



# Shoshone County Personnel Policy

Approved by Board of County Commissioners

Date: July 1, 2009

# SHOSHONE COUNTY PERSONNEL POLICY

THIS PERSONNEL POLICY IS NOT A CONTRACT. NO CONTRACT OF EMPLOYMENT WITH **SHOSHONE COUNTY** WILL BE VALID UNLESS IT IS EXPRESSLY APPROVED BY THE GOVERNING BOARD AND UNLESS IT IS SIGNED BY AND CONTAINS THE NAME OF THE EMPLOYEE WHO WOULD BE BENEFITED/OBLIGATED BY THE CONTRACT. NOTWITHSTANDING ANYTHING SAID BY A SUPERVISOR, NO CONTRACT OF CONTINUED EMPLOYMENT SHALL BE IMPLIED. LEGAL COUNSEL EMPLOYED BY SHOSHONE COUNTY SERVES AT THE PLEASURE OF THE CLIENT REPRESENTED AND SUCH REPRESENTATION MAY BE TERMINATED AT THE PLEASURE OF THE CLIENT.

CHANGES TO THE POLICIES AND BENEFIT OFFERINGS OUTLINED IN THIS POLICY ARE SUBJECT TO CHANGE AT ANY TIME, WITHOUT PRIOR NOTICE. CHANGES MAY BE MADE IN THE SOLE DISCRETION OF THE GOVERNING BOARD.

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**LEGAL COUNSEL for Shoshone County is not covered by the generally applicable disciplinary provisions of this policy. Pursuant to the Idaho Rules of Professional Conduct, and notwithstanding different employment status for other employees of Shoshone County, employed legal counsel serves at the pleasure of the client. Nonetheless, no legal counsel employed by Shoshone County shall be dismissed from employment or demoted with an attendant reduction in pay for unlawful discriminatory reasons as noted in Section VI of this policy. Legal counsel believing that he/she faces dismissal from employment or demotion with an attendant reduction in pay for unlawful discriminatory reasons or because of allegations requiring the opportunity for a “name-clearing hearing” shall be given an opportunity to be heard regarding these allegations as provided for in Section V entitled, “Opportunity to be Heard— Assertions of Unlawful Discrimination and “Name-Clearing Hearing”.”**

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## PURPOSE

The purpose of this Policy is to establish a safe, efficient and cooperative working environment, to establish the responsibilities and level of performance expected of all County employees and to explain benefits provided to County employees. **THIS POLICY IS NOT TO BE CONSTRUED AS A CONTRACT OF EMPLOYMENT AND IS NOT INTENDED TO SPECIFY THE DURATION OF EMPLOYMENT OR LIMIT THE REASONS FOR WHICH AN EMPLOYEE MAY BE DISCHARGED. THIS POLICY CREATES NO RIGHTS, CONTRACTUAL OR OTHERWISE, ON BEHALF OF EMPLOYEES OF THE COUNTY.** The COUNTY may, at its sole discretion, alter or amend this Policy or portions thereof at any time without prior notice to or consent by its employees.

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## I. GENERAL POLICIES

### A. THE ORGANIZATION IN WHICH YOU WORK

Working for **Shoshone County** may be somewhat different from any employer for which you may have worked in the past. **Shoshone County** is a political subdivision of the State of Idaho, though it is not a part of state government. The Board of County Commissioners serves as the governing body for **Shoshone County**, carrying out local legislative duties and fulfilling other obligations as provided by law. The Board of County Commissioners is the general policymaker for **Shoshone County**, and as such, has primary authority to establish terms and conditions of employment with **Shoshone County**. The Board of County Commissioners also appoints personnel to help carry out its administrative responsibilities.

As with all elected public officials, the Board of County Commissioners is ultimately responsible to the voters of **Shoshone County**. The terms set forth herein reflect County policy at the time of its printing, but they are subject to change at any time, without prior notice, and at the sole discretion of the Board of County Commissioners.

Only the Board of County Commissioners has authority to establish general policy for **Shoshone County** employees. Each employee should recognize that although he/she may serve as an employee in the office of an elected or appointed official, he/she remains an employee of **Shoshone County**, not of the official who supervises his/her work. The terms and conditions set forth in this policy, and in the resolutions and policy statements which support it, cannot be superseded by any other official's pledge, without the express written agreement of the Board of County Commissioners. That is particularly true for terms or conditions which would establish a financial obligation for **Shoshone County**, now or in the future. You may work for a department with an operational policy that provides additional direction to employees on expectations and procedures unique to that department.

### B. EQUAL EMPLOYMENT OPPORTUNITY STATEMENT

All selection of **Shoshone County** employees and all employment decisions, including classification, transfer, discipline, and discharge, will be made without regard to race, religion, sex, age, national origin, or non-job-related disability. No job or class of jobs will be closed to any individual except where a mental or physical attribute, sex, or age is a bona fide occupational qualification. All objections to application of **Shoshone County's** policy in this regard shall be brought to the attention of the office of the elected official or department head, or in the case of objection to actions undertaken by that person, to legal counsel for the County.

### C. VETERAN'S PREFERENCE

**Shoshone County** will accord a preference to employment of veterans of the U.S. Armed Services in accord with provisions of Idaho Code § 65-502 or its successor. In the event of equal qualifications for an available position, a veteran or family member who qualifies for preference pursuant to Idaho Code § 65-502 or its successor will be employed.

### D. CONFLICT OF INTEREST

No person shall be employed by **Shoshone County** when said employment would result in a violation of provisions found in Idaho Code § 59-701 et seq., §18-1359 or their successors. Any such appointment may be void. An employee whose relative is subsequently elected may be eligible to retain his/her position as allowed in Idaho Code §18-1359(5).

### E. PREFERENCE FOR HIRING FROM WITHIN

Qualified individuals who are already employees of **Shoshone County** may be given preference over outside applicants to fill vacancies in the work force. Employees may be selected for transfer to positions without following the selection procedures normally required for hiring of new employees.

### F. PERSONNEL POLICY SUBJECT TO CHANGE WITHOUT PRIOR NOTICE

The rules contained in this Personnel Policy are subject to change, without prior notice, at any time in the sole discretion of the Board of County Commissioners.

## II. EMPLOYMENT START-UP

### A. EMPLOYMENT FORMS TO BE COMPLETED

The following pre-employment forms must be completed before the employee may begin work for **Shoshone County**:

1. Employment application form.
2. Insurance forms.
3. Immigration form (I-9).
4. Insurance information about dependents. (If coverage is available)
5. Any other benefit forms necessary for employee information.

