/2016

3. Eligibility requirements

- a. An employee must have an appointment in either a full-time regular or part-time regular position and regularly scheduled to work at least twenty hours or more per week. No other employees are eligible for longevity payment.
- b. Credit for the aggregate total service requirement shall not be given for temporary employment.
- c. Upon change of appointment to temporary part-time or less than half-time (twenty hours per week) the employee is ineligible for continued longevity pay.
- d. Credit shall not be given towards aggregate service time for any employment other than with Buncombe County.
- e. For persons rehired after July 1, 2016, the individual's total aggregate longevity county service shall be calculated from the date of rehire.<sup>10</sup>

4. Effect of longevity pay

Longevity pay is not considered a part of annual base pay for classification and pay purposes, nor is it to be recorded in personnel records as a part of annual pay.

**E. Severance pay**

Severance pay is also considered a form of deferred compensation and *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS, Section 5. Reduction in Force* is hereby incorporated into this section.

**F. Law Enforcement Officers Special Separation Allowance**

This provides separation benefits to Law Enforcement Officers who complete thirty or more years of creditable service or be at least age fifty-five with five years of service, and have not attained age sixty-two.

**G. Health Insurance Coverage after Retirement**

- 1. Health insurance upon retirement per this Personnel Ordinance is considered deferred compensation. Upon retirement, eligibility for health insurance coverage is eliminated for all employees hired after June 30, 2015.
- 2. Costs of coverage:
  - a. The cost of such group medical/hospitalization insurance shall be paid entirely by the County for the employee only and shall be paid only until attainment of age sixty-five by the employee.
  - b. The qualifying retiree may also continue family coverage for dependents by paying the full difference between the total insurance cost and the cost of the individual coverage provided

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<sup>10</sup> Approved by County Commissioners on 06/21/2016 effective 07/01/2016

by the County. Provided, however, that qualifying retirees with dependents still entitled to coverage when the retiree reaches age sixty-five shall continue to receive the County paid premium for individual coverage and may continue dependent coverage at their own expense as long as they have eligible dependents.

- c. Effective March 1, 2004, employees retiring with twenty or more years of service with Buncombe County are able to continue health insurance coverage for their dependents at the same premium that active employees pay for dependent coverage. Dependents still eligible for coverage when the retiree reaches age sixty-five may continue coverage at the same premium that active employees pay for dependent coverage. This action will not be retroactive to employees who retired prior to March 1, 2004.

### 3. Eligibility for Coverage

- a. Any regular employee who, upon retirement qualifies for a monthly retirement benefit in accordance with the provisions of the N.C. Local Governmental Employees' Retirement System and has been covered by the County group medical/hospitalization plan for the three years immediately preceding retirement, shall be eligible to remain in the County group medical/hospitalization plan.
- b. Regular employees hired on or after July 1, 2008 must have twenty years of service with Buncombe County to be eligible for health insurance coverage after retirement.
- c. Any individual having held the office of County Commissioner for at least three terms shall be eligible for the same health insurance coverage as a retiring County regular employee.
- d. Eligible disabled retirees eligible for benefits under Title XVIII (Medicare) of the Social Security Act may remain covered hereunder until attainment of age sixty-five. Benefits hereunder will be paid with Medicare as the primary coverage and the County group medical/hospitalization plan as secondary coverage.
- e. Coverage for dependents may be continued until age sixty-five and/or Medicare coverage entitlement in the case of the spouse and until attainment of age twenty-six in the case of dependents. To the extent the provisions of this Personnel Ordinance are inconsistent with the Patient Protection and Affordable Care Act, the Patient Protection and Affordable Care Act will control. In any case, coverage ceases upon entitlement for Medicare/Medicaid. Upon the death of a retiree, insurance may be maintained by the decedent's dependents as long as the dependent premium is paid as established above.

## H. Retirement Incentive Benefits

### 1. Eligibility

Any individual having held elected office for fifteen continuous years. Any regular employee having completed a minimum of twenty-five years of service with Buncombe County (fifteen continuous years for those employees required to be appointed by the Buncombe County Board of Commissioners) and having contributed to the N.C. Local Governmental Employees' Retirement System for a minimum of twenty-five years (fifteen continuous years for those employees required to be appointed by the Buncombe County Board of Commissioners) shall upon retirement be eligible for the following benefit options.

## 2. Benefits Options:

The qualifying retiree or elected official may choose from one of the following:

### a. Medicare Supplement Purchase Plan

- i. Upon the attainment of age sixty-five and eligibility for Medicare, the County of Buncombe shall purchase a monthly Medicare Supplement Plan F coverage and monthly Medicare Part D Prescription Plan for the remainder of the participant's life.
- ii. As future Medicare revisions and reforms take effect, should the current benefits of the Medicare Supplement Plan F and/or Medicare Part D no longer be offered, the County of Buncombe will provide the Medicare Supplement Plan and prescription drug plan that most closely mirrors the benefits of the Medicare Supplement Plan F and Medicare Part D.
- iii. Purchase of all coverage shall be from an authorized carrier of the County's choice.

### b. Medicare Supplement Payment Plan

- i. Upon the attainment of age sixty-five and eligibility for Medicare, the County of Buncombe shall pay a monthly sum of \$268.00 for the purpose of purchasing a Medicare Supplement and assisting in prescription drug cost.
- ii. This amount shall be paid to the participant for the remainder of the participant's life.
- iii. The amount of \$268.00 shall not be decreased or increased as future Medicare reforms and revisions take effect.
- iv. Any and all payments shall terminate upon the participant's death.

### c. Lump Sum Payment Plan

- i. Receive a lump sum payment equal to one-half the participant's annual salary.

## 3. Restrictions

- a. Any participant who accepts the benefits under this section or any other Buncombe County Retirement Incentive Agreement shall only be eligible to return to work in temporary non-benefited positions.
- b. The benefits in this section shall not be retroactive to employees who retired prior to September 1, 2006.
- c. Employees hired after June 30, 2014 are not eligible for the benefits in this section.

## **I. N.C. Firemen's and Rescue Squad Worker's Pension Fund**

1. Any eligible Emergency Medical Service employee may make application for membership in this pension fund.
2. Membership in the program is on a voluntary basis and requires a monthly payment by the employee.



3. Benefits are payable to retired members who have served twenty years as an eligible Emergency Medical Service Employee in the State of North Carolina, as provided in N.C. Gen. Stat. § 118-38 and N.C. Gen. Stat. § 118-39 and who have attained the age of fifty-five years.

### **Section 5. Group Health Insurance**

- A. Employees in a regular position who work at least 1,560 hours per year (thirty hours per week) may participate in the group hospitalization and medical care plan upon the completion of the first six months of continuous service and after ninety days of employment effective 01/01/2013, with costs shared between the employee and the County at varying ratios depending upon the type of coverage selected.
- B. Employees placed in a grant-funded position will not be eligible for health and dental insurance coverage, but may be eligible for other employee benefits.

### **Section 6. Health Insurance Coverage after Employment Termination**

- A. Employees who leave employment with Buncombe County may be eligible for a temporary extension of their health insurance coverage benefits that would otherwise end upon termination pursuant to the Consolidated Omnibus Budget Reconciliation Act or COBRA.
- B. The insurance coverage may also be available to the employee's spouse and/or dependents.
- C. If the employee, spouse, or dependent chooses this temporary continuation coverage, they must pay the total monthly premium charged Buncombe County for coverage for other employees and dependents.
- D. Upon employment termination, employees should check with the Human Resources Office for details concerning length of coverage, cost, etc.

### **Section 7. Life Insurance**

- A. All eligible employees in regular positions are covered with Basic Life and Accidental Death and Dismemberment Insurance. The County pays 100% of the premium.
- B. In addition to the Basic Life Insurance, each eligible employee has the opportunity to enroll in additional life insurance in optional amounts. The employee pays the entire cost of the premium, but low group wholesale rates are available on a convenient payroll deduction basis.
- C. Employee may purchase coverage on eligible dependents.
- D. All eligible employees may purchase coverage on their spouse.

### **Section 8. Death Benefit**

After completing one year of service an employee shall be eligible for a death benefit payment equal to the calendar year's salary up to a maximum of \$50,000 but no less than \$25,000, if the employee is accepted and covered by the N.C. Local Governmental Employees' Retirement System.

### **Section 9. Employee Assistance Program**

The services of the Employee Assistance Program are available to Buncombe County Employees and their immediate family members. The program is designed to assist employees with a variety of problems which may affect their job performance or conduct. The cost of the initial diagnostic and referral session is provided at no cost to the employee or their immediate family.

### **Section 10. Dental Insurance**

Regular employees and their dependents may enroll in the Buncombe County Dental Insurance Program.

### **Section 11. Short Term Disability**

Benefits are payable due to accident, sickness, or pregnancy. The employee pays the entire cost of the plan and low group rates are available.

### **Section 12. Section 125 Pre-Tax Premium Plan**

The Pre-Tax Premium Plan allows employee payments of insurance benefits with before tax dollars.

### **Section 13. Flexible Spending Accounts**

Employees may choose to have some of their income set aside in a reimbursement account on a pre-tax basis used to reimburse out-of-pocket medical expenses and/or dependent care expenses.

### **Section 14. Credit Union**

Membership is open to employee and family for various loan services, checking and savings accounts.

### **Section 15. Separate Insurance Benefit Plans for Sworn Law Enforcement Officers**

Eligible active Law Enforcement Officers and those retired through the NC Local Governmental Employees' Retirement System are eligible for certain temporary disability and death benefits.

### **Section 16. Board Approval Required**

No change in employee benefits structure and options as set forth herein shall be effective without Board approval.

## **ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS**

### **Section 1. Policy Statement**

- A. Regular employees who have not achieved Covered Employee status and all temporary employees are considered at-will employees and have no right of appeal. At-will employees may be demoted or dismissed at any time without further notice upon the recommendation of the Department Head and approval of the Human Resources Director, or appointing authority, so long as the demotion or dismissal is not otherwise prohibited by law.
- B. A Covered Employee who fails to perform satisfactorily or engages in unacceptable personal conduct, upon the recommendation of the Department Head and approval of the Human Resources Director, or corresponding authority, he/she may be suspended without pay, demoted, or dismissed per the following practice.

### **Section 2. Types of Separation**

- A. All separations of employees from positions in the service of the County shall be designated as either voluntary or involuntary.
  - 1. Employees may be voluntarily separated from County service either by resignation, retirement, or failing to report to work for three consecutive days.
  - 2. Employees may be involuntarily separated from County service by reduction in force, dismissal, unavailability for work when leave is exhausted or death.
- B. The degree and type of action taken based on misconduct or poor performance shall be based on the sound and considered judgment in accordance with the provisions of this Article.
- C. When just cause exists the only disciplinary actions are: written warning, disciplinary suspension without pay, demotion, and dismissal.

### **Section 3. Resignation**

- A. Employees may resign either in “Good Standing” or “Not in Good Standing.”
- B. Resignation in Good Standing occurs when an employee submits a letter of resignation a minimum of ten working days prior to the effective date of resignation. Such notice shall be provided to the immediate Supervisor (or in the case of Department Heads, to the County Manager, or his/her designee, or appropriate appointing authority, and the appropriate governing body, if applicable). Employees who resign in Good Standing may be considered for future employment with the County. The County reserves the right to pay out an employee’s notice period in lieu of having the employee work the notice period in its sole discretion.
- C. Resignation Not in Good Standing occurs when:
  - 1. An employee fails to submit a letter of resignation at least ten working days prior to the effective date of resignation unless this has been approved by the Department Head;
  - 2. An employee fails to report to work one working day following a leave of absence without pay;
  - 3. An employee is absent from work three working days without authorized leave—separation pursuant to this policy should not occur until the employing agency has undertaken reasonable

efforts to locate the employee and determine when or if the employee is intending to return to work;

4. An employee resigns to avoid announced disciplinary action.

D. An employee who resigns from County employment “Not in Good Standing” is normally ineligible for future employment with the County.

#### **Section 4. Retirement**

When an employee meets the conditions set forth under the provisions of any retirement plan adopted by the Board of County Commissioners for County employees, he or she may elect to retire and receive all benefits earned under the retirement plan.

#### **Section 5. Reduction in Force**

A. Reduction in Force is the involuntary separation of an employee due to lack of work or funds, or elimination of the employee’s position due to reorganization. If a reduction in force occurs:

1. Together with the Department Head(s) involved, the Human Resources Director shall determine the employee(s) affected by the reduction in force.
2. The Human Resources Director shall determine and list all employees, subject to the authority or control of the County Manager, serving in the same class throughout the County who are on that date listed as temporary or probationary employees. Furthermore, the Human Resources Director shall add to that list any position(s) which, on that date, is not filled or is being advertised within the same class which is affected by the reduction in force.
3. No employee with Covered Employee status, subject to the authority or control of the County Manager, shall be separated due to a reduction in force while there are unfilled positions or temporary or at-will employees serving within the County in the same class unless the Covered Employee is not willing to transfer to the position held by the temporary or at-will employee.
4. The Department Director involved and the Human Resources Director shall make their final determination(s) by considering the following:
  - a. Organizational needs;
  - b. Performance of the employees at issue; and
  - c. Seniority of the employees at issue.
5. The Departmental Director involved and the Human Resources Director shall advise and provide documented recommendations to the County Manager as to those employees who shall be separated because of reduction in force.
6. Rather than just the involved departments, the County Manager, who has the final authority to determine the employee(s) to be separated because of reduction in force, may consider the entire County work force, subject to his or her authority or control when making his or her decision.

B. Employees who are subject to a reduction in force are given at least two weeks’ notice of the anticipated lay-off.

- C. Any reduction in force employee accepting a transfer shall be subject to a new six month at-will period in accordance with the guidelines of this Personnel Ordinance.