## B. PAYROLL REPORTING SYSTEMS

Reports of hours worked and time on and off the job must be completed in a timely manner in accord with procedures established by the payroll officer. Each report of employee time should be signed by both the supervisor and by the employee and should contain a certification that it is a true and correct record of the employee's time and benefit usage for the time period covered. Any employee with concerns about his/her compensation, rate of pay, payroll status, deductions, etc. shall communicate such concerns to the payroll officer as soon as any such concern becomes evident. If the response from the payroll officer is unsatisfactory, the employee should address the issue to his/her immediate supervisor in order to resolve stated concerns. A written record of such issues should be maintained in the employee's personnel file.

## C. DISTRIBUTION OF POLICY

At the time of employment, each employee should receive a copy of this personnel policy. It is the responsibility of the employee to familiarize him/herself with the contents of the personnel policy and to acknowledge its receipt in writing. Periodic updates or changes should be distributed and acknowledged.

## D. INTRODUCTORY PERIOD

New employees to **Shoshone County** or current employees promoted or transferred to new job responsibilities are subject to a twelve (12) month introductory period where employees must demonstrate their abilities to handle the responsibilities of their position. **Shoshone County** uses this twelve-month period to determine if the employee meets the expectations for the position for which the employee was hired. During this twelve (12) month introductory period, including any extension of the introductory period, either the employee or **Shoshone County** may end the employment relationship in their respective discretion for any lawful reason, with or without advance notice. During the introductory period, employment is at-will.

An employee's supervisor may extend the introductory period for up to an additional six (6) months if he/she deems it necessary to work further with an employee who is not meeting the expectations or requirements for his/her position. If a promoted or transferred employee is terminated from a newly assumed position, he/she may be returned to his/her previous position or transferred to another position for which he/she is fully qualified, but only if a qualifying vacancy exists with **Shoshone County**. Any decision to retain a previously promoted or transferred employee who does not succeed in a new position shall be in the sole discretion of **Shoshone County**.

Any decision to terminate an employee or to terminate or demote a transferred or promoted employee during the introductory period shall be subject to the Unlawful Discrimination and Name-Clearing Hearing Policy, subject to its terms and conditions, addressed elsewhere in this policy. In the course of such actions, the



contemplated personnel matter shall be communicated to the prosecuting attorney or retained civil counsel for advice prior to final action. Any employee so aggrieved may address such concerns by seeking a hearing pursuant to the limitations contained within such policy provisions.

## E. EMPLOYEE PERSONNEL FILES

### 1. Personnel Records

The official employee records for **Shoshone County** will be kept in a secure location of the Supervising Public Official. Within these personnel files will be kept all records of employee performance evaluation, employee status, and other relevant materials related to the employee's service with **Shoshone County**. The employee's supervisor, employee's elected official or the employee him/herself may contribute materials to the personnel files deemed relevant to the employee's performance and tenure. Each employee shall have the right to review all materials placed in his/her personnel file at any reasonable time. Copies of materials in an employee's personnel file are available to that employee without charge. Personnel files shall not be removed from the premises except as necessary for County purposes.

### 2. Access to Personnel Files

It is the policy of **Shoshone County** to allow only limited access to an employee's personnel file. Those authorized to evaluate materials in a personnel file include the employee's supervisors, the Board of County Commissioners when acting as a Board in the course of its official business, attorneys for the County, elected officials for the employee's department, a designee of an elected official, and the employee him/herself. Based upon the general confidentiality of personnel files, access of others to such files shall be allowed only with authorization of the supervising official after consultation with the County attorney. Information regarding personnel matters will only be provided to outside parties with a release from the employee, or when deemed necessary by legal counsel for the County or pursuant to Court order, or pursuant to a proper subpoena. The County reserves the right to disclose the contents of personnel files to outside state or Federal agencies, to its insurance carrier or its agents for risk management purposes, or when necessary to defend itself against allegations of unlawful conduct.

### 3. Management of Information in Personnel Files

Each employee shall be provided an opportunity to contest the contents of his/her personnel file at any time. This is to be done by filing a written objection and explanation which will be included in the file along with the objectionable material. In the sole judgment of the supervising official, after consultation with legal counsel for the County, any offending material may be removed upon a showing by the employee that it is false or unfairly misleading. In general, there should be a presumption that materials are to remain in

personnel files accompanied by the employee's written objection and explanation to provide a complete employment history.

### III. RULES OF EMPLOYEE CONDUCT

Violation of any of the rules set forth below shall be grounds for disciplinary action including possible dismissal from employment. However, this list is not all inclusive and other acts of misconduct not specifically set out below may be grounds for disciplinary action as well. **Among these rules, the most important is the rule addressing attitude and cooperative behavior.**

#### A. PERSONAL PERFORMANCE AND BEHAVIOR

Each employee of **Shoshone County** is expected to conduct him or herself in a manner that is helpful and productive and which does not reflect adversely upon **Shoshone County**. Each employee must recognize that public employees are subject to additional public scrutiny in their public and personal lives because the public's business requires the utmost integrity and care. In order to accomplish the goals of **Shoshone County** as a public institution, each employee is expected to scrupulously avoid personal behaviors which would bring unfavorable public impressions upon **Shoshone County** and its officials. In order to accomplish this, each employee must comply with the following expectations:

1. **WORK COOPERATIVELY AND CONSTRUCTIVELY WITH FELLOW WORKERS AND MEMBERS OF THE PUBLIC TO PROVIDE PUBLIC SERVICE OF THE HIGHEST QUALITY AND QUANTITY.** This is the first priority for all employees.
2. Shall be prompt and regular in attendance at work or other required employer functions.
3. Shall comply with dress standards established in the department for which the employee works. Dress standards shall be set by the managing official, but in the absence of any departmental dress standards, clothing shall be appropriate for the functions performed and shall present a suitable appearance to the public. ***All dress standards shall be submitted for approval of the Board of County Commissioners.***
4. Shall dedicate primary efforts to **Shoshone County** employment with secondary employment subject to approval by the appointing official. Each employee must notify the appointing official of any other employment, self-employment or other business interests. Secondary employment should not conflict with duties performed for the County in any meaningful way. Individual department rules may spell out permissible examples of "moonlighting" wherein employees may hold additional positions.
5. Shall avoid conflicts of interests in appointments and working relationships with other employees, contractors and potential contractors in **Shoshone**

**County** and related agencies. No employee shall engage in conduct which violates the laws of the State of Idaho, including but not limited to I.C. §18-1356 (accepting gifts that exceed a value of \$50), I.C. §59-701 et seq. (Ethics in Government Act), I.C. §59-201 (Prohibitions Against Contracts) and I.C. §18-1359 (Using Public Position for Personal Gain).

6. Shall not accept gifts or gratuities in any personal or professional capacity which could create the impression that the giver was seeking favor from the employee or official in violation of I.C. § 18-1356 and I.C. § 18-1357.
7. Shall not serve on any board or commission which regulates or otherwise affects the official duties or personal interests of said official or employee in a way that could create disadvantage for other members of the public or advantage for the employee.
8. Shall not release any public record without the express authority of the public official responsible for custody of the record or without an order from a court or public agency of competent jurisdiction.
9. Shall not release any personnel record without the concurrence of the public official responsible for custody of the record and after consulting with legal counsel for the County or without an order from a court or public agency of competent jurisdiction.
10. Shall not engage in conduct away from work which, although not criminal, may reflect adversely upon **Shoshone County** or its officials or otherwise impair the employee's ability to perform.
11. Shall not use any substances, lawful or unlawful, which will impair the employee's ability to function as a valued and competent part of the **Shoshone County** work force. Should the employee be prescribed a lawful substance that may impair the employee's ability to safely do his or her job, the employee is required to provide a physician's note explaining the possible effects of the medication upon the employee's ability to do his or her job and the length of the time that the employee will be required to take the medication. The employee may be required to take sick leave while taking the medication.
12. Shall not engage in conduct while operating a motor vehicle which impairs the ability of the employee to perform job functions even though the driving conduct does not occur during hours of employment.
13. Shall not engage in workplace or public conduct otherwise detrimental to the accomplishment of the goals established by the Board of County Commissioners or the elected official or the department for whom he/she works.

## B. WORKPLACE CONDUCT

Each employee will be expected to conduct him/herself in the workplace in accordance with the following rules. THESE RULES ARE NOT ALL-INCLUSIVE OF CONDUCT EXPECTED OF **Shoshone County** EMPLOYEES. Each employee of **Shoshone County** shall:

1. Give his/her best efforts to accomplish the work of **Shoshone County** for public benefit in accordance with policies and procedures adopted by the Board of County Commissioners and elected officials displaying an attitude of cooperation and constructive participation.
2. Be subject to the administrative authority of the officials who supervise the department where the employee works even though the officials may not have been involved in the hiring of the employee.
3. Adhere to any code of ethics in his/her profession and avoid conflicts of interest or using his/her public position for personal gain.
4. Follow all rules for care and use of public property to assure that the public investment in such property is protected and that the safety of the public and other workers is maintained.
5. Abide by all departmental rules whether they be written or issued orally by the supervisor. No employee shall be required to follow the directive of a supervisor which violates laws of any local jurisdiction, the state, or nation.
6. Abide by pertinent state and Federal statutes, and **Shoshone County** rules concerning the dissemination of information to the public from public records or about public matters. The decision to release information from the public records or to disclose writings or other information in the hands of a public official belongs with the responsible official who has official custody of that record. Each employee shall maintain the confidential nature of records which are not open to public scrutiny in accordance with the direction of the responsible official.
7. Adhere to defined work schedules and follow procedures for requesting exceptions from normal work schedules. Each employee shall follow the rules regarding the reporting of work hours and obtaining the supervisor's approval for time-keeping records. Failure to follow such rules may be grounds for imposition of appropriate disciplinary penalties.
8. Follow rules regarding breaks and lunch periods, including provisions granting supervisors authority to adjust them. Timing of breaks or lunch periods may be changed to accommodate the completion of necessary work.

9. Reporting all accidents that occur or are observed on the job. Each employee shall cooperate in the reporting and reconstruction of any job-related accident in order that workplace hazards can be eliminated and that proper consideration can be accorded to injured workers and the public.
10. Report any accidents observed to have happened on county property or involving county property. Each employee shall provide as much information as he/she can from the observations made in the course of activities associated with one's work. Such information should be reported to the employee's immediate supervisor as soon as physically possible and reasonable efforts should be made to assist those in need.
11. Follow all rules regarding safety in the workplace whether established formally by the department or by outside agencies. Employees are encouraged to suggest ways to make the workplace or work procedures safer.
12. Maintain a current driver's license when necessary in the conduct of work for **Shoshone County**. Each employee must report any state-imposed driving restrictions to his/her immediate supervisor. Each employee is also obligated to notify his/her supervisor in the event that his/her driving abilities are impaired.
13. Perform such obligations as are necessary to carry out the work of **Shoshone County** in an efficient and effective manner at minimal costs and with limited risk to the public and fellow workers.

#### C. PROHIBITED WORKPLACE CONDUCT

Employees of **Shoshone County** shall not:

1. Be present in the workplace under the influence of drugs, alcohol, illegal substances or other legal substances which would impair the ability of the employee to perform his/her work competently or which would threaten the safety or well-being of other workers or the public.
2. Engage in abusive conduct to fellow employees or to the public, or use abusive language in the presence of fellow employees or the public. Abusive language shall include profanity and loud or harassing speech.
3. Sleep or be absent from the employee's work station when on duty. Employees shall be attentive to their work at all times.
4. Engage in malicious gossip and/or spread rumors, engage in behavior designed to create discord and lack of harmony, or willfully interfere with another employee's work output or encourage others to do the same.

5. Use work time for personal business, including the selling of goods or services to the general public.
6. Use work time or public premises to promote religious beliefs to members of the public or fellow employees.
7. Engage in political activities while on duty in public service. This rule shall not apply to elected officials.
8. Provide false or misleading information on employment applications, job performance reports, or any other related personnel documents or papers.
9. Destroy, alter, falsify or steal the whole or any part of a police report or any record kept as part of the official governmental records of the County (I.C. §§ 18-3201 and 18-3202).
10. Discriminate in the treatment of co-workers or members of the public on the basis of race, religion, gender, age, disability or national origin.
11. Smoke except in designated outdoor smoking areas if so provided.
12. Abuse employee benefit offerings by taking unjustified sick leave, unearned vacation, or otherwise participate in a scheme or deception designed to create incorrect personnel records or to claim benefits which are not deserved in accordance with **Shoshone County** policy.
13. Violate rules concerning absence from the workplace without proper authorization. Employees must obtain prior permission as required by the **Shoshone County** policy for use of vacation, sick, bereavement, or other types of leave granted by this personnel policy.
14. Engage in prolonged visits with co-workers, children, friends, or family members that interfere with the course of work in the office or department in which the employee serves.
15. Use phones or computers in the workplace in a manner that violates policy or which disrupts workplace activities.
16. Engage in criminal conduct of any kind while on duty or off. **Shoshone County** employees are expected to behave in a lawful and socially acceptable manner and failure to do so is a violation of the trust placed in such employees by the public and the appointing official.
17. Violate any lawful rule established by the appointing official to maintain order and productivity in the workplace.