**Section 6. Severance Pay Policy for Reductions in Force**

If a reduction in force occurs, employees terminated as a result shall receive severance paid as follows:

- A. Full-time and part-time regular employees shall be paid severance at the rate of one weeks' pay for each full year of service to the County, up to a maximum payment equal to twelve weeks.
- B. Any remaining portion of a year's service to the County shall be paid at a pro-rata basis.
- C. An employee receiving severance pay shall not be eligible for re-employment with the County for the number of weeks calculated in the severance pay off, unless repayment is made in advance of re-employment for any severance in excess of the period of actual separation from the County.
- D. The following employees shall not be eligible for severance payment:
  - 1. Temporary employees
  - 2. Any employee who is in a time-limited/grant-funded or contract position
  - 3. Any employee for whom the County has arranged employment in a benefited position with a non-county agency
  - 4. Any employee who declines an offer of employment in a new or different benefited position with the County and within 10% of the salary of the employee's previous position prior to his/her date of separation

**Section 7. Disciplinary Actions (Written Warning, Suspension without Pay, Demotion, and Dismissal) for Unsatisfactory Job Performance and/or Unacceptable Personal Conduct Policy**

- A. Covered Employees may only be suspended without pay, demoted, or dismissed when just cause exists. Written warnings may also be issued to Covered Employees when just cause exists; however, a written warning is not grievable and cannot be appealed. For purposes of this policy, the County has determined two types of actions that establish just cause for implementing disciplinary and/or dismissal action on an employee. The two types of employee actions are: (1) Unacceptable Personal Conduct and (2) Unsatisfactory Job Performance. Both types of the above mentioned employee actions may result in any of the following disciplinary actions: written warning, suspension without pay, demotion, or dismissal as explained in the following section.
- B. Unacceptable Personal Conduct
  - 1. Unacceptable Personal Conduct includes, but is not limited to:
    - a. Conduct for which no reasonable person should expect to receive prior warning including but not limited to lying, falsification of records, bullying, or unethical behavior; or,
    - b. Job related conduct which constitutes a violation of federal, state, or local law; or,
    - c. Conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the agency; or,
    - d. The willful violation of known or written work rules; or,

- e. Conduct unbecoming an employee that is detrimental to the agency's service; or,
  - f. The abuse of client(s), patient(s), student(s), or a person(s) over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the agency; or,
  - g. Falsification of an employment application or other employment documentation that is related to the position requirements; or,
  - h. Failure to obtain or maintain any license, registration, or certification required by a relevant law, rule, or provision when the duties of the position require that license, registration, or certification; or,
  - i. Unauthorized absence from work after all authorized leave credits and benefits have been exhausted; or,
  - j. Insubordination which is the willful failure or refusal to carry out a reasonable order from an authorized Supervisor. Insubordination is considered unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning; or
  - k. Negligent conduct that results in significant fiscal loss or liability, and/or significant detrimental impact to the safety or well-being of a person being served by the County.
2. Disciplinary action for Unacceptable Personal Conduct
- a. After a single incident of Unacceptable Personal Conduct any of the following actions may be taken:
    - i. Written warning; or
    - ii. Suspension without pay; or
    - iii. Demotion; or
    - iv. Dismissal
  - b. If the Department Head recommends to the County Manager, or his/her designee,, or appointing authority, that the employee be suspended without pay, demoted, or dismissed then these actions must be preceded by a pre-disciplinary conference which must be conducted by the County Manager, or his/her designee, and/or Human Resources Director or the appointing authority. Dismissal shall be the final decision of the County Manager, or his/her designee, or appointing authority.
  - c. All disciplinary actions submitted against the Covered Employee become inactive after eighteen months after the date the disciplinary action was issued.

### C. Unsatisfactory Job Performance

1. Unsatisfactory Job Performance occurs when a Covered Employee's performance fails to satisfactorily meet job requirements. Such employee actions are subject to progressive disciplinary actions as described below. The goal of this progressive disciplinary process is to give the Covered Employee specific notice concerning an identified deficiency and what corrections are necessary to bring performance to a satisfactory level. In addition, it is not required, nor necessary that successive disciplinary actions all concern the same actions on the part of the Covered Employee.
2. Disciplinary Action for Unsatisfactory Job Performance
  - a. A Covered Employee who does not have an active disciplinary action may receive a written warning after a single incident of Unsatisfactory Job Performance.
  - b. A Covered Employee who has an active disciplinary action may receive a written warning, suspension without pay, or demotion after a single incident of unsatisfactory job performance.
  - c. A Covered Employee may be dismissed for Unsatisfactory Job Performance if the Covered Employee has at least two active disciplinary actions and has a current unresolved performance issue.
  - d. If the Department Head recommends to the County Manager, or his/her designee,, or appointing authority, that the Covered Employee be suspended without pay, demoted, or dismissed then these actions must be preceded by a pre-disciplinary conference which must be conducted by the County Manager, or his/her designee, and/or Human Resources Director or the appointing authority. Dismissal shall be the final decision of the County Manager, or his/her designee, or appointing authority.
3. Disciplinary actions remain active for 18 months unless further disciplinary action occurs prior to the action becoming inactive. Should further disciplinary action occur within the active 18 month period, then all active disciplinary actions will be extended for the time period of the most recently issued actions.<sup>11</sup>

### D. Procedural Guidelines for Disciplinary Suspension without Pay

1. Disciplinary suspension without pay of a Covered Employee shall be applicable as follows:
  - a. For Unsatisfactory Job Performance after the receipt of at least one active disciplinary action.
  - b. For any instance of Unacceptable Personal Conduct.
2. Essential considerations for disciplinary suspension without pay of a Covered Employee are as follows:
  - a. A pre-disciplinary conference is required prior to the suspension of a Covered Employee following applicable procedure from the steps outlined below in *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS, Section 9.*

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<sup>11</sup> Approved by County Commissioners on 06/21/2016 effective 07/01/2016

*Procedural Guidelines for Disciplinary Dismissal*, for conducting a pre-disciplinary conference. Advance written notice of the conference is required.

- b. Deductions from pay for unpaid disciplinary suspension of one or more full days for infractions of workplace conduct rules are applicable to all employees – exempt and non-exempt pursuant to FLSA DOL regulations.
- c. If the result of the pre-disciplinary conference is to suspend the Covered Employee, the Covered Employee must be furnished with a written statement setting forth the specific reasons for the suspension without pay and notice of the length of suspension.
- d. A copy of the appeal procedure.
- e. This action is a matter of public record pursuant to N.C. Gen. Stat. § 153A-98(b) or as amended.

### **Section 8. Procedural Guidelines for Disciplinary Demotion**

A. Disciplinary demotion of a Covered Employee shall be applicable as follows:

1. For Unsatisfactory Job Performance after the receipt of at least one active disciplinary action.
2. For any instance of Unacceptable Personal Conduct.

B. Essential considerations for disciplinary demotion of a Covered Employee are as follows:

1. A pre-disciplinary conference is required prior to the demotion of a Covered Employee following applicable procedure from the steps outlined below in *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS, Section 9. Procedural Guidelines for Disciplinary Dismissal*, for conducting a pre-disciplinary conference. Advance written notice of the conference is required.
2. If the result of the pre-disciplinary conference is to demote the Covered Employee, the Covered Employee must be furnished with a written statement setting forth the specific reasons for the demotion. Include in the statement:
  - a. How and to what extent the demotion will affect the Covered Employee's salary and pay grade
  - b. If appropriate, a revised job description outlining the Covered Employee's revised duties and responsibilities
  - c. A copy of the appeal procedure
  - d. This action is a matter of public record pursuant to N.C. Gen. Stat. § 153A-98(b) or as amended

### **Section 9. Procedural Guidelines for Disciplinary Dismissal**

A. Disciplinary dismissal of a Covered Employee shall be applicable as follows:

1. For any instance of Unacceptable Personal Conduct
2. For unsatisfactory job performance, where the Covered Employee has at least two active disciplinary actions of any type and have a current unresolved performance issue.



B. Essential considerations for dismissal of a Covered Employee are as follows:

1. A pre-disciplinary conference is required prior to the dismissal of a Covered Employee following applicable procedure from the steps outlined below in *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS, Section 9. Procedural Guidelines for Disciplinary Dismissal*, for conducting a pre-disciplinary conference. Advance written notice of the conference is required.
2. If the result of the pre-disciplinary conference is to dismiss the Covered Employee, the Covered Employee must be furnished with a:
  - a. Written statement shall set forth the specific acts or omissions that are the basis of the employee's dismissal.
  - b. A copy of the appeal procedure.
  - c. The employee shall be informed in the agency final decision letter that a copy of the written notice of the final decision of the County is a public record pursuant to N.C. Gen. Stat. § 153A-98(b) or as amended and that the agency is required by law to release it pursuant to any public record requests. Further, if the employee appeals his dismissal through the agency appeal procedure, the resultant letter shall also be a matter of public record.

#### **Section 10. Procedural Guidelines for Pre-disciplinary Conference**

A pre-disciplinary conference must be held for a Covered Employee when a disciplinary action of suspension without pay, demotion, or dismissal is being considered.

- A. The conference should include the Human Resources Director and/or the County Manager, or his/her designee, or corresponding appointing official who has jurisdiction over the employee (Department Head and/or Supervisors who prepared any and all written warnings and who have knowledge of the employee's performance or conduct which has led to the proposed disciplinary action) and the Covered Employee.
- B. Advance written notice of the pre-disciplinary conference is required. The Covered Employee should be given as much time as is practical under the circumstances surrounding the Covered Employee's performance or conduct. Preference would be a minimum of one day notice generated through the Human Resources Department and signed by the management members involved (Department Head and Supervisor(s) involved) and a minimum of four hours.
- C. The notice to the Covered Employee should include the following:
  1. Inform the Covered Employee there shall be a pre-disciplinary conference and include the time, date, and location of the conference.
  2. Provide a summary of the evidence and the issues for which disciplinary action is being conducted.
  3. Indicate that the organization is *considering* disciplinary action, but that the conference is to aid in reaching a final decision.
  4. Inform the Covered Employee that he/she shall be given an opportunity to respond to the evidence at the conference.

- D. The conference is to be conducted by the County Manager, or his/her designee, and/or Human Resources Director or appointing authority. In cases where the Human Resources Director may be the employee in question or where the Human Resources Director is the Supervisor of an employee in question then the conference shall be conducted by the County Manager and/or the Assistant County Manager. It is necessary that during the conference the following procedures should occur:
1. All evidence and related information regarding the performance and or conduct be reviewed orally.
  2. Management may request to have present a second representative and, if necessary, security personnel.
  3. No attorneys are allowed in the pre-disciplinary conference.
  4. No recording devices are allowed to be used during the pre-disciplinary conference.
  5. Specific reasons and supporting documentation, to include all written warnings, should be presented which support the proposed action.
  6. Insure the employee at the onset of the conference that no final decision has been made.
  7. Solicit information from the Covered Employee which shall allow him/her to present their side or perspective of the issue(s).
  8. The Covered Employee does not have the option of presenting witnesses but may give the County Manager, or his/her designee, a list of names of persons who have information related to the disciplinary action.
  9. Terminate the conference for the purpose of evaluating and weighing all information/evidence presented.

E. To render a final decision on the appropriate course of action, a meeting with the necessary management, staff, and an investigation of other sources may follow the pre-disciplinary conference to evaluate information obtained in the pre-disciplinary conference. Following the conference, management shall review and consider the response of the employee and reach a decision on the proposed recommendation. If management's decision is to dismiss the employee, a written letter of dismissal containing the specific reasons for dismissal, the effective date of the dismissal and the employee's appeal rights shall be issued to the employee in person or by certified mail, return receipt requested, to the last known address of the employee. To minimize the risk of dismissal upon erroneous information, and to allow time following the conference for management to review all necessary information, the decision to dismiss should not be communicated to the employee in accordance with this Paragraph, prior to the beginning of the next business day following the conclusion of the pre-dismissal conference or after the end of the second business day following the completion of the pre-dismissal conference except in those cases where further time is needed to investigate additional information in an effort to make an informed decision. Should a delay be necessary, management will inform the employee and provide them with a deadline for a decision.

### **Section 11. Placement on Investigatory Status with Pay**

- A. Investigatory Status with Pay (herein "ISP") may be used to provide time to investigate, establish facts, and reach a decision concerning an employee's status. Placement on ISP may be appropriately used to provide time to schedule and hold a pre-disciplinary conference. Also, the County may elect to use ISP to avoid undue disruption of work or to protect the safety of persons or property. An ISP

placement shall not exceed thirty calendar days unless extended by management. Extensions shall be in writing to the employee and include the specific reason for the extension and the length of the extension.

- B. Placing an employee on ISP shall not be used for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee. Being placed on ISP is not a disciplinary action.

### **Section 12. Separation Procedure**

Prior to separation, an employee separating from employment with the County may have an exit interview with the Human Resources Department and the employee's Department Head. Any County property in the employee's possession shall be returned to the County prior to separation. If the separation is involuntary, the covered employee shall be informed of the right to appeal.

### **Section 13. Employee Appeal Procedure**

- A. A Covered Employee has the right to appeal a demotion, a suspension without pay, reduction in force or a dismissal. Employees who are covered under the State Personnel Act will follow the Appeals and Grievance Policy specific to the employee's department. Appeal rights for employees covered by the State Personnel Act shall prevail.
- B. All appeals based on dismissal, suspension without pay, demotions and reduction in force shall be appealed directly to the County Manager, or his/her designee, or appointing authority. Employees shall have fifteen calendar days from the date of receipt of written notice of such action to file an appeal.
- C. After reviewing the appeal, the County Manager, or his/her designee, or corresponding appointing official shall issue a final decision. Upon receiving the final decision of the County Manager, or his/her designee, or corresponding appointing official, the County Manager, or his/her designee, and/or Human Resources Director or other appointing authority shall inform the employee, immediate Supervisor, and the Department Head, in writing, of the final decision and any prescribed relief to resolve the appeal. The decision shall be furnished within ten days and the decision is final. It is not grievable under *ARTICLE IX. GRIEVANCE PROCEDURE*.
- D. Appeals filed on an untimely basis must be dismissed.
- E. Covered Employees are required to exhaust their administrative remedies prior to taking further legal action outside the Personnel Ordinance.