18. Unlawfully harass a fellow worker or member of the public at any time while in the **Shoshone County** active service, as outlined in the County's Unlawful Harassment Policy.

#### D. RELATIONSHIP POLICY

1. No employee of **Shoshone County** shall hire, supervise or otherwise exercise discretion concerning a paid employee who is a spouse.
2. No employee of **Shoshone County** shall supervise or otherwise exercise discretion concerning a paid employee who is related to the supervisor within the first degree of affinity or consanguinity.
3. No employee of **Shoshone County** shall hire a paid employee who is related to the supervisor within the second degree of affinity or consanguinity pursuant to state law (I.C. 18-1359 or its successor).
4. Any supervisor involved in a romantic relationship with a subordinate must immediately notify his/her superior of the existence of any such relationship. Efforts should be made to eliminate supervisory responsibility for one who is romantically involved with a subordinate.

#### E. CANDIDACY FOR ELECTIVE OFFICE

While **Shoshone County** recognizes that the First Amendment provides Constitutional protections for the political activity of its employees, it also recognizes that this right is not absolute when balancing the right of the individual to become a candidate for office and the County's interests in promoting the efficiency of the public services it performs through its employees. (*Pickering v. Board of Education*, 391 U.S. 563, 88 S.Ct. 1731 (1968)).

If an employee initiates candidacy against an incumbent elected official for whom he/she is a subordinate and there is a **reasonable prediction of disruption** in that Official's office, the employee must immediately resign or face possible termination.

A "**reasonable prediction of disruption**" is based upon any of the following factors:

1. The size of the office in which the employee works--the smaller the office, the greater prediction of disruption;
2. Whether the employee candidate holds a position of trust and confidence to the incumbent--the closer the ties, the greater likelihood of disruption;
3. Whether the employee candidate is running for a position in which he/she would replace or become superior to his/her current supervisor--in such circumstances the threat of disruption would loom larger; or

4. The nature of the relationship between the employee candidate and the incumbent and the degree of contact they have with one another--the greater the amount of contact and interaction, the greater the possibility of disruption.

Not all of the above factors must be met in order to seek resignation or termination of the employee.

If the Official determines that there exists a “**reasonable prediction of disruption**” should the employee remain employed with **Shoshone County** and the employee refuses to resign, he/she may be terminated. The Official should set out, in writing, the factual basis, for finding that there exists a “reasonable prediction of disruption” using the above factors. Said written findings should be provided to the employee, placed in the employee’s personnel file and be made a part of the official record. All other applicable hearing procedures, as set out in this policy, shall apply.

## F. ELECTRONIC MAIL

### 1. Purpose and Scope

The purpose of this policy is to establish guidelines for employees; proper use and application of the electronic mail (e-mail) system operated by the county. E-mail is a communication tool available to employees to enhance efficiency in the performance of job duties and is to be used in accordance with generally accepted business practices and current law (e.g., Idaho Public Records Act). Messages transmitted over the e-mail system must only be those that involve official business activities or contain information essential to employees for the accomplishment of business-related tasks and/or communication directly related to the business, administration, or practices of the county.

### 2. E-Mail Right of Privacy

All e-mail messages, including attachments, transmitted over the computer network of the county are considered records of the county. Shoshone County reserves the right to access, audit, and disclose for whatever reason, all messages, including attachments, transmitted over its e-mail system or placed into its storage.

The e-mail system is not a confidential system since all communication transmitted on, to or from the system are the property of the county. Therefore, the e-mail system is not appropriate for confidential communications. If a communication must be private, an alternative method to communicate the message should be used instead of e-mail. Employees using the county e-mail system shall have no expectation of privacy concerning communications utilizing the system.



### 3. Prohibited Use of E-Mail

Sending derogatory, defamatory, obscene, disrespectful, sexually suggestive, harassing, or any other inappropriate messages on the e-mail system is prohibited, will not be tolerated, and may result in discipline.

E-mail messages addressed throughout the county are only to be used for official business related items that are of particular interest to all users.

It is a violation of this policy to transmit a message under another user's name. Users are strongly encouraged to log off the network when their computer is unattended. This added security measure would minimize the misuse of an individual's e-mail, name and/or password by others.

### 4. Management of E-Mail

Because the e-mail system is not designed for long-term retention of messages, e-mail that the employee desires to save or that becomes part of an official record should be printed and/or stored in another database. Users of e-mail are solely responsible for the management of their local mailboxes and local mailboxes should be purged manually by the user at least once per week.

## G. ADMINISTRATIVE COMMUNICATIONS

Administrative communications of this office are governed by the following policies:

### 1. E-Mail

E-mail may be issued periodically to announce and document promotions, transfers, hiring of new personnel, separations, personnel and group commendations, or other changes in status.

### 2. Correspondence

In order to ensure that the letterhead and name of the county are not misused, all external correspondence shall be on Shoshone County letterhead. Personnel should use Shoshone County letterhead only for official business.

### 3. Surveys

All surveys made in the name of the county shall be authorized by the elected official or head of the department.

## H. COMPUTER USE

This policy describes the use of the computers, software and systems of the county.

### 1. Privacy Policy

Any employee utilizing any computer, electronic storage device or media, internet service, phone service, information conduit, system or any wireless service provided by or funded by the county expressly acknowledges and agrees that the use of such service, whether for business or personal use, shall remove any expectation of privacy the employee, sender and recipient of any communication utilizing such service might otherwise have, including as to the content of any such communication. The county also expressly reserves the right to access and audit any and all communications (including content) sent, received and/or stored through the use of such service.