## ARTICLE IX. GRIEVANCE PROCEDURE

### Section 1. Grievance

The Grievance Procedure provides an adequate and fair means for hearing and resolving matters of employment conditions of County employees. Nothing herein shall prohibit from filing complaints of unlawful discrimination, harassment, or retaliation in accordance with County policy, or applicable State and federal laws.

### Section 2. Coverage

- A. This Grievance Procedure applies to all eligible employees as set forth in *ARTICLE I. ORGANIZATION OF PERSONNEL SYSTEM, Section 2. Coverage* except for Covered Employees who are covered under the State Personnel Act; these employees will follow the Appeals and Grievance Policy and/or the Unlawful Workplace Harassment Policy specific to their Department policies. Grievance and Appeal rights for employees covered by the State Personnel Act shall prevail.
- B. A grievance is defined as a claim or complaint of an event or condition which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, discrimination, bullying or lack of established policy pertaining to employment conditions. A voluntary demotion, a written warning, and Investigatory Suspension with Pay are not grievable in accordance with the remedies and issues utilized in the process described in this policy.

### Section 3. Policy

- A. Every eligible employee shall have the right to present a grievance in accordance with these procedures, with or without a representative, free from interference, coercion, restraint, discrimination, penalty, or reprisal. Employees shall be permitted time away from regular duties as may be necessary and reasonable as determined by the Department Head or the County Manager, or his/her designee, to prepare and present a grievance. All grievances based on alleged discrimination may be appealed directly to the County Manager, or his/her designee, or appointing authority, indicating whether the alleged discrimination was based on race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law. Filing a grievance pursuant to this section does not toll the statute of limitations applicable to filing a charge of discrimination with the Equal Employment Opportunity Commission.
- B. Grievances filed on an untimely basis must be dismissed. Allegations of discrimination, if raised more than thirty calendar days after the party alleging discrimination became aware of or should have become aware of the alleged discrimination, shall be dismissed.
- C. **Employees who are covered by the State Personnel Act must follow the administrative procedures outlined per specific Departmental policy, and, specifically for Unlawful Workplace Harassment, for filing a complaint of discrimination or harassment.**
- D. The dismissal of your grievance related to discrimination has no bearing on your ability to bring a charge of discrimination with the Equal Employment Opportunity Commission.

## Section 4. Procedure

### A. Step One.

1. An employee must file a grievance, either orally or in writing, with the immediate Supervisor within fifteen days of the date of a grievable incident having occurred. The immediate Supervisor shall meet with the employee within five days of receipt of the grievance and attempt to informally and expeditiously resolve the grievance. If the grievance is not settled, then the employee and immediate Supervisor should document a statement of relief which describes the action the employee desires the immediate Supervisor or organization should take to resolve the grievance.
2. If the immediate Supervisor's informal resolution efforts fail, the immediate Supervisor must issue a written decision to the employee and the Department Head on the grievance and submit it no later than five days following the meeting which summarized the grievance, the requested statement of relief, and documentation as to why the grievance was not resolved. The grievance procedure would at this point move to Step Two.
3. If the employee alleged sexual harassment or hostile work environment by the immediate Supervisor, the employee may file the complaint with the Department Head, Assistant County Manager, County Manager, or his/her designee,, Human Resources Director, or appointing authority. Alternatives as to who to report alleged harassment or hostile work environment to are outlined in *ARTICLE V. CONDITIONS OF EMPLOYMENT*,

### B. Step Two.

1. Employees not reaching resolution with the informal response at Step One may file the grievance and statement of relief desired, in writing, with the Department Head within five days of receipt of the immediate Supervisor's written decision and shall state the basis for the complaint, and, if based on alleged discrimination, indicate whether the alleged discrimination was based on race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law.
2. The Department Head shall meet with the employee within five days of receipt of the Step Two grievance, and review the decision at Step One, and make an independent determination on the merits of the grievance. Within ten days of the meeting with the employee, the Department Head shall issue a written decision to the employee with copies to the immediate Supervisor and the Human Resources Department. If the employee and Department Head reach an agreement at this step, the decision and statement of relief shall be issued and the grievance will be considered resolved.
3. Should the grievance not be resolved at the Department Head level, Step 3 of this procedure is available to the employee.

### C. Step Three. (Not applicable to elected official employees or to employees subject to the jurisdiction of the North Carolina State Personnel Commission)

1. Employees not reaching a resolution or timely response in Step 2 are able to take the grievance from the department level to the Human Resources Director. This enables the employee, immediate Supervisor, and Department Head to have the grievance reviewed by someone external to the department. The grievance may be filed with the Human Resources Director

within ten working days of the decision or decision due date of Step 2. The Human Resources Director shall review the grievance and render a decision within ten working days.

2. The decision, in writing, shall be provided to the employee, immediate Supervisor, and Department Head. Should the employee and Human Resources Director reach a resolution, the prescribed relief shall be outlined and the grievance shall be resolved.
3. If no resolution is reached at this level, the employee may proceed to Step 4 of the prescribed grievance process.

D. *Step Four.*

1. Employees not reaching resolution at Step 3 may forward the written grievance to either the County Manager, or his/her designee, or the appointing authority within five days of receipt of the Step 3 decision. The employee may request a decision from the corresponding appointing official or County Manager, or his/her designee, directly.
2. At Step 4 in the grievance procedure, either the corresponding appointing official or County Manager, or his/her designee, must be utilized for a final and binding decision.
3. If the employee requests a decision directly, the appointing authority and/or County Manager, or his/her designee, shall render a written decision to the employee, immediate Supervisor, Department Head, and Human Resources Director within fifteen days of receipt of the grievance. The decision issued and applicable relief to resolve the grievance is at this stage final and binding and in itself is not grievable.
4. The decision shall be furnished within ten days and in itself is not grievable.

### **Section 5. Employee Protection and No Retaliation**

**Buncombe** County is committed to a safe workplace where employees are able to responsibly voice their concerns regarding business operations, the use of resources and assets, the adherence to workplace practices and policies, unethical behavior, and unsafe work practices and to do so without fear of reprisal, intimidation and/or retaliation. There are different ways that employees can voice their concern. These include:

Addressing concerns with the appropriate member of management,

Using the Grievance Procedure when applicable (See Article IX. Grievance Procedure), or

Using the Employee Protection Hotline: a toll free number (1-866-908-7236) that is answered by an independent third party source and available to employees as well as the public to register a complaint or concern anonymously. Anonymous reports are directed to the Internal Auditor to investigate and ensure follow up action if appropriate.

- - Buncombe County is committed to ensuring that every employee is treated fairly who lodges a concern, and the County will handle all concerns swiftly and confidentially to the extent possible in light of the need to take appropriate corrective action. Lodging a concern will in no way be used against the employee or have an adverse impact on the individual's employment status. However, filing groundless or malicious concerns is an abuse of this policy and will be treated as a violation. (For full policy see Employee Protection and No Retaliation Policy – Appendix N.)

Section 6. Unlawful Workplace Harassment, *Subsection C.* should the immediate Supervisor, Department Head, or County Manager be the source of the employee's grievance.

## **Section 7. Maintenance of Records**

All documentation, records, and reports shall be retained for a minimum of three years and shall be held by the Human Resources Department. These records shall be subject to review by the grievant, the employee's Department Head, the County Manager, or his/her designee,, and/or Human Resources Director, or other appointing authority, and by the Board of County Commissioners.

## **ARTICLE X. PERSONNEL RECORDS**

### **Section 1. Personnel Records Maintenance**

Such personnel records as are necessary for the proper administration of the personnel system shall be maintained by the appointing authority or Human Resources Department. The County shall maintain in personnel records only information that is necessary and relevant to accomplishing legitimate personnel administration needs. Medical information shall be kept in a separate medical file with limited access and in compliance with the Americans with Disabilities Act and all privacy laws.

### **Section 2. Information Open to the Public (N.C. Gen. Stat. § 153A-98(b))**

Pursuant to N.C. Gen. Stat. § 153A-98(b), the following information with respect to each County employee is a matter of public record:

1. Name;
2. Age;
3. Date of original employment or appointment to County service;
4. The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the agency has the written contract or a record of the oral contract in its possession;
5. Current position;
6. Title;
7. Current "salary;"
8. Date and amount of each increase or decrease in salary with the County;
9. Date and type of each promotion, demotion, transfer, suspension, separation or other change in position classification with the County;
10. Date and general description of the reasons for each promotion with the County;
11. Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the County. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the County setting forth the specific acts or omissions that are the basis of the dismissal; and,
12. Office to which the employee is currently assigned.

For the purposes of this Personnel Ordinance, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

### **Section 3. Access to Personnel Records**

As required by G. S. 153A-98, any person may have access to the information listed in Section 2 of this article for the purpose of inspection, examination, and copying, during the regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Board of County Commissioners may adopt. Any person denied access to any record shall have a right to compel



compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.

#### **Section 4. Confidential Information**

- A. All information contained in a County employee's personnel file, other than the information listed in Section 2 of this article, shall be maintained as confidential in accordance with the requirement of G. S. 153A-98 and shall be open to public inspection only accordance with 153A-98 (c).
- B. Each individual requesting access to confidential information shall be required to submit satisfactory proof of identity.
- C. A record shall be made of each disclosure to third parties and placed in the employee's file.

#### **Section 5. Remedies of Employees Objecting to Material in File**

An employee who objects to material in his or her personnel file may place in the file a statement relating to the material the employee considers to be inaccurate or misleading. A Covered Employee may seek the removal of such material in accordance with established grievance procedure.

#### **Section 6. Improper Access Unlawful**

Any official or employee who knowingly permits improper access to confidential information contained in a personnel file may be subject to criminal conviction and a fine as provided by law. Likewise, any individual who knowingly accesses confidential personnel information may also be subject to criminal conviction and a fine as provided by law.

#### **Section 7. Destruction of Records**

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with N.C. Gen. Stat. § 121-5 (b), without the consent of the State Department of Cultural Resources. Individuals who unlawfully remove public records or who alter, deface, mutilate, or destroy a public record may be subject to criminal conviction and a fine as provided by law.

## **ARTICLE XI. IMPLEMENTATION OF PERSONNEL ORDINANCE**

Before adopting or amending any provision of this Personnel Ordinance, the Board of Commissioners shall hold a public hearing on the ordinance or amendment. The Board shall cause notice of the hearing to be published at least once not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

### **Section 1. Conflicting Policies and Resolution Repealed**

All policies, ordinances, or resolutions that conflict with the provisions of this Personnel Ordinance are hereby repealed.

### **Section 2. Severability**

If any provision of this Personnel Ordinance or any rule, regulations, or order thereunder or the application of such provision to any person or circumstance is held invalid, the remainder of this Personnel Ordinance and the application of such remaining provisions of this Personnel Ordinance of such rules, regulations, or orders to persons or circumstances other than those held invalid, shall not be affected thereby.

This Ordinance adopted and effective by the Board of County Commissioners, Buncombe County, State of North Carolina, this 3rd day of October, 2017.

# Appendices

## BUNCOMBE COUNTY POLICIES



## Appendix A: Buncombe County Core Values for Employee Conduct

### Section 1. Purpose

As an anchor institution, we want our employees to reflect the best aspects of our community. Through their actions each day, our employees help shape the character of our community. Our commitment in County government is to foster a safer, healthier community and one where every person is treated with dignity and respect and has the best chance to lead a productive and sustainable way of life.

### Section 2. Core Values

- A. Eight core values define our culture. Our core values determine how we act each day in the choices we make and the interactions we have. Make a difference in our community through the way you connect with those you serve by:
1. **Choosing the action that strengthens our community:** Each decision you make shapes the character of our community. Make sure that the actions you take are ones that strengthen our community – from your day-to-day interactions with people to how you deliver your services make sure that you intentionally choose the “right” decision for both the short and the long term success of our community.
  2. **Demonstrating “You Matter to Me” in all your actions:** Choose your words and actions with intention to show, “You Matter to Me.” Keep this phrase at the center of your actions and when in doubt about what to do, or how to respond, or what to say, think how you can show each person you serve that they matter to you.
  3. **Leading from a place of professional pride:** The way we deliver services defines what is important to us. Make sure you exemplify what is best in your profession and/or role. Professionals lead from a place where they are agents in their environment by:
    - a. **Connecting.** They participate in activities that produce a high “return on connection.”
    - b. **Shaping.** They seize opportunities to customize their professional experience.
    - c. **Learning.** They become self-directed learners at or above the speed of change.
    - d. **Stretching.** They move out of their comfort zone and move toward their outer limits.
    - e. **Achieving.** They regenerate through the intrinsic rewards of meaningful achievement.
    - f. **Contributing.** They direct their effort beyond themselves to create growth in others and value in the organization.
  4. **Paying attention for ways to improve things:** Our signature approach is to relentlessly look for ways to deliver services better, making sure that we are not only efficient but effective.
  5. **Building a positive team and family spirit:** How we treat each other shows our community how we want to live. Create each day a welcoming environment that brings out the best in you, your coworkers, and the people we serve.
  6. **Using your time wisely:** Time is our most precious resource. Learn to manage yourself and your duties efficiently and effectively.

**7. Opening yourself up to the rich diversity of people and perspectives:** Buncombe County crosses 660 square miles of varied neighborhoods and people. Lead from a place that seeks out and benefits from these varied perspectives and needs.