### 2. Definitions

The following definitions relate to terms used within this policy:

**Computer System** – Shall mean all computers (on-site and portable), hardware, software, and resources owned, leased, rented or licensed by Shoshone County, which are provided for official use by county employees. This shall include all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the county or its funding.

**Hardware** – Shall include, but is not limited to, computers, computer terminals, network equipment, modems, servers, or any other tangible computer device generally understood to comprise hardware.

**Software** – Shall include, but is not limited to, all computer programs and applications including “shareware.” This does not include files created by the individual user.

**Temporary File or Permanent File or File** – Shall mean any electronic document, information or data residing or located, in whole or in part, whether temporarily or permanently, on the system, including but not limited to spreadsheets, calendar entries, appointments, tasks, notes, letters, reports or messages.

### 3. System Inspection or Review

An employee’s supervisor has the express authority to inspect or review the system, any and all temporary or permanent files and related electronic systems or devices, and any contents thereof when such inspection or review is in the ordinary course of his/her supervisory duties, or based on cause at any time.

When requested by an employee's supervisor, or during the course of regular duties requiring such information, a member(s) of the agency's information systems staff may extract, download or otherwise obtain any and all temporary or permanent files residing in or located in or on the system.

Reasons for inspection or review may include, but are not limited to system malfunctions, problems or general system failure, a lawsuit against the county involving an employee, or related to an employee's duties, an alleged or suspected violation of a policy of the county, or a need to perform or provide a service or information when the employee is unavailable.

#### 4. County Property

All information, data, documents, communications and other entries initiated on, sent to or from through or accessed on any computer or computer system operated by the county, whether downloaded or transferred originally from a computer of the county, shall remain the exclusive property of the county and shall not be available for use other than by the county without the expressed authorization of an employee's supervisor.

#### 5. Unauthorized Use of Software

Employees shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company's copyright and license agreement. To reduce the risk of computer virus or malware infection, employees shall not install any unlicensed or unauthorized software on any computer owned or operated by the county. Employees shall not install personal copies of any software onto a computer owned or operated by the county. Any files or software that an employee finds necessary to upload onto a computer or network owned or operated by the county shall be done so only with the permission of an approved IT specialist and only after being properly scanned for malicious attachments.

No employee shall knowingly make, acquire or use unauthorized copies of computer software not licensed to the county while on premises or on a computer system. Such unauthorized use of software exposes the county and involved employees to severe civil and criminal penalties.

#### 6. Internet Use

Internet access provided by or through the county shall be strictly limited to activities related to the business of the county. An Internet site containing information that is not appropriate or applicable to the business of the county and which shall not be intentionally accessed include, but are not limited to, adult forums, pornography, chat room and similar or related web sites.

Downloaded information shall be limited to messages, mail, and data which shall be subject to audit and review by the county. No copyrighted and/or unlicensed software program files may be downloaded.

Employees shall report any unauthorized access to the system or suspected intrusion from outside sources (including the Internet) to a supervisor.

#### 7. Protection of Agency Systems and Files

All employees have a duty to protect the system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care and maintenance of the system.

It is expressly prohibited for an employee to allow an unauthorized user to access the system at any time or for any reason.

### IV. EMPLOYEE CLASSIFICATION, COMPENSATION, AND BENEFITS

For varied reasons, employee status must be organized by class or category in order to administer employee policies, benefits or otherwise address employment issues. It is generally the responsibility of the employee to assure that he/she is properly categorized for purposes of each issue or benefit type. The County will endeavor to assist with such matters, but the employee shall be ultimately responsible to assure that his/her service is properly addressed.

The procedures for hiring, promotion, and transfer of all regular employees shall be subject to the provisions of this policy. Personnel actions concerning temporary or seasonal employees are not subject to the procedures set forth herein to address cause as a basis for employee dismissal or disciplinary action unless the policy provisions expressly provide therefore.

With the exception of elected officials, any employee, regardless of designation, may utilize the Unlawful Discrimination Hearing procedure should he/she believe that an employment action taken against him/her was the result of unlawful discrimination. For Regular Employees, allegations of unlawful discrimination or the right to a name-clearing hearing may only be addressed in the disciplinary hearing procedure as provided for in this Policy.

#### A. CLASSIFYING EMPLOYEES FOR POLICY PURPOSES

##### 1. Employment Status

##### a. For-Cause Employment

- i) Regular Employees. Except as otherwise provided in this Policy, regular employees of **Shoshone County** will not be suspended without pay, demoted with an accompanying change in pay, or discharged from their positions for disciplinary purposes except for cause related to performance of their job duties or other violations of this policy. Cause shall be determined by the employee's supervisor/elected official and shall be communicated in writing to the employee when the employee's status is proposed to be changed.

- ii) Only suspension without pay, demotion with change of pay, or discharge for cause shall be subject to the disciplinary hearing procedure set forth in this personnel policy. The hearing procedure is to be administered in a directory manner, allowing flexibility in administration that does not adversely affect the employee's fundamental opportunity to be heard. It is the responsibility of an employee to show by clear and convincing evidence that the factual basis for the personnel action is incorrect or that the reasons for the personnel action are contrary to existing law. Should the employee establish such basis, the employee's back wages and benefits shall be restored as if the specified action had not been taken.
- iii) Changes in employment status that are the result of budgetary needs, reductions in force, reorganization of work duties through transfer or reassignment, or general changes in the terms or conditions of employment or of benefit offerings shall not be subject to the hearing procedure set forth herein. **Shoshone County** retains full authority, without prior notice, to modify the general terms and conditions of employment. Additional information may be obtained in the personnel office or by communication with an employee's supervisor or administrator.

b. Exceptions to For-Cause Employment

- i) Deputy Prosecuting Attorneys & Other Legal Counsel. Because the Idaho Rules of Professional Conduct, as established by the Idaho State Bar, govern the relationship between an attorney and his/her client, Deputy Prosecutors (including Senior Deputy Prosecutors) and other legal counsel for the County appointed pursuant to I.C. § 31-2601 et seq. are considered to be at-will employees, and they serve at the pleasure of the Prosecuting Attorney or the Board of County Commissioners (if they serve at the Board's pleasure). They can be appointed or removed at the pleasure of the elected official for whom they serve, and the disciplinary hearing process as set out in this policy does not apply. However, any deputy prosecutor or other legal counsel for the County who believes that he/she has been removed from his/her position or demoted with attendant change in pay as a result of unlawful discrimination or as a result of an allegation entitling him/her to a name-clearing hearing, may utilize the hearing procedures set out in Section V of this policy.
- ii) Senior Deputies (sometimes referred to as "chief deputies") appointed pursuant to Idaho Code § 31-2006 serve in that role at the pleasure of the elected official for which they serve. The designation can be established or removed at the pleasure of that elected official, and the hearing process set out in this policy does not apply to the removal process. In all other respects of this policy, they are considered to be

regular employees and shall receive all employee benefits provided by **Shoshone County** as such benefits now exist or may be subsequently changed.

- iii) Temporary or Seasonal Employees. Employees who work on an irregular or temporary basis are considered to be temporary or seasonal employees. As such, these employees are not considered to be Regular Employees and the disciplinary hearing process as set out in this policy does not apply. However, any irregular or temporary employee who believes that he/she has been removed from his/her position or demoted with attendant change in pay as a result of unlawful discrimination or as a result of an allegation entitling him/her to a name-clearing hearing, may utilize the hearing procedures set out in Section V of this policy.
- iv) Veteran's Rights Following Reinstatement. Any veteran, who has been restored to his/her position in accordance with Idaho Code § 65-512, shall not be discharged from such position without cause for a period of one (1) year after such restoration. During this one-year period, a returning veteran shall be entitled to a hearing prior to termination. Such returning veteran shall, also, be considered as having been on leave of absence during his/her period of military duty. He/she shall be restored to his/her position without loss of seniority, status or pay.

## 2. Employee Classification for Benefit Purposes

The classification of the position you hold with **Shoshone County** may affect the status of obligations or benefits associated with your employment. The primary classes of employees and their respective status is outlined as follows:

### a. Elected Officials

Elected officials are not considered regular employees. Elected officials receive employment benefits as identified in a resolution adopted by the Board of County Commissioners.

### b. Full-Time Regular Employees

Employees whose employment is sustained and continuing and whose typical work week consists of at least 35 hours of scheduled work during each 7 calendar day period are considered Full-time Regular Employees. Full-time regular employees shall receive all employee benefits provided by **Shoshone County** as such benefits now exist or may be subsequently changed by action of the Board of County Commissioners.

c. Part-Time Regular Employees

Employees whose typical work schedule calls for at least 20 hours, but not as much as 35 hours, of scheduled work during each 7 calendar-day period. Part-time regular employees shall receive reduced employee benefits in accordance with policies adopted by the **Board of County Commissioners**. The scope of benefits received may vary proportionately with the number of hours typically scheduled for a part-time regular employee.

d. Temporary or Seasonal Employees

Employees who work on an irregular or temporary basis, even though they work more than 20 hours per week are classified as temporary or seasonal employees. Temporary or seasonal employees will receive no benefits provided to regular employees, except those required by law or those approved by official action of the Board of County Commissioners. The disciplinary hearing process set out in this policy does not apply to temporary or seasonal employees, and they are considered to be at-will employees.

Any temporary or seasonal employee who believes that he/she has been terminated from his/her position or demoted with an attendant change in pay as a result of unlawful discrimination or as a result of an allegation entitling him/her to a name-clearing hearing, may utilize the hearing procedures set out in Section V of this policy.

e. Independent Contractors

Independent contractors who provide services to the County on a contractual basis are not considered employees of the County. As such, this Policy does not apply to independent contractors.

## B. COMPENSATION POLICIES

### 1. Establishment of Employee Compensation

**Shoshone County** compensates employees in accord with decisions by the Board of County Commissioners as budgets are set and tax levies are authorized. Pay for any given position is subject to the annual budgetary process and as such may be subject to increase, reduction, or *status quo* maintenance for any time period. The supervising elected official or administrator may make suggestions about salary compensation and other pay system concerns, but the final decision regarding compensation levels rests with the Board of County Commissioners. The Board of County Commissioners reserves the right to make budget adjustments, and consequently pay adjustments, during the course of the budget year in order to manage cash flow or to deal with other circumstances which justify or require change in County expenditures.

2. Compliance with State and Federal Pay Acts

**Shoshone County** shall comply with all State and Federal Pay Acts respecting the compensation of employees for services performed in the public service.

3. Additional Compensation Policies

Elected officials shall be paid a set salary as established by the Board in the annual budget. They shall have no right to overtime pay, compensatory time off, sick leave or vacation leave.

Employees determined to be exempt from the hourly requirements of the Fair Labor Standards Act shall be paid on a salary basis as established by the Board of County Commissioners.

Chief deputies in the offices of the Assessor, Clerk, Coroner, Prosecuting Attorney, Sheriff, and Treasurer shall in addition to the regular wage for their position be paid additional periodic compensation. The chief deputy designation and the additional compensation that accompanies it shall be in the sole discretion of the designating elected official. Removal from chief deputy status shall not be subject to the hearing procedures established by this policy.

4. Right to Change Compensation and Benefits

**Shoshone County** reserves the right to change general compensation for any reason deemed appropriate by the Board of County Commissioners. Compensation may also be adjusted based upon job performance and the availability of funds to maintain a solvent county budget. Hours worked may be reduced or employees may be laid off by the Board of County Commissioners or by elected officials within their departments as necessary to meet budgetary constraints or work load changes.

5. Overtime Compensation - Compliance with Fair Labor Standards Act

In addition to the employee classifications set forth elsewhere in this policy, all employees are classified as Exempt (salaried) or Nonexempt (hourly) for purposes of complying with the Federal Fair Labor Standards Act (FLSA). The FLSA is the Federal wage and hour law which governs the obligation of employers to pay overtime compensation. Certain employees are exempt from operation of this law because they perform work that qualifies for the professional, executive or administrative exemption. As such, exempt employees are not required to receive overtime pay for hours worked beyond the limits provided by the statute. Employees who serve as sworn law enforcement officers or as firefighters may be subject to special exceptions found in the FLSA (see 29 U.S.C. § 207(k)). Please contact your department supervisor or the office of the County Clerk for further clarification of your FLSA status.



## 6. Compensatory Time Policy

It is the policy of **Shoshone County** that hourly employees who work over the regular hours paid in each seven-day work period will accrue compensatory time. Compensatory time in excess of 40 hours per week, or in excess of the work period interval established pursuant to 29 U.S.C. §207(k), shall be computed at 1½ hours for each additional hour worked. The Board of County Commissioners has set a maximum accumulation of forty (40) hours. All comp time shall be used within 90 days following the pay period in which it is earned. Any exceptions will be at the discretion of the Board of County Commissioners.