**8. Being honest and ethical:** It defines our public trust.

**B. These responsibilities and core values are essential to the successful performance and behavior of our employees.**

## **Appendix B: Buncombe County Family and Medical Leave Act of 1993**

### **Section 1. Purpose**

- A. The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.
- B. If you have any questions, concerns, or disputes with this policy, you must contact the Human Resources Department at 828-250-4166 or email HR@buncombecounty.org.

### **Section 2. General Provisions**

Under this policy, Buncombe County will grant up to twelve weeks (or up to twenty-six weeks of military caregiver leave to care for a covered service member with a serious injury or illness) during a twelve-month period to eligible employees. The leave may be paid, unpaid, or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

### **Section 3. Eligibility**

- A. To qualify to take family or medical leave under this policy, the employee must meet all of the following conditions. If an employee has questions regarding his/her eligibility, please consult with human resources.
  - 1. The employee must have been employed by Buncombe County for twelve months or fifty-two weeks. The twelve months or fifty-two weeks need not have been consecutive. Separate periods of employment may be counted depending on the length of the break in service and the circumstances surrounding the reason for the break in service.
  - 2. The employee must have actually worked at least 1,250 hours during the twelve-month period immediately before the date when the leave is requested to commence. Hours spent on leave where paid or unpaid will not be counted in determining the 1,250 hours eligibility test for an employee under FMLA.
  - 3. The employee must work in a worksite where fifty or more employees are employed by Buncombe County within seventy-five miles of that office or worksite.

### **Section 4. Type of Leave Covered**

- A. To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:
  - 1. The birth of a child and in order to care for that child
  - 2. The placement of a child for adoption or foster care and to care for the newly placed child
  - 3. To care for a spouse, child or parent with a serious health condition (described below)
  - 4. The serious health condition (described below) of the employee that makes the employee unable to perform the functions of the employee's position
    - a. A serious health condition is defined as a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any

subsequent treatment in connection with such inpatient care or a condition that requires continuing treatment by a licensed health care provider. Continuing treatment generally includes a period of three consecutive days of incapacity with (1) an initial visit to a health care provider within seven days of the onset of the incapacity and a second visit within thirty days of the incapacity or (2) treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment.

A serious health condition may also be an illness of long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition results in periodic health care visits for treatment and such visits must take place at least twice a year.

- b. Employees with questions about what illnesses are covered under this FMLA policy or under Buncombe County's sick leave policy are encouraged to consult with the Human Resources Department.
  - c. If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, Buncombe County may designate all or some portion of related leave taken as leave under this policy as FMLA related, to the extent that the earlier leave meets the necessary qualifications.
5. Qualifying exigency leave for families of members of the National Guard or Reserves, as well as some retirees, or of a regular component of the Armed Forces when the covered military member is on covered active duty or called to covered active duty. An employee whose spouse, son, daughter, or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to twelve weeks of leave for reasons related to or affected by the family member's call-up or service.
- a. The "qualifying exigency" must be one of the following: 1) short-notice deployment, 2) military events and activities, 3) child care and school activities, 4) financial and legal arrangements, 5) counseling, 6) rest and recuperation, 7) post-deployment activities, and 8) additional activities that arise out of active duty or the call to active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.
  - b. "Covered active duty" means: (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; or (2) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, which is during a war or national emergency declared by the president or Congress.
  - c. The leave may commence as soon as the individual receives the call-up notice. This type of leave would be counted toward the employee's twelve-week maximum of FMLA leave in a twelve-month period.
6. Military caregiver leave (also known as covered service member leave) to care for a seriously injured or ill service member or veteran. An employee whose son, daughter, parent, spouse, or next of kin is a covered service member may take up to twenty-six weeks in a single twelve-month period to care for that service member.
- a. "Next of kin" is defined as the closest blood relative of the injured or recovering service member.

- b. The term “covered service member” means:
  - i. A member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise on outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
  - ii. A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- c. The term “serious injury or illness”:
  - i. In the case of a member of the Armed Forces (including a member of the National Guard or Reserves), is one that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating; and
  - ii. In the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes medical treatment, recuperation, or therapy, “serious injury or illness” means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in the line of duty while on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty while on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

## **Section 5. Amount of Leave**

- A. An eligible employee can take up to twelve weeks for the FMLA circumstances (1) through (5) above under this policy during any twelve-month period. Buncombe County will measure the twelve-month period as a rolling twelve-month period measured forward from the date an employee uses any leave under this policy.
- B. An eligible employee can take up to twenty-six weeks for the FMLA circumstance (6) above (military caregiver leave) during a single twelve-month period. For this military caregiver leave, Buncombe County will measure the twelve -month period as a rolling twelve -month period measured forward. FMLA leave taken for other FMLA circumstances will be deducted from the total of twenty-six weeks available.
- C. If a husband and wife both work for Buncombe County and each wishes to take leave for the birth of a child, adoption, or placement of a child in foster care, or to care for a parent (but not a parent “in-law”) with a serious health condition, the husband and wife may only take a combined total of twelve weeks of leave. If a husband and wife both work for Buncombe County and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of twenty-six weeks of leave.



## **Section 6. Employee Status and Benefits during Leave**

- A. While an employee is on leave, Buncombe County will continue the employee's health benefits during the leave period at the same level, and under the same conditions as if the employee had continued to work.
- B. If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, Buncombe County will require the employee to reimburse Buncombe County the amount it paid for the employee's health insurance premium during the leave period.
- C. Under current Buncombe County policy, the employee pays a portion of the health care premium during the leave period.
  - 1. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium.
  - 2. If the employee is using unpaid leave, then the employee's portion of the benefit will be taken out of the employee's paycheck upon his/her return to work.
- D. If the employee contributes to dental insurance, life insurance or a disability plan:
  - 1. Buncombe County will continue making payroll deductions while the employee is on paid leave.
  - 2. While the employee is on unpaid leave, the employee's portion of the benefit will be taken out of the employee's paycheck upon his/her return to work.
  - 3. Buncombe County may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

## **Section 7. Employee Status after Leave**

An employee who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from the health care provider. This requirement will be included in the employer's response to the employee's FMLA request. Generally, an employee who takes FMLA leave will be returned to the same or similar position with equivalent status, pay, benefits, and other employment terms. Buncombe County may not return certain key employees to the same or similar position. Key employees will be notified of their status as a key employee upon their request for FMLA leave.

## **Section 8. Use of Paid and Unpaid Leave**

- A. Employees are required to use all available paid leave while on FMLA prior to being eligible for unpaid leave (there may be exceptions for employees with short term disability coverage and/or on workers' compensation).
- B. Leave for the birth of the employee's child and for an employee's serious health condition that qualifies under a disability plan, including workers' compensation (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA.
- C. An employee who is using military FMLA leave for a qualifying exigency must use all paid leave prior to being eligible for unpaid leave. An employee using FMLA military caregiver leave must also use all paid leave (as long as the reason for the absence is covered by Buncombe County's sick leave policy) prior to being eligible for unpaid leave.

## **Section 9. Intermittent Leave or a Reduced Work Schedule**

- A. An employee may take FMLA leave as twelve full consecutive weeks, and in certain circumstances, may use the leave intermittently (take a day periodically when needed over the year) or to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of twelve workweeks (or twenty-six workweeks to care for an injured or ill service member) over a twelve-month period.
- B. If an employee qualifies for intermittent or reduced schedule leave, Buncombe County may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.
- C. For the birth, adoption or foster care of a child, Buncombe County and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced hour schedule. All leave for birth, adoption, or foster care of a child must be taken within one year of the birth or placement of the child.
- D. If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with Buncombe County regarding the scheduling of intermittent leave or a reduced hour schedule. If this is not possible, then the employee must prove that the use of the leave is medically necessary.
- E. If an employee has more than one current FMLA circumstance which requires intermittent or reduced schedule leave, the employee should indicate on his or her timecard the circumstance necessitating the leave.<sup>12</sup>

## **Section 10. Certification for the Employee's Serious Health Condition**

- A. Buncombe County will require certification for the employee's serious health condition. The employee must respond to such a request within fifteen days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.
- B. If the County needs verification or clarification regarding the certification and the employee has been unable to provide the necessary clarification, Buncombe County may directly contact the employee's health care provider using a health care professional, a Human Resources professional, leave administrator, or management official. Buncombe County will not use the employee's direct Supervisor for this contact. Such contact will be made in compliance with HIPAA Medical Privacy Rules.
- C. Buncombe County has the right to ask for a second opinion if it has reason to doubt the certification. Buncombe County will pay for the employee to get a certification from a second health care provider, which Buncombe County will select. Buncombe County may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, Buncombe County will require the opinion of a third health care provider. Buncombe County and the employee will mutually select the third health care provider, and Buncombe County

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<sup>12</sup> Approved by County Commissioners on 06/21/2016 effective 07/01/2016

will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

### **Section 11. Certification for the Family Member's Serious Health Condition**

- A. Buncombe County will require certification for the family member's serious health condition. The employee must respond to such a request within fifteen days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.
- B. The same rights and requirements apply to the certification of the family member's serious health condition as described above for the employee's serious health condition.

### **Section 12. Certification of Qualifying Exigency for Military Family Leave**

Buncombe County will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within fifteen days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

### **Section 13. Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave**

Buncombe County will require certification for the serious injury or illness of the covered service member. The employee must respond to such a request within fifteen days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.

### **Section 14. Recertification**

Buncombe County may request recertification for the serious health condition of the employee or the employee's family member no more frequently than every thirty days and only in certain circumstances. Otherwise, Buncombe County may request recertification for the serious health condition of the employee or the employee's family member every six months in connection with an FMLA absence. Buncombe County may provide the employee's health care provider with the employee's attendance records and ask whether the leave is consistent with the employee's serious health condition.

### **Section 15. Procedure for Requesting FMLA Leave**

- A. All employees requesting FMLA leave must provide verbal or written notice of the need for leave to the Human Resources Department. Within five business days after the employee has provided this notice, the Human Resources Department will provide the employee with a notice of their eligibility.
- B. When the need for leave is foreseeable, the employee must provide the employer with at least thirty days' notice. When an employee becomes aware of a need for leave less than thirty days in advance, the employee must provide notice of the need for leave either the same day or the next business day. When the need for FMLA leave is not foreseeable, the employee must comply with Buncombe County's usual and customary notice and procedural requirements for requesting leave absent unusual circumstances (see Article VI, Section 10).

**Section 16. Designation of FMLA Leave**

Within five business days after the employee has submitted the appropriate certification form, the HR manager will complete and provide the employee with a written response to the employee's request for FMLA leave.

**Section 17. Intent to Return to Work From FMLA Leave**

Buncombe County may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

## **Appendix C: Lactation Support at Work for Nursing Mothers Policy**

### **Section 1. Purpose**

- A. As part of our family-friendly policies and benefits, Buncombe County supports breastfeeding mothers by accommodating the mother who wishes to express breast milk during her workday when separated from her newborn. These provisions will meet the requirements of the Fair Labor Standards Act as it relates to breaks for nursing mothers.

### **Section 2. Policy**

- A. For up to one year after the child's birth, any employee who is breastfeeding her child will be provided reasonable break times to express breast milk for her newborn. It is suggested that mothers work with Human Resources prior to the birth of the employee's child or immediately upon return to work so that a smooth transition back to work may be made.
- B. Nursing mothers should work with Buncombe County Human Resources to identify a room in the employee's work area where employees may express milk.
- C. A small refrigerator reserved for the specific storage of breast milk will be available.
  - 1. Any breast milk stored in the refrigerator must be labeled with the name of the employee and the date of expressing the breast milk.
  - 2. Any non-conforming products stored in the refrigerator may be disposed of.
  - 3. Employees storing milk in the refrigerator assume all responsibility for the safety of the milk and the risk of harm for any reason, including improper storage, refrigeration and tampering.
  - 4. Rules for use of a room and refrigerator storage will be posted in the room.
  - 5. Employees who work off-site or in other locations will be accommodated with a private area as necessary.

## **Appendix D: Disability Policy**

### **Section 1. Purpose**

- A. It is the policy of Buncombe County to comply with all federal and state laws concerning the employment of persons with disabilities. Furthermore, it is our policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions, and privileges of employment.

### **Section 2. Policy**

- A. Buncombe County will work with qualified individuals with a disability requesting a reasonable accommodation so that they can perform the essential functions of a job. Buncombe County will not grant a reasonable accommodation if doing so causes a direct threat to the requesting individual or others in the workplace and the threat cannot otherwise be eliminated and/or if the accommodation creates an undue hardship to Buncombe County. Contact the Human Resources Department with any questions or requests for accommodation.
- B. All employees are required to comply with the company safety standards. Current employees who pose a direct threat to the health and/or safety of themselves or other individuals in the workplace will be placed on appropriate leave until an organizational decision has been made in regard to the employees' immediate employment situation.
- C. The Human Resources department is responsible for implementing this policy, including resolution of reasonable accommodation, safety/direct threat, and undue hardship issues.

## Appendix E: Workplace Violence Policy

### Section 1. Purpose

- A. Buncombe County is committed to preventing workplace violence and to maintaining a safe work environment. Toward that end, Buncombe County has adopted this Workplace Violence policy. The intent of the policy is to ensure that our employees are free from intimidation, harassment, or other threats of or actual violence that may occur on-site or off-site during work-related activities. **All employees, customers**, vendors and business associates should be treated with courtesy and respect at all times. Employees are expected to refrain from fighting, bullying, “horseplay,” or other conduct that may be dangerous to others.