## 7. Reporting and Verifying Time Records

It is the responsibility of each hourly employee to properly record time that he or she has worked. Each time sheet shall bear the signature of the employee with a statement verifying its accuracy and a counter signature by a supervisor indicating that the hours claimed were actually worked. These records shall be retained as required by the records retention policy of the County, consistent with state law. Exempt employees may be required to document time worked for accountability and benefit purposes.

## 8. Work Periods

Employment with **Shoshone County** is subject to the Federal Fair Labor Standards Act as previously described. Each employee is responsible for monitoring the status of hours worked in each work period. Overtime will be allowed only when authorized by an appropriate supervisor or when absolutely necessary in an emergency. The work week for all regular employees who are subject to the FLSA will begin at 12:01 a.m. on Sunday of each week and concludes at 11:59 p.m. of the succeeding Saturday. For regular employees, time actually worked in excess of forty hours in a work week will be computed at one and one-half (1½) times the hours worked. This time will accrue as compensatory time on payroll records following the work period during which it was earned.

Sworn law enforcement officers and firefighters may be subject to the special exception for their respective professions under 29 U.S.C. § 207(k) which allows establishment of their work period up to twenty-eight (28) days. Overtime compensation at one and one-half (1½) times the hours worked is to be paid for qualifying law enforcement officers' or for qualifying firefighters' hours beyond those established by the 29 U.S.C. § 207(k) schedule. For these special exception employees, compensatory time will accrue on the paycheck which follows the conclusion of each work period.

## 9. Promotions and Compensation

Compensation for all employees and elected officials is established by action of the Board of County Commissioners. The annual budget of **Shoshone**

**County** sets the funding available for compensation for positions in various departments. Promotions and changes in status may be recommended by officials in each of the operating departments, but final authority regarding compensation rests with the Board of County Commissioners.

#### 10. Payroll Procedures and Paydays

Employees are paid every month throughout the year. Paychecks are issued by the office of the Clerk on the last business day of the month. Paychecks compensate employees for work performed in the pay period proceeding the week in which the check is issued.

It is the obligation of each employee to monitor the accuracy of each paycheck received. Information shown on the employee's paycheck stub is provided for information only. The paycheck is generated by a computer program that does not have the capacity to think or to understand individual circumstances. Actual practices respecting the issuance of paychecks and allocation of employee benefits must be consistent with official policy of the County. In the event of disagreement between the computer-generated paycheck stub and official policy as interpreted by the Board of County Commissioners with the assistance of the payroll clerk, the policy shall prevail. Employees are obligated to call to the County's attention any discrepancies in payroll practices, whether to the advantage or disadvantage of the employee.

#### 11. Compensation while Serving on Jury Duty or as a Witness in a Court Proceeding

Leave will be granted and full pay provided to employees called to serve as a court witness in matters specifically related to County operations or called to serve on jury duty. Compensation received from serving on jury duty will be deducted from paycheck.

#### 12. Military Leave

Unpaid leave of absence will be granted to participate in ordered and authorized field training. The County's employment policy will comply with the provisions of Idaho Code § 46-224, et seq., or its successor, as those Code provisions govern leaves of absence for military service and the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA).

#### 13. Reduction in Force

Employee assignments may be affected by reductions in force made due to economic conditions or to changes in staffing and workload. The Board of County Commissioners or each elected official within his/her department, reserves the right to make any changes in work force or assignment of resources deemed to be in the organization's best interests.

#### 14. Payroll Deductions

In accord with Idaho Code § 45-609 or its successor, no payroll deductions will be made from an employee's paycheck unless authorized in writing by the employee or as required by law.

#### 15. Travel Expense Reimbursement

An employee on approved County business shall be reimbursed for expenses incurred in completing his/her work-related assignment in accord with the policies established by the Board of County Commissioners. Each employee is responsible for providing verified receipts for any expenses for which reimbursement is requested in accord with Idaho Code § 31-1501 or its successor.

#### 16. On-the-Job Injuries

All on-the-job injuries shall be reported to the employee's supervisor as soon as practicable to allow filing of a worker's compensation claim in the proper manner. If an employee is disabled temporarily by an on-the-job accident, he/she should be eligible for worker's compensation benefits. Return to employment will be authorized on a case-by-case basis upon consultation with the supervising official and the State Insurance Fund. Concerns associated with injured worker status may be brought before the appropriate elected official for review.

For sworn law enforcement officers injured in on-the-job accidents, the County should handle worker's compensation claims pursuant to Idaho Code, Title 72, Chapter 11.

### C. EMPLOYEE BENEFITS

**Shoshone County** offers a number of employee benefits for regular full-time and part-time employees. These benefit offerings are subject to change or termination in the sole discretion of the Board of County Commissioners. Each benefit offering is subject to the specific terms of its respective insurance policy and/or official resolution of the Board of County Commissioners.

#### 1. Vacation Leave

Vacation leave is available to full-time and part-time regular employees who have completed the equivalent of 6 months of full-time employment. Vacation accrues from the start of employment in the following manner:

<u>Length of Service</u>	<u>Vacation Accrual</u>
<u>0</u> through <u>1</u> year	<u>6</u> / days, <u>1/2</u> / month
<u>2</u> through <u>5</u> years	<u>12</u> / year, <u>1</u> / month

<u>6</u> through <u>10</u> years	<u>15</u> / year, <u>1¼</u> / month
<u>11</u> through <u>15</u> years	<u>18</u> / year, <u>1½</u> / month
Over <u>16</u> years	<u>21</u> / year, <u>1¾</u> / month

Vacation leave can only accrue to an absolute 15 day maximum. Any excess, over the maximum accrual, not used during the year in which it accrues will be forfeited, without right of compensation, at the conclusion of the fiscal year in which it became excess. This rule may be subject to an exception for one year's additional accrual upon written permission of the responsible elected official, with the concurrence of the governing Board of County Commissioners. Vacation leave is to be scheduled with consent of the responsible elected official or department supervisor. Efforts will be made to accommodate the preference of the employee in vacation scheduling, but first priority will be the orderly functioning of affected departments. Upon separation from employment unused vacation leave up to the maximum allowable accrual will be compensated by lump-sum payment at the then-current hourly or daily rate.