### Section 2. Policy

- A. Conduct that threatens, intimidates, or coerces another employee, customer, vendor or business associate will not be tolerated. County resources may not be used to threaten, stalk, or harass anyone at the workplace or outside of the workplace. The County treats threats coming from an abusive personal relationship as it does other forms of violence.
- B. Indirect or direct threats of violence, incidents of actual violence and suspicious individuals or activities should be reported as soon as possible to a Supervisor, security personnel, human resources, member of the Buncombe County Threat Assessment Team, or any member of senior management. When reporting a threat or incident of violence, the employee should be as specific and detailed as possible and use the Violent Incident Form. Employees should not place themselves in peril, nor should they attempt to intercede during an incident.
- C. Employees should promptly inform the Human Resources department of any protective or restraining order that they have obtained that lists the workplace as a protected area. Employees are encouraged to report safety concerns with regard to partner violence. Buncombe County will not retaliate against employees making good-faith reports. Buncombe County is committed to supporting victims of intimate partner violence by providing referrals to Buncombe County’s EAP and community resources and providing time off for reasons related to intimate partner violence.
- D. Buncombe County will promptly and thoroughly investigate all reports of threats of violence or incidents of actual violence and of suspicious individuals or activities. The County may bring together a Threat Assessment Team to investigate and manage an identified threat. The identity of the individual making a report will be protected as much as possible. Buncombe County will not retaliate against employees making good-faith reports of violence, threats or suspicious individuals, or activities. In order to maintain workplace safety and the integrity of its investigation, Buncombe County may suspend employees suspected of workplace violence or threats of violence, either with or without pay, pending investigation.
- E. Anyone found to be responsible for threats of or actual violence or other conduct that is in violation of these guidelines will be subject to prompt disciplinary action up to and including termination of employment.
- F. Buncombe County encourages employees to bring their disputes to the attention of their Supervisors or the Human Resources department before the situation escalates. Buncombe County will not discipline employees for raising such concerns.

## Appendix F: Unlawful Workplace Harassment

### Section 1. Purpose

A. Buncombe County is committed to a work environment that is free from harassment and discrimination.

### Section 2. Policy

A. Harassment based on an individual's race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, sexual orientation, gender identity or any other legally protected class under federal or NC State law will not be tolerated.

B. All employees, including Supervisor and management personnel, are expected and required to refrain from any activity or action that contributes to harassment in the workplace.

C. Harassment of employees by Supervisors or co-workers is forbidden in any form.

### Section 3. Definitions

**Unlawful Workplace Harassment is specifically defined as:** Unwelcome or unsolicited speech or conduct based upon race, color, religion, sex, national origin, political affiliation, physical or mental disability, age, veteran status, genetic information, <sup>1</sup>sexual orientation, gender identity or any other legally protected class under federal or NC State law that creates a hostile work environment or circumstances involving quid pro quo.

**Hostile Work Environment** harassment includes, but is not limited to, unwelcome statements or actions as a result of the individual being a member of a legally protected class that are sufficiently severe or pervasive as to unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive work environment.

- In determining whether a hostile work environment exists, you consider both whether a reasonable person would find the harassment hostile or abusive and whether the particular person who is the object of the harassment perceives it to be hostile or abusive.
- Hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating, and whether it unreasonably interferes with an employee's performance.
- Use of the employer's computer system for the purpose of viewing, displaying, or disseminating material that is sexual in nature also may constitute harassing behavior. See *Appendix J: Buncombe County IT Acceptable Usage Policy*.

**Quid Pro Quo harassment** consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:

- Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, or;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.



**Sexual harassment** is defined by federal guidelines as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when one or more of the following occur:

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

#### **Section 4. Reporting Procedures**

- A. Employees who believe they have been harassed in violation of this policy should make an immediate report. Employees may make a report in any of the following ways:
1. The employee may notify his or her immediate Supervisor of the situation. The immediate Supervisor is responsible for notifying County Human Resources within twenty-four hours of becoming aware of the situation and working with County Human Resources to investigate the situation and taking corrective action when appropriate.
  2. If the complaint of harassment is against the immediate Supervisor, the immediate Supervisor is not available, or the employee is otherwise uncomfortable reporting to his/her immediate Supervisor, the employee may report the situation to the Department Head. The Department Head is responsible for notifying County Human Resources within twenty-four hours of becoming aware of the situation and working with County Human Resources to investigate the situation and taking corrective action when appropriate.
  3. If the allegation is against the Department Head, the Department Head is unavailable or the employee is otherwise uncomfortable reporting to the Department Head, the complaint may be reported to the Human Resources Department at 828-250-4166 or email [HR@buncombecounty.org](mailto:HR@buncombecounty.org) and who shall then assume responsibility for investigating the situation and recommending appropriate corrective action to the County Manager, or his/her designee,.
  4. If at any point in the process the employee prefers to do so, he/she may report the situation directly an Assistant County Manager, County Manager , or Human Resources Director who shall then assume immediate responsibility for investigating the situation and recommending appropriate corrective action to the County Manager, or his/her designee,.
  5. Employees may also make a direct report through the County Whistleblower Hotline (1-866-908-7236). Reports made through the hotline will be directly investigated by the appropriate member of Senior Management in coordination with Human Resources.
  6. If the allegation of harassment is against the County Manager or an elected official, the complaint should be filed with the Chairman of the Board of County Commissioners, who shall personally investigate the complaint, or designate a representative to conduct the investigation and advise the employee and Board of County Commissioners on the outcome of the investigation.
- B. All complaints of harassment will be promptly investigated and appropriate corrective action where necessary based upon the findings of the investigation. Substantiated claims of harassment may result in disciplinary action, up to and including termination.

- C. **Employees who are covered by the State Personnel Act (SPA) need to follow the Unlawful Workplace Harassment Policy specific to their Department for reporting harassing behavior prior to taking legal action.**
- D. Reporting harassment pursuant to this policy does not in any way toll the statute of limitations for reporting harassment to the appropriate governmental agency or through administrative process set forth in the SPA.

## **Appendix G: No Retaliation Policy for Discrimination and Harassment Complaints**

### **Section 1. Policy**

- A. No person will be adversely affected or otherwise retaliated against in his/her employment with the County because of bringing a good faith complaint of unlawful harassment or participating in an unlawful workplace harassment investigation or for making in good faith a complaint about the violation of discrimination, anti-harassment, workplace violence, or other unlawful behavior or conduct that violates the County's policy(ies).

### **Section 2. Other Protected Activity**

- A. Other protected activity includes, but is not limited to:
1. Initiating an internal complaint or report of discrimination or harassment;
  2. Filing a claim of discrimination;
  3. Requesting an accommodation for a disability;
  4. Filing a Workers' Compensation claim following a work-related injury;
  5. Requesting leave under the Family and Medical Leave Act; or
  6. Filing a safety or environmental related complaint with state and/ or federal oversight agencies.

### **Section 3. Procedure**

- A. Reports of retaliatory conduct will be promptly and objectively investigated in accordance with the County's investigation procedures.
- B. If a retaliation complaint is substantiated, appropriate disciplinary action, up to and including termination, will be taken against those who have engaged in such behaviors, as the County deems appropriate in its sole discretion.
- C. Co-workers are prohibited from engaging in retaliation against other employees and will be subject to discipline, up to and including termination, for such conduct.
- D. If an employee (or applicant) feels as if they have suffered an adverse action for making a complaint or for testifying, assisting, or participating in any manner in any investigation, proceeding or hearing conducted by Buncombe County and/or a federal or state enforcement agency, the employee should contact the Human Resources Director or any member of the County Manager's Senior Leadership Team or call the County Whistleblower Hotline (1-866-908-7236) and file a complaint.

## **Appendix H: Buncombe County Vehicle Usage Policy**

### **Section 1. Purpose**

This policy establishes uniform vehicle use practices and requirements for County employees of all departments, as well as partners and affiliated agencies that operate motor vehicles to conduct County business including but not limited to use vehicles owned by the County, vehicles leased or rented by the County, or an employee's personal vehicle or otherwise within the possession and control of the County, to ensure safe driving and efficient use of public property. For purposes of this policy, County "department" shall include the Sheriff's Office and Register of Deeds. The following provisions shall apply unless in conflict with or exempt by State or federal statute.

### **Section 2. Overview**

County employees in various departments may be required to use/operate a motor vehicle to conduct business on behalf of the County. The purpose of this policy is to ensure that County employees are properly licensed to operate said motor vehicle and that the vehicles are used in a safe and efficient manner.

### **Section 3. Use of Vehicles**

All employees from every department in the County must be properly licensed to operate a motor vehicle to use a motor vehicle to conduct business on behalf of the County. "Conducting business" shall mean any time an employee using a motor vehicle to perform a job function, at the direction of his or her Supervisor or travel for the County.

### **Section 4. Driver's Responsibilities**

- A. While on County business, employees shall operate all vehicles in a safe and courteous manner. Employees shall not exceed the speed limit and shall obey all traffic laws.
- B. Violations, citations, fines, and other actions taken by any enforcement agency against any employee while operating a motor vehicle for County business shall be the responsibility of the employee and may be cause for disciplinary action by the County.
- C. All employees are subject to random reviews of their Motor Vehicle Record (MVR) by the Safety Officer. Upon request, all employees must provide a copy of their current license to the safety officer.
- D. Every employee is required to notify his or her Department Director within one business day of any change in the employee's driver's status this includes but is not limited to civil revocations for impaired driving, suspensions and revocations. Failure to notify one's Department Director of said change shall result in discipline up to and including termination.
- E. No vehicle used for County business shall be driven if the driver has consumed or is under the influence of alcohol or any controlled substance.
- F. The use of tobacco in any form is prohibited in County-owned vehicles.
- G. Possession, transportation or consumption of alcohol or illegal drugs by anyone in the vehicle is prohibited. Law enforcement personnel may transport lawfully confiscated items as required and within the scope and course of their official duties.

## **Section 5. Use of County Vehicles**

- A. County vehicles are assigned to one or more employees for their primary use for County business and obligations. At the end of the workday, all County vehicles are to be parked in their assigned parking area unless specifically otherwise authorized by the respective Department Director.
- B. Employees driving County vehicles must be at least twenty-one years of age.
- C. Employees assigned County-owned vehicles are to take proper care of the interior and exterior appearance and servicing of County-owned vehicles at the scheduled times and/or every 4,000 miles. Failure to do so may result in disciplinary action. Upholding the maintenance requirement is the responsibility of the Department Director.
- D. The vehicle operator of is responsible for routinely checking for proper oil level, water and antifreeze levels, wear on belts, and adequate inflation of tires by reviewing the vehicle manual. The Garage Supervisor will provide training as needed.
- E. When fueling vehicles, the grade of fuel used shall be consistent with the lowest grade as stated in the operator's manual. Exceptions shall only be granted by the expressed written consent of the Department Director.

## **Section 6. Private Use**

- A. General Statutes §14-247, Private Use of Publicly Owned Vehicles, provides:

“It shall be unlawful for any officer, agent or employee of the State of North Carolina, or... County ... to use for any private purpose whatsoever any motor vehicle of any type or description whatsoever belonging to the ...County .... It is not a private purpose to drive a permanently assigned state-owned motor vehicle between one's official work station and one's home as provided in G.S. 143-341(8)i7a.”
- B. Personal use is prohibited. County vehicles are to be used for official County business only and shall not be used for the convenience of the employee with regard to transportation needs or other non-business activities.
- C. The County acknowledges that its employees may need at times, to keep personal items and information stored in or on County Owned Property. However, due to security and accountability concerns, all employees can have no expectation of privacy for personal items/information stored on or in Publicly Owned Vehicles and Publicly Owned Vehicles are subject to inspection at any time without any prior notice. This includes the installation of a GPS device to track the whereabouts of the Publicly Owned Vehicles.
- D. County vehicles may be used to travel to a nearby restaurant for lunch where the cost-benefit in travel time to the work quarters for a personal vehicle would not be in the best interest of the County.
- E. Each Department Director will provide the General Services Department a list of County vehicles assigned for overnight use. The list must include the vehicle number, driver's name, and driver's license number.
- F. Department Directors shall immediately notify the General Services Department of any driver changes to assigned vehicles. Failure to provide driver changes may result in revocation of an assigned vehicle.

## Section 7. Commuting

- A. Consistent with policies and procedures for State-owned take-home vehicles, employees assigned County-owned take-home vehicles shall reimburse the County for using these vehicles for commuting to and from work. This rate shall be set at \$3 per day, which also satisfies Internal Revenue Service (IRS) fringe benefit requirements. As a result, no additional attributed income is added to the employee's gross income for taxation purposes.
- B. Reimbursement shall be made by payroll deduction and based upon average annual usage. The bi-weekly deduction is calculated as follows:
- 365 Average number of days per year
  - (104) Less average number of Saturdays and Sundays per year
  - (11) Less average number of Holidays per year
  - (23) Less average number of PTO/Annual Leave days per year
- 227 Average number of days vehicle will be used to commute X \$ 3.00 Per day rate= \$ 681.00 Total annual charge for commuting  
26 Pay periods per year \$ 26.20 Payroll deduction per pay period
- C. Certain vehicles are excluded from the commuting reimbursement requirement. These exceptions are consistent with those as outlined in IRS Publication 15-B, Employer's Tax Guide to Fringe Benefits. They include most all Sheriff's Office vehicles, the Fire Marshal's vehicle, certain other public safety vehicles, any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds, dump trucks (including garbage trucks), flatbed trucks and "qualified specialized utility trucks" which is defined as any truck (not including a van or pick-up truck) specifically designed and used to carry heavy tools, equipment, or parts, if shelves, racks or other permanent interior construction have been installed to carry and store such items. A pick-up truck with only a toolbox attached is therefore not exempt.
- D. If more than one employee is required to commute in the same County owned or leased vehicle for an official government purpose, each employee will be charged the \$3.00 per day commuting charge, based upon IRS requirements.

## Section 8. Overnight Assignment (Take-home Vehicle)

- A. Authorized employees may be assigned a take-home vehicle when the best interest of the public is served by providing County employees with safe, dependable transportation for extensive travel during or after working hours, for after-hours response to emergency requests for service, or for an approved, official purpose.
- B. Authorization for use of County vehicles overnight may be granted by the Department Director to specified employees based on the following criteria:
1. Employees whose regular duties require frequent use of a County vehicle overnight and whose responsibilities involve emergency response, afterhours response, evening and weekend duties, public meetings, or other business activities.
  2. Employees assigned to stand-by duty who are subject to call or who respond to service requests.
  3. Employees on temporary overnight assignment by the Department Director for emergencies or an approved, official purpose.

4. Employees expected to respond when called after hours, unless specifically excused due to authorized leave.

## **Section 9. Violations**

Violations of this policy are considered unacceptable personal conduct and/or misuse of County property. Employees violating the terms and conditions of this policy or misusing or abusing County-owned vehicles may be subject to appropriate disciplinary action, up to and including dismissal.

## **Section 10. Vehicle Need**

- A. County Department's must justify to the satisfaction of the County Manager, or his/her designee, the need for a County-owned vehicle based on whether a vehicle will be used a minimum of 9,900 miles per year. The cost-benefit of paying an employee mileage for use of the personal vehicle versus use of a County-owned vehicle must be documented before a County-owned vehicle is considered. Evaluation of the ongoing need for County-owned vehicles assigned to a department will be made on an annual basis before bidding new County vehicles.
- B. The County Board of Commissioner's must approve all new vehicle purchases and requests for a vehicle from the surplus list when that vehicle increases the fleet assigned to a department.
- C. Public Safety and special use vehicles required for a specific job function will be considered based on need, usage, and cost-benefits over the life of the vehicle versus mileage limitations.
- D. Each Department Director shall send the County Manager, or his/her designee, a written request for a vehicle to be classified as "special use." If the request is granted, the vehicle shall be coded as "special use" in the vehicle maintenance program.
- E. The County Manager, or his/her designee, may, at the request of the General Services Department, remove or recall any County-vehicle from a department for one of the following:
  1. The vehicle does not meet the minimum mileage requirement, excluding "special use" vehicles.
  2. Vehicle abuse, which includes but is not limited to, inadequate care or maintenance and damage to a vehicle caused by disregard or improper use.
  3. The termination of an employee or position with an assigned vehicle that will not be replaced within a reasonable time period.
- F. Department Directors may submit a written request to the County Manager, or his/her designee, justifying retention of a vehicle removed or recalled because of underutilization.
- G. A Department shall turn in the old vehicle before receiving a replacement vehicle to prevent unnecessary growth of the fleet. Any exception to this requires approval of the Board of County Commissioners.
- H. Department Directors shall complete a vehicle change form in the General Services Department for such action as purchase, sale, disposal, or transfer of vehicle.

## **Section 11. Department Directors' Responsibilities**

It is the responsibility of the Department Director to administer this County Vehicle Usage Policy

properly in regards to all County vehicles in his or her department.

**Section 12. Exemptions**

Sheriff's Office, Emergency Medical Services Department, and Emergency Management Department personnel operating County vehicles are exempt from this policy only to the extent that they are operating within the scope and course of their official duties and such operation is not in violation of North Carolina General Statutes.



## **Appendix I: Buncombe County Drug and Alcohol Testing Policy**

### **Section 1. Purpose**

- A. Buncombe County (the “County”) acknowledges the problem of substance abuse (including alcohol) in our society. Furthermore, we see substance abuse as a serious threat to our organization, employees, and clients. We are addressing this problem by introducing a substance abuse policy to ensure the County will have a drug free workplace.
- B. The ultimate goal of this policy is to balance our respect for individual privacy with our need to keep a safe, productive, drug free environment. Our intention is to prevent substance abuse. We would like to encourage those who use illegal drugs or abuse alcohol to seek help in overcoming their problem. With these basic objectives in mind, the County has established the following substance abuse policy.

### **Section 2. Policy**

- A. Illegal or unauthorized involvement with drugs on County time or County property, or at any time or place during the workday, or at any time in a County vehicle, or at any time while on County business will subject employees to immediate discharge.
- B. The term “illegal or unauthorized involvement” means illegal or unauthorized possession, use, manufacture, dispensation, distribution, purchase, or being under the influence of any controlled substance, violation of any applicable federal or state criminal drug statute, or a confirmed positive drug test result as verified in accordance with applicable federal and state law.
- C. Employees who use alcoholic beverages on the job, or report or return to work under the influence of alcohol, will be subject to immediate discharge.
- D. Employees’ persons and belongings, offices, desks, lockers, County vehicles, privately-owned vehicles on County property, and work sites are subject to searches by management for illegal drugs or other evidence of violations of this policy. Individuals may be requested to display personal property for visual inspection upon management request. Refusal to consent to search or to display personal property for visual inspection upon management request may be cause for immediate discharge.
- E. Adherence to the County’s policy on drugs and alcohol is a condition of employment for all employees.
- F. All employees must notify the County of any criminal drug statute conviction within five days of such conviction.
- G. All employees are responsible for preventing and reporting violations of the County’s drug and alcohol policy or other actions that threaten harm to the County or to their fellow employees. Employees are expected to use good judgment and common sense in exercising this responsibility.

### **Section 3. Drug/Alcohol Testing**

Employees will be tested as set forth below.

#### **A. Pre-Employment Testing**

Employees will be tested prior to beginning their employment with the County.

**B. Reasonable Cause Testing**

Employees will submit to urinalysis drug testing or other diagnostic tests whenever, in the opinion of the County, reasonable grounds exist to believe that the employee is in violation of this policy.

**C. Post-Accident or Work-Related Personal Injury Testing**

Employees may be required to submit to urinalysis drug testing or other diagnostic tests after any workplace accident including a car accident or work-related injury when medical treatment is necessary. Failure to report for such testing at the first medical treatment following an accident or when requested within fourteen days of notice to the County that an injury may be work-related will be regarded as a refusal to be tested. In accordance with State law, employees who refuse to submit to or cooperate with drug or alcohol testing after an accident may forfeit any rights to recover workers' compensation benefits.

**D. Random Testing**

Employees may be tested from time to time on a random basis without notice during working hours. Each random selection will be made from all County management and its employees without discrimination. Random selections will be made by a lottery method. A number will be assigned to each individual to ensure the integrity of the selection.

**E. Follow-up Programs**

As part of a follow-up program to treatment for drug abuse.

**F. Routinely Scheduled Fitness-for-Duty Exams**

When a substance abuse test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group. Periodic testing will be scheduled without discrimination by anniversary dates.

**Section 4. Refusal to Be Tested**

- A. Any employee who refuses to be tested will be removed from the workforce and will be subject to immediate discharge.
- B. At the time of testing, employees will be required to sign a consent form authorizing the required medical and laboratory tests.
- C. Any employee who refuses to sign the consent form will be removed from the workforce and will be subject to immediate discharge.

**Section 5. General Testing Procedures**

- A. All testing will be performed by an independent and highly reputable laboratory or health care provider that has been certified by the National Institute on Drug Abuse as qualified to perform drug testing under federal workplace testing programs.
- B. Reasonable measures will be taken to ensure privacy during administration of the test.
- C. All positive test results will be subject to confirmation testing by the laboratory or health care provider which conducted the original screening and verification by a qualified Medical Review

Officer. Such confirmation testing and verification will be accomplished using the original test sample, and not by retesting the employee or applicant. A portion of all test samples that produce confirmed positive results will be preserved by the testing laboratory for at least ninety days from the date the test results are mailed or otherwise delivered to the County.

### **Section 6. Confidentiality**

- A. Results of an applicant's or employee's test for the use of illegal drugs or alcohol abuse shall be transmitted to the appropriate management official. In order to address illegal drug use effectively, it may be necessary for the appropriate management official to consult with other persons in the process. However, such results will be disseminated only on a need-to-know basis.
- B. All information received through substance abuse testing is confidential, but may be used or received in evidence, or disclosed in any civil or administrative proceeding when the information is relevant to the employer's defense, e.g., a workers' compensation hearing.
- C. Drug test results and substance abuse documents will be maintained in a separate, locked, confidential file aside from the personnel files.
- D. **Employees who are deemed to have a confirmed positive test under this policy will be subject to immediate discharge.**
- E. **Employees who receive a confirmed positive test as verified by a Medical Review Officer may request in writing that the original sample be retested by the same or another approved laboratory. Such a request must be made during the ninety-day period that the original sample is retained. Employees must specify to which approved laboratory the sample is to be sent. Employees will incur all reasonable expenses related to any request for retesting, including expenses for chain of custody procedures, shipping, and retesting of the positive sample.**

### **Section 7. Employee Assistance**

The County encourages an employee with drug or alcohol problems to seek counseling. The Human Resource Department will be happy to refer employees to outside agencies for assistance in coping with such problems.

**BUNCOMBE COUNTY**

**DRUG AND ALCOHOL POLICY ACKNOWLEDGEMENT AND CONSENT**

I, \_\_\_\_\_, have read and been given a copy of the County's policy on drugs and alcohol. I understand that I am subject to its provisions, and to changes that may be made in the policy from time to time. I further understand that the County may conduct drug and alcohol tests and/or searches of the persons and belongings of its applicants and employees under the circumstances described in the policy. I hereby give my consent to the County and any laboratory/health-care provider that the County may designate, to collect and test samples from me to identify the presence of drugs and alcohol. I also authorize any such laboratory/health-care provider that performs such test(s) to release the test results to the County and any Medical Review Officer designated by the County.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

Witness: \_\_\_\_\_

**BUNCOMBE COUNTY**

**APPLICANT/EMPLOYEE DRUG/ALCOHOL SCREENING TEST CONSENT**

I, \_\_\_\_\_, understand and agree that the test I am about to receive includes a:

- ( ) Blood test to determine the presence of drugs or alcohol.
- ( ) Urine test to determine the presence of drugs or alcohol.

I authorize the testing laboratory to release the results of the tests to the County and any Medical Review Officer designated by the County.

I understand and agree that if the tests performed on the blood or urine sample taken from me indicate that I have violated the County drug and alcohol testing policy, I may be subject to disciplinary action up to and including discharge.

I understand that all testing for controlled substances will conform to the provisions of the Controlled Substance Examination Regulation Act, which requires the use of an approved laboratory, the testing be performed under reasonable and sanitary conditions, the tests be confirmed by a second examination utilizing certain scientifically accepted methods, and chain of custody procedures be utilized. I understand that the testing laboratory is required to retain a portion of the original sample that has been confirmed positive for at least ninety days from the date that the test results are mailed or otherwise delivered to the County. If my test results are confirmed positive, I understand that I may request in writing that the original sample be retested by the same or another approved laboratory. I understand that such request must be made within the ninety-day period that the testing laboratory retains the original sample. I understand that my request must specify to which approved laboratory the sample is to be sent. I further understand that I will incur all reasonable expenses related to any request for retesting, including expenses for chain of custody procedures, shipping, and retesting of the positive sample.

I hereby                      ( ) consent    ( ) refuse to consent

to the test(s) as noted above.

Date: \_\_\_\_\_                      Signed: \_\_\_\_\_

Witness: \_\_\_\_\_

## Appendix J: Buncombe County IT Acceptable Usage Policy

### Section 1. Purpose

This document establishes the Countywide policy for the proper use of all County information technology including, but not limited to computer systems and their attached peripherals, laptop computers, phones, cellular phones, beepers, faxes, smartphones, voicemail systems, e-mail systems, network resources, and internet resources.

### Section 2. Policy

All technology resources owned by Buncombe County are in place to enable the County to provide its services in a timely and efficient manner. Any activity or action that interferes with this purpose is prohibited. Because technology systems are constantly evolving, Buncombe County requires its employees to use a common sense approach to the rules set forth below, complying not only with the letter, but also the spirit of this policy. Appropriate use of this technology must reflect Countywide standards and be legal, ethical, and show restraint in the consumption of shared resources.

### Section 3. Definitions

**Client.** The computer “end user” or actual PC workstation connected to the server in a network environment.

**Computer Virus.** A malicious computer program designed to interfere or harm normal daily computer operations.

**Data Streaming.** A technique of transferring data in a steady and continuous flow. Typical applications are for accessing audio and/or video. Since the flow of data is constant and ongoing, this process has the potential to slow the response time of the entire network.

**Desktop themes.** A set of programs typically downloaded from the internet that can change many attributes of your computer screen.

**E-Mail.** The distribution of messages, documents, files, software, or images by electronic means. This includes internal e-mail, external e-mail, and internet e-mail.

**Encryption.** A security method of using a computer program to scramble a message to hide its contents.

**Firewall.** A security system used to prevent unauthorized access to Buncombe County’s computer servers, networks, and clients.

**Hot Bar.** An additional toolbar you would load off of the internet onto your desktop allowing you access to selected websites or features.

**Internet (or the World Wide Web).** A public electronic medium through which information and electronic mail travels.

**Public Domain Software.** Computer systems that do not retain any copyright claims. The authors

of these programs want computer users to have them free of charge.

**Server.** A central computer or device that connects computers on a network allowing users to share services as well as data.

**TCP/IP.** Abbreviation for Transmission Control Protocol/Internet Protocol, which is the communication protocol utilized by the majority of computer networks.

**Work Response Time.** Also known as user response time, it is the time it takes a computer to interact with the network server.

**Smartphone.** A mobile phone that includes advanced functionality beyond making phone calls and sending text messages. Typical smartphone functionality includes the ability to synchronize email messages, calendar and contact information with Buncombe County's email system.

#### **Section 4. Responsibilities**

- A. Department Supervisors are responsible for their staff complying with all provisions of this technology usage policy, and to investigate in a timely manner, document and report any alleged or suspected non-compliance to their department director.
- B. All non-compliance documentation should be sent to the Information Systems Security Officer by way of the Director of the Information Technology department.
- C. Employee use of the Buncombe County information technologies is a revocable privilege. User accounts and password access may be suspended or permanently revoked based on violations of this information technology usage policy. Violations may also result in disciplinary action up to and including termination in accordance with *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS* of the Buncombe County Personnel Ordinance. Severe violations of this policy may also result in employee criminal prosecution and/or civil liability.

#### **Section 5. Procedure**

##### **A. Information Access and Ownership**

All technology resources and all information transmitted by, received from, or stored on Buncombe County systems are the property of Buncombe County and as such, are subject to inspection by County officials. The County reserves the right for business purposes to enter, review, and monitor the information on all systems, including voice mail, electronic mail, and information stored on computer systems or media without advance notice. This might include investigating theft, unauthorized disclosure of business, proprietary, of personal information, personal abuse of the system, or monitoring workflow and productivity.

##### **B. Security**

Each user is responsible for all actions taken while using their profile, password, or access code. Great care must be taken by all employees to follow appropriate security procedures to protect the rights of our citizens with regard to unauthorized access of sensitive and confidential data.

### **C. Account Access**

Employees may only access accounts for which they are authorized and take reasonable precautions against unauthorized access to their accounts. Employees may not share a password and should always log off of their PC, or lock their computer when it is unattended. Each user will be held responsible for the actions taken by his or her assigned user id(s) on any County electronic system.

### **D. Honest Representation**

Each user shall identify themselves honestly, accurately, and completely when using any technology media. This includes telephone, email, social media, on-line user groups, or when setting up computer accounts. Only those employees who are authorized to speak or write to the media on behalf of Buncombe County may do so, even in a casual user group or chat room. Chat and newsgroups are strictly limited to County business need purposes.

### **E. Copyrighted Material**

Employees should always assume that information on the internet is copyrighted unless otherwise indicated. Users who download and use copyrighted material must be in compliance with current copyright laws. The Federal Copyright Act 17 U.S.C. 101 *et. Seq.*, (1988) protects and prohibits misuse of all original works of authorship in any tangible medium of expression. Most State and Federal Government documents contain a statement of permission to copy.

### **F. Electronic Mail Appropriate Usage Guidelines**

1. E-mail is considered an official form of communication between departments and employees. Computer users must check for the receipt of e-mail messages each working day, except while on vacation or those days designated official County holidays. On days taken as personal time off, employees should employ the “out of office” message.
2. Sending large attachments to outside addresses can dramatically affect the internet connection for the entire infrastructure. Consider the need, and if deemed appropriate, have the IT department place your document on a secure file transfer appliance where the recipient will be able to retrieve it.
3. Any e-mail to an address outside of the Buncombe County domain will be traveling across the internet, and therefore should be considered public domain. You should refrain from sending confidential or sensitive information by these means unless proper, formalized security tools (such as encryption) have been established. It is the responsibility of each department and user to protect confidential and sensitive information where intentional, inappropriate, or accidental disclosure of the information might expose the County or an individual to loss or harm.



4. Users shall not automatically forward a County e-mail account to an internet email address. This practice may jeopardize the confidentiality and integrity of County e-mail messages. It also can give the sender a false sense that the message is protected by internal e-mail systems. Electronic services created by County administrators are exempt. Additionally, users are not allowed to access third-party e-mail services to conduct County business.
5. Users must always protect the privacy and confidentiality of others.
6. Users must delete and purge all unnecessary mail that does not require retention.
7. Users must be courteous and follow accepted standards of etiquette.

#### **G. Electronic Documents/Email Privacy and Usage Guidelines**

1. **Electronic Documents:** Any document created or stored on an electronic computing device is considered an “electronic document” and is subject to all privacy and data retention statutes of North Carolina. Files created in Word, Excel, Access, Power Point, and Visio are examples of electronic documents. Although e-mail is considered a temporary communication, the content of e-mail is still subject to N.C. Gen. Stat. § 121-8 and N.C. Gen. Stat. § 132-1.
2. **Privacy:** To the greatest extent possible, effort has been made to preserve all employees’ individual privacy. However, Buncombe County computer systems and networks are public property and subject to the North Carolina Public Access statutes. Employees therefore should have no reasonable expectation of privacy in the use of these resources. Buncombe County reserves the right to trace and document any email generated by County provided resources. Emails not subject to public access containing sensitive or confidential information should have the following statement on the subject line of the document address: “CONFIDENTIAL” or “CONFIDENTIAL SUBJECT TO GENERAL STATUTE.” If this is done, the IT department is not required to release the information without proper legal directive.
3. **Not all “official” records are open to the public:** Many records are protected from general access or casual reference on a “need to know” basis by federal or state laws, or by legal precedent, and can only be seen by a court order. Therefore, certain records should be considered confidential to protect the privacy rights of employees and the general public. Employees should consult with their department Supervisor prior to releasing *any* information.

#### **H. Data Protection**

Buncombe County uses internet firewalls, virus protection, data encryption, and other mechanisms to ensure the safety and security of all data. Any employee who attempts to circumvent these mechanisms, or who knowingly propagates any computer virus into the system may be subject to disciplinary action in accordance with *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS*.

**I. Standard Practices–Equipment Safety**

1. All electronic equipment shall be maintained and cared for in an appropriate manner. If personal negligence should cause the equipment to become lost or stolen, the user may be held financially responsible.
2. The County will consider negligence on a case-by-case basis. In addition, the user should consider the following guidelines:
  - a. All users assigned a laptop computer or handheld device will be personally liable for the care and condition of the equipment.
  - b. Computers are sensitive to extreme temperatures. This includes external hard drives, CD-ROMs, batteries, disks, etc. Safeguard equipment appropriately during times of extreme heat or cold.
  - c. Laptops, handheld devices, and associated materials are to be transported in appropriate carrying cases when available to ensure safety.
  - d. Users must exercise care at all times to preclude theft. Portable devices such as laptop computers, handheld devices, memory sticks, etc. should not be left unattended when outside of County facilities. Should an electronic system be lost or stolen, the responsible user must contact the help desk immediately.
  - e. All users must be aware of the damage that a malicious application (i.e., virus, worm, Trojan horse, etc.) can cause the County’s electronic systems. Report suspected incidents immediately to the service desk.

**J. Sexually Explicit Material:** Employees shall not access, store, or distribute any electronic media that contains pornography or sexually explicit material.

**K. Harassment:** No employee shall use any County electronic medium to libel, slander, harass, or threaten another person.

1. It is also against County policy to send the following:
  - a. Unsolicited e-mail advertising (SPAM) or junk mailings
  - b. Chain letter emails/Solicitation of funds
  - c. E-mails containing fake or anonymous e-mail addresses
  - d. E-mails containing jokes, stories, or material unrelated to County business
  - e. E-mails that contain profanity, obscenity, or discriminatory remarks
2. Any County employee who violates the provisions of 6.10, 6.11, or 6.11.1 thru 5, will be subject to disciplinary action in accordance with *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS*.

**L. Unnecessary or Unlawful Usage of the Internet:** Excessive personal internet usage causes network and server congestion. It can slow down other employees work response time and it consumes shared resources. Each computer will be configured to allow screening and review

of the web sites visited on the internet. Employees should understand that when they log onto the internet through the County infrastructure that their movement on the internet may be logged and tracked. Unlawful internet usage may also create negative publicity for the County and expose us to significant legal liabilities. Any Buncombe County employee who knowingly uses the internet or intranet unlawfully may be subject to disciplinary action in accordance with *ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, AND EMPLOYEE APPEALS*.

- M. **Personal/Political Business:** Political advertising, campaigning, or personal commercial business is strictly forbidden on County resources.
- N. **Data Streaming:** Internet data streaming websites carrying music or video feeds are also prohibited unless authorized for use in appropriate County, state, federal, or educational applications.
- O. **Downloading or Uploading Licensed Software:** The IT department must install all software. No software may be installed, copied, or used on County computers without the involvement of the IT department. Software subject to licensing must be properly licensed, and all license provisions must be strictly obeyed.
- P. **Configuration of County Computers:** Employees may not modify the software configuration of their computers other than to change their screen resolution, wallpaper, and screen saver settings. Downloading desktop themes, wallpapers, hot bars, and similar program changes is prohibited.
- Q. **Employee Termination:** Employees who are terminated have no rights to the content of their e-mail messages and will not be allowed access to the e-mail system. A terminated employee who files a grievance procedure in a timely fashion in accordance with the provisions of *ARTICLE IX. GRIEVANCE PROCEDURE* and believes information contained in their e-mail account to be relevant to said procedure may request in writing that the County Manager, or his/her designee, authorize access to said information. The County Manager, or his/her designee, may grant such a request if the information is not deemed detrimental to the interests of the County.

## **Appendix K: Respectful Workplace Policy**

It is the policy of Buncombe County to maintain a professional and respectful work and public service environment where all employees contribute to a safe, supportive, and inclusive work environment that is free of offensive remarks, material, or behavior.

The goal of this policy is to support a culture where employees feel safe to address these issues constructively and with management support. The hope is to stop disrespectful behavior in the work environment before it crosses the line into disciplinary action, however, when necessary management will use disciplinary action up to and including dismissal if warranted. The County will not tolerate disrespectful behavior by or towards any employee or other individual by employees, visitors or vendors.

This policy provides for:

- a. Fostering a workplace which values diversity; personal dignity; courteous conduct; mutual respect, fairness and equality; positive communication between people; collaborative working relationships;
- b. A reporting/complaint procedure for any individual who experiences or witnesses behavior prohibited by this policy;
- c. A response procedure for supervisors who become aware of behavior prohibited by this policy;
- d. Accountability for violations or enforcement failures through appropriate disciplinary actions;
- e. Actions by the County to heighten employees' and supervisors' awareness of workplace violence issues, including domestic violence as it relates to the workplace.

This policy prohibits disrespectful behavior, including but not limited to, the following:

- a. Offensive and inappropriate remarks, gestures, material and behavior;
- b. Comments or actions that either groups people or isolates individuals along personal characteristics that result in negative or inappropriate stereotyping;
- c. Yelling;
- d. Belittling;
- e. Reprimanding in the presence of others;
- f. Aggressive or patronizing behavior;
- g. Embarrassing or humiliating behavior;
- h. Damaging gossip or rumors;
- i. Covert behavior, i.e., inappropriately withholding information, undermining, underhandedness;
- j. Unlawful discrimination or harassment as defined by federal and state laws;

### **Employee Responsibilities:**

- a. Treat others with respect;
- b. Set an example by respecting the dignity and human rights of all employees and members of the public;

- c. Recognize and refrain from actions that offend, embarrass, isolate, or humiliate others;
- d. Name and address disrespectful conduct with the employee displaying it or with a person in authority as soon as possible;
- e. Do not make allegations of disrespectful behavior that are frivolous or vindictive;
- f. Make every effort to contribute to a safe and respectful work environment by resolving issues as they arise and/or reporting the issue to his/her supervisor or the Human Resources Department.

**Supervisory/Management Responsibilities:**

Supervisors and managers are responsible to immediately act upon any situation involving disrespectful behavior. They will:

- a. Promote awareness of this policy;
- b. Recognize and address actions that offend, embarrass, isolate, or humiliate others;
- c. Treat each situation as a serious matter;
- d. Manage the situation towards a resolution between the parties if possible, with a view to educating and correcting behavior and preserving long term working relationships;
- e. Ensure that there are no reprisals against employees making a complaint or participating in an investigation (in compliance with the Buncombe County No Retaliation Policy);
- f. Provide support to employees who are experiencing the effects of disrespectful behavior;
- g. Inform employees of Employee Assistance Program services;
- h. Consult with Human Resources if the situation cannot be resolved and/or rises to the level of potential discrimination or harassment in the workplace.

**Respectful Workplace Policy Procedures-Reporting Violations**

An employee who believes he or she has been subjected to a violation of this policy and who has either opted not to try to personally resolve the situation or who has been unsuccessful in attempting a resolution should report the violation immediately to his or her supervisor. If the employee's supervisor is the source of the alleged policy violation, or if the employee's supervisor does not respond to the report in a timely and/or appropriate manner, the employee should contact the Human Resources Department and/or may follow the steps outlined in the County Grievance Procedure.

**Respectful Workplace Policy Procedures – Investigating Reports of Violations**

Buncombe County will promptly and thoroughly investigate any verbal or written report of a violation of this policy, and will respond to the reporting employee or other individual regarding the results of the investigation, except that specific personnel actions taken may not be revealed. The investigation will be kept carried out in a circumspect manner and with an eye toward respecting every employee's privacy as much as possible and in compliance with N.C. Gen. Stat. 153A-98 or as amended.

### **Respectful Workplace Policy Procedures – Corrective Actions**

Any employee found to have acted in violation of this policy shall be subject to appropriate corrective and disciplinary actions, up to and including dismissal as this constitutes unacceptable personal conduct. Any visitor or vendor found to have acted in violation of this policy shall be subject to responsive action as determined appropriate by the County, up to and including being removed from the workplace and being prohibited from returning in the future.

### **Respectful Workplace Policy Procedures – Retaliation**

Buncombe County will not tolerate retaliation or intimidation directed towards any employee or other individual who makes a verbal or written report of a violation of this policy and/or participates in an investigation around a complaint generated from a violation of this policy. Any individual who retaliates against or intimidates an employee who has made a report and/or participated in an investigation shall be subject to disciplinary action, up to and including dismissal.

**Employee Protection Hotline.** A toll free number (1-866-908-7236) that is answered by an independent third party source and available to employees as well as the public to register a complaint or concern anonymously. Anonymous reports are directed to the Internal Auditor to investigate and ensure appropriate follow up action if appropriate.

## Appendix L. Voluntary Shared Leave Program

- A. Purpose - There are occurrences brought about by prolonged medical conditions that cause employees to exhaust all available leave and therefore be placed on leave without pay. It is recognized that such employees forced to go on leave without pay could be without income at the most critical point in their work life. It is also recognized that fellow employees may wish to voluntarily donate some of their annual leave so as to provide assistance to a fellow County employee. This policy provides an opportunity for employees to assist another affected by a medical condition that requires absence from duty for a prolonged period of time resulting in possible loss of income due to lack of accumulated leave.
- B. Policy - In cases of a prolonged medical condition an employee may apply to become a recipient of leave transferred from the annual leave account of another employee. For purposes of this policy, medical condition means medical condition of an employee or a family member (spouse, parents, children - including step relationships, or other dependents living in the employee's household) of such employee that is likely to require an employee's absence from duty for a prolonged period, generally considered to be at least twenty (20) consecutive working days. If an employee has had a previous, but different, prolonged medical condition within the last twelve months, an exception to the twenty (20) day period may be made. The intent of this policy is to allow one employee to assist another in case of a prolonged medical condition that results in exhaustion of all earned leave.
- C. General Guidelines
1. Establishment of a leave "bank" for use by unnamed employees is expressly prohibited. Leave must be donated on a one-to-one personal basis.
  2. An employee may not directly request or indirectly intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of interfering with any right which such employee may have with respect to donating, receiving or using annual leave under this program. Such action by an employee shall be grounds for disciplinary action up to and including dismissal. Individual leave records are confidential and only individual employees may reveal their donation or receipt of leave. The employee donating leave cannot receive remuneration for the leave donated.
- D. Eligibility
1. The employee must be either in a full-time regular or part-time regular position and have achieved Covered status. (The limitation and leave balance for part-time regular employees is pro-rated.) Participation in the program shall be based on the employees past compliance with leave rules.
  2. An employee on Worker's Compensation leave who is drawing temporary total disability compensation may not be eligible to participate in this program.

3. Non-qualifying conditions: The policy shall not ordinarily apply to short-term or sporadic conditions or illnesses. This would include such things as sporadic, short-term recurrences of chronic allergies or conditions; short-term absences due to contagious diseases; or short-term recurring medical or therapeutic treatments. These examples are illustrative, not all inclusive. Each case must be examined and decided based on its conformity to policy intent and must be handled consistently and equitably.

#### E. Application Procedure

1. By letter of application to the departmental director, a recipient shall apply to participate in the program. A nomination will be accepted only from the recipient.
2. The application should include a description of the medical condition and estimated length of time needed to participate in the program. A doctor's statement must be attached to the employee's request.
3. The Departmental Director shall review the merits of the request and approve or disapprove.
4. If donations of leave are being made between departments, these transfers of leave must be approved by the receiving director's department.

#### F. Recipient Guidelines

1. A prospective recipient may make application for voluntary share leave at such time as medical evidence is available to support the need for leave beyond the employee's available accumulated leave.
2. Participation in this program is limited to 1040 hours (and pro-rated for part-time employees), either continuously or, if for the same condition on a recurring basis. However, management may grant employee continuation in the program, month by month, for a maximum of 2080 hours, if management would have otherwise granted leave without pay.
3. Subject to the maximum of 1040 hours, the number of hours of leave an employee can receive is equal to the projected recovery or treatment period, less the employee's combined annual and sick leave balance as of the beginning of the recovery or treatment period. The employee must exhaust all available leave before using donated leave.



5. At the expiration of the medical condition, as determined by the Departmental Director, any unused leave in the recipient's donated leave account shall be treated as follows:
  - a. The annual and sick leave account balance shall not exceed a combined total of 40 hours (pro-rated for part-time employees).
  - b. Any additional unused donated leave shall be returned to the donor(s) on a pro rata basis and credited to the leave account from which it was donated. Fractions of one hour shall not be returned to an individual donor.
6. If a recipient separates from County government, participation in the program ends. Donated leave shall be returned to donor(s) on a pro rata basis.

#### G. Donor Guidelines

1. Only annual leave may be donated to another employee.
2. The minimum amount to be donated is four (4) hours.
3. The maximum amount of annual leave allowed to be donated by one individual is to be no more than the amount of the individual's annual accrual rate. However, the amount donated is not to reduce the donor's annual leave balance below one-half of the annual leave accrual rate.

#### H. Leave Accounting Procedures

1. To facilitate the administration of the program, the Departmental Director may establish a specific time period during which leave can be donated.
2. The Human Resources Department shall establish a system of leave accountability which shall accurately record leave donations and recipient's use. Such accounts shall provide a clear and accurate record for financial and management audit purposes. The Buncombe County Voluntary Shared Leave Program Request to Transfer Shared Leave Form shall be used for this purpose.

3. Withdrawals from recipient's leave account shall be charged to the recipient's account according to usual leave policies.
4. Leave transferred under this program shall be available for use on a current basis or may be retroactive for up to 30 calendar days to substitute for leave without pay or advanced annual or sick leave already granted to the leave recipient.
5. Each approved medical condition shall stand alone and donated leave not used for each approved incident shall be returned to the donor(s). Employees who donate "excess" leave (any amount above the maximum allowable) may have it returned and converted to sick leave.

**Appendix M: 2014 Buncombe County Employee Retirement Incentive Plan**  
**(effective July 1, 2016)**

- I. Effective December 1, 2017 at close of business, the Early Retirement Incentive Plan (“ERIP”) contained in this Appendix will be eliminated in its entirety. Prior agreements made pursuant to Section IV of this Appendix will be honored for employees who retire by January 1, 2020.
- II. Employees who meet the requirements as set forth in Section IV as of December 1, 2017, and who want to take advantage of this plan, must give the Human Resources Department written notice of his or her of intent to retire by close of business December 1, 2017 and, in the written notice, give a planned date of retirement no later than January 1, 2020. Employees who retire after their planned date will not be eligible for ERIP under this Appendix.
- III. Sections I and II of this Appendix supersede all prior version of Appendix M and Section IV through VI as written.
- IV. Any employee retiring on or before January 1, 2022 and having completed a minimum of 28 years of service with Buncombe County (15 continuous years for those employees required to be appointed by the Buncombe County Board of Commissioners) and having contributed to the North Carolina Local Governmental Employees’ Retirement System for a minimum of 28 years (15 continuous years for those employees required to be appointed by the Buncombe County Board of Commissioners) shall upon retirement be eligible for the retirement benefit options in accordance with the requirements outlined in this 2014 Buncombe County Employee Retirement Incentive Plan. Any employee accepting the 2014 Buncombe County Retirement Incentive Plan will not be eligible for the Retirement Incentive Option found in the Personnel Ordinance, Article VII Section 4. H.
  - A. The 2014 Buncombe County Employee Retirement Incentive Plan includes:
    1. One year of the employee’s annual salary to be paid out on a bi-weekly basis over three years or may be advanced for retention purposes as approved by the Board Chairman or County Manager. Any remaining payments shall terminate upon retiree’s death and any remainder shall not be paid out to the retiree’s beneficiary or estate.
    2. Consistent with the Buncombe County Personnel Ordinance, Employees may choose one of the two options as follows:
      - a. Medicare Supplement Payment Plan: Upon the attainment of age 65 eligibility for Medicare, the County of Buncombe shall pay a monthly sum of \$268.00 (minus taxes) for the purpose of purchasing a Medicare Supplement and assisting in prescription drug costs. This amount shall be paid to the retiree for the remainder of the retiree’s life. The amount of \$268.00 shall not be decreased or increased as future Medicare reforms

and revisions take effect. Any and all payments shall terminate upon the retiree's death.

- b. Lump Sum Payment Plan: At the time of retirement the retiree is entitled to a one-time payment of one-half of the retiree's annual salary. (As specified in Article VII Section 4,H.2.c of the Buncombe County Personnel Ordinance).<sup>18</sup>
- B. Employees covered by the County group medical/hospitalization plan for the three years immediately preceding retirement, shall be eligible to remain in the County group medical/hospitalization plan. The cost of such group medical/hospitalization insurances shall be paid entirely by the County for the employee only and shall be paid only until attainment of age sixty-five by the employee.
- C. Employees accepting the 2014 Buncombe County Employee Retirement Incentive Plan will be able to continue health insurance coverage for their dependents at the same premium that active employees pay for dependent coverage. Coverage for dependents may be continued until age 65 and/or Medicare coverage entitlement in the case of the spouse/domestic partner and until attainment of age 26 in the case of children.
- D. The 2014 Buncombe County Employee Retirement Incentive Plan shall not be retroactive to any employees who retired prior to July 1, 2014.
- E. Any employee accepting the 2014 Buncombe County Retirement Incentive Plan will not be eligible for the Retirement Incentive Options found in the Personnel Ordinance Article VII Section 4.H.
- F. Only those general employees within departments under the authority and control of the County Manager shall be eligible for the 2014 Buncombe County Employee Retirement Incentive Plan. Employees within departments not under the authority and control of the County Manager such as those with appointed boards or elected officials shall be eligible only as follows:
  - a. The Department Chairman of the Board and Departmental Director of the Elected Official shall agree in writing that once the eligible employee has retired, the incumbent's former position shall be subject to the requirements outlined in this Employee Retirement Incentive Plan. The hiring rate/starting salary of the new hired employees will be at the minimum rate established for the class at the lowest rate of the first quartile on the salary schedule. Appointments above this must receive approval of the County Manager.
  - b. Non-general fund departments will have the projected lifetime cost immediately to allow their employees to participate. The County Manager is authorized to arrange a multi-year payment plan where two or more employees accept this offer.
- G. This plan requires that any position vacated due to acceptance of the 2014 Buncombe County Employee Retirement Incentive Plan be placed in a job freeze

bank and be subject by the County Manager to the following **cost reduction** reviews and actions:

1. The vacated position or an alternate comparable position or positions that total to the position costs, whose substitution shall be first approved by the County Manager, shall remain frozen for the period necessary to total the position cost of the incentive payment. Each position shall be reviewed by the County Manager for **possible position elimination** or **cost cutting** position reclassification downgrade. The County Manager is authorized to work out other cost reduction strategies with each department.
  2. The County Manager shall have the authority to release positions to be filled **prior** to the end of the total cost of the incentive payment.
  3. The County Manager may make substitutions and work with departments to ensure that all regulatory staffing is maintained in those areas that are required to work in ratio.
  4. Any employee accepting the 2014 Buncombe County Employee Retirement incentive will **not** be eligible for reemployment with Buncombe County in any capacity.
  5. The County Manager has the authority to approve a temporary return to work of retirement employees for “Mission Critical” positions.
- V. In lieu of severance pay as provided in Article VIII of the Buncombe County Personnel Ordinance, the 2014 Buncombe County Employee Retirement Incentive Plan shall be offered to any employee whose position is eliminated due to Reduction-In-Force in through September 1, 2016<sup>19</sup> if such employee is eligible to receive an early (reduced) or service (unreduced) retirement benefit from the North Carolina Local Governmental Employees’ Retirement System as of the effective date of such Reduction-In-Force.
- VI. Effective July 1, 2016, any employee who files a letter of retirement with the Human Resources Department by September 1, 2016 specifying a specific date of retirement between July 1, 2016 and January 1, 2020 and retires from the County no later than to January 1, 2020, shall only need to complete 18 years of service with Buncombe County and qualify for an unreduced retirement under the Local Government Employee Retirement System (LGERS) on his or her selected date of retirement to be eligible for the early retirement benefits as set forth in Paragraph I of this Policy. Employees who fail to retire by the date set out in their letter of retirement must requalify for eligibility under Paragraph I of this Policy. Employees may be able to retire earlier than the date set forth in their letter of retirement so long as the employee meets the eligibility retirement set forth in Paragraph III on their new date of retirement.<sup>20</sup>

## **Appendix N: Employee Protection and No Retaliation Policy**

**(effective October 3, 2017)**

Buncombe County requires board members and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of Buncombe County, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations.

### **Reporting Responsibility**

This Employee Protection Policy is intended to encourage and enable employees and board members to raise serious concerns internally so that Buncombe County can address and correct inappropriate conduct and actions. It is the responsibility of all board members and employees to report concerns about violations of Buncombe County's policies and practices or suspected violations of law or regulations that govern Buncombe County's operations.

### **No Retaliation**

It is contrary to the values of Buncombe County for anyone to retaliate against any board member or employee who in good faith reports an ethics violation, or a suspected violation of law or policy, such as a complaint of discrimination (see protections also listed under Appendix G: No Retaliation Policy for Discrimination and Harassment), or suspected fraud, or suspected violation of any regulation governing the operations of Buncombe County. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. The right of an employee or a board member for protection against retaliation does not include immunity for any personal wrongdoing.

### **Reporting Procedure**

Buncombe County has an open door policy and suggests that employees share their questions, concerns, suggestions or complaints with their supervisor. If you are not comfortable speaking with your supervisor or you are not satisfied with your supervisor's response, you are encouraged to speak with the Human Resources Director or the Internal Auditor. Supervisors and managers are required to report complaints or concerns about suspected ethical and legal violations in writing to Buncombe County's Internal Auditor, who has the responsibility to investigate all reported complaints. Employees with concerns or complaints may also use the confidential Employee Protection Hotline to submit their concerns.

### **Internal Auditor**

Buncombe County's Internal Auditor is responsible for ensuring that all complaints about unethical or illegal conduct are investigated and resolved. The Internal Auditor will advise the Audit Committee of the Board of Commissioners at least annually of all complaints and their resolution.

### **Human Resource Director**

The Human Resources Director will work in partnership with the Internal Auditor to investigate and address any concerns related to personnel matters.

**Accounting and Auditing Matters**

Buncombe County’s Internal Auditor shall immediately notify the Audit Committee of any concerns or complaint regarding organizational accounting practices, internal controls or auditing and work with the committee and the Human Resources Director as appropriate until the matter is resolved.

**Acting in Good Faith**

Anyone filing a complaint concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

**Confidentiality**

Violations or suspected violations may be submitted on a confidential basis by the complainant. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

**Handling of Reported Violations**

All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.