2. Sick Leave

Sick leave benefits are provided to regular full-time and part time regular employees at the rate of ½ day per every month of employment. Sick leave is a benefit to provide relief to the employee in the event of illness to the employee or his/her immediate family. It is to be used only in the event of an illness or injury that prevents the employee from working productively or safely or if an immediate family illness presents no practical alternative for necessary care. Sick leave must be requested at least within two hours of the time when the scheduled work period is to begin, unless circumstances outside the control of the employee prevent such notice. Elected officials or department supervisors asked to approve use of sick leave may, at **Shoshone County's** expense, request an independent review of reported illness at any time by a competent medical authority.

Sick leave can accrue to a maximum of 24 days. Sick leave benefit recipients will receive their normal compensation when using sick leave. Implementation of policy regarding sick leave can be found in resolutions adopted by the Board of County Commissioners. All unused sick leave will be forfeited without compensation upon separation from employment.

3. Holidays

Ten official holidays are provided for full-time regular employees. Employees who have regular full-time active status on the date of any holiday shall receive compensation for that day even though they do not work. Holidays which fall on Saturday shall be observed on the preceding Friday. Those which fall on Sunday shall be observed on the succeeding Monday. The holiday schedule may be changed at any time by the Board of County Commissioners.

Full-time Regular Employees who work on holidays shall be scheduled to receive a substitute holiday with pay within sixty days of the date of the holiday they worked. Work on holidays shall be compensated at a rate of one and a half (1½) times the employee's regular rate of pay.

Recognized Holidays:

New Year's Day	Labor Day
Martin Luther King, Jr./Human Rights Day	Columbus Day
Presidents' Day	Veteran's Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day

4. Bereavement Leave

Up to three days of paid leave of absence shall be provided for a death in the immediate family (spouse, parents, grandparents, children, grandchildren, brothers and sisters). Additional leave may be granted from accrued vacation leave or unpaid leave of absence **at the discretion of the affected Elected Official.**

5. Leaves of Absence

Up to thirty (30) days unpaid leave can be granted by the elected official for any justifiable purpose. Paid leave in any amount or unpaid leave in excess of thirty days shall require written approval of the Board of County Commissioners.

6. Family Medical Leave Act (FMLA)

a. Eligibility Requirements

**To be eligible for FMLA benefits, prior to any leave request, the employee:**

- i) must have worked for the employer for at least 12 months;
- ii) must have worked at least 1,250 hours for the employer during the previous 12 months; and
- iii) your employer must employ at least 50 employees.

**If your employment situation does not meet all of the qualifications set forth above, the subsequent FMLA policy, which is required by law to be included in our policy, DOES NOT apply to you.**

b. Entitlements

The Family and Medical Leave Act (FMLA) provides an entitlement of up to 12 weeks of job-protected, unpaid leave during any 12-month period to eligible, covered employees for the following reasons: 1) birth and care of the eligible employee's child, or placement for adoption or foster care of a child with the employee; 2) care of an immediate family member (spouse, child, parent) who has a serious health condition; or 3) care of the employee's own serious health condition. It also requires that the employee's group health benefits be maintained during the leave. The 12-month period is determined using a "rolling" 12-month period measured backward to the date an employee first uses any FMLA leave

If all eligibility requirements are met, the employee is covered under the FMLA. He/she may request up to 12 weeks of leave where **Shoshone County** will continue the employee's benefits (employer portion only) during the leave period. If the employee does not return to work for reasons other than their own continued serious health condition or that of an eligible family member, **Shoshone County** may recover from the employee the premium(s) that were paid for the employee's medical coverage.

Total FMLA leave for employee spouses who both work for **Shoshone County** is 12 weeks combined if the leave is for reasons other than the employee's own personal serious illness.

Examples where employees of **Shoshone County** are entitled to leave under FMLA include:

1. To care for a child following a birth or placement of a child with the employee for adoption or foster care.
2. To care for a sick child, spouse or parent who has a "serious health condition."
3. If the employee him/herself is unable to perform his or her own work responsibilities because of his/her own serious health condition.

c. Concurrent Use of Accrued Leave and Worker's Compensation Required

Employees are required to use any accrued paid vacation and sick leave (if applicable) concurrently with any FMLA leave. If paid leave accruals are less than 12 weeks, the employee may take the remainder of FMLA leave as unpaid leave. Employees will continue to accrue leave while utilizing their paid sick and vacation leave. They will cease to accrue

vacation and sick leave during the unpaid portion of their leave. If the employee is on Worker's Compensation leave, such leave will also run concurrently with any FMLA leave.

d. Employee Obligations

Employees are required to give 30 days advance notice or as much time as practical when the need for FMLA leave is foreseeable. **Shoshone County** reserves the right to request medical certification supporting any leave, and may require second or third opinions (at **Shoshone County** expense). **Shoshone County** may also require a doctor's fitness for duty report prior to your returning to work. Leave may be denied if these requirements are not met. The decision to allow an employee to return to work will be solely **Shoshone County** in compliance with the provisions of the Family and Medical Leave Act. Should a doctor not find the employee fit to return to duty, the employee will not be allowed to return to work.

Contact *the Shoshone County Clerk* to discuss your rights and obligations for continuation of any current benefits you are receiving. Employees must make arrangements for payment of their portion of their benefit costs or discontinuation of those benefits will occur.

To request FMLA leave please write a brief letter or memo to your **Supervisor** indicating the reason for requesting FMLA leave and the expected duration of leave. Note: Your supervisor may request that you provide certification by your physician or medical practitioner indicating the diagnosis and probable duration of your medical condition or the medical condition of your family member.

e. Intermittent Leave Requests

FMLA leave may be taken intermittently or on a reduced leave schedule to allow the employee to care for a sick family member, or for an employee's own serious health condition with prior written approval from the employee's supervisor or when "medically necessary." In the circumstance of birth or placement of a child for adoption or foster care, intermittent leave is only available by written approval of the elected official.

f. Employer's Rights and Obligations

**Shoshone County has the right to determine whether the employee is or is not an "eligible employee" under the Act. Shoshone County** has the right to place an employee on FMLA leave without the employee's consent should the County determine that the employee meets the eligibility requirements under the Act.

**Shoshone County** will return the employee to the same or an equivalent position after returning from FMLA leave, subject to the terms of the Family and Medical Leave Act. The only exception may be for individuals who, under the provisions of the FMLA, are considered to be a "key employee" whose extended absence would cause "substantial and grievous economic injury".

**Shoshone County** reserves the right to require periodic notices (determined by **Shoshone County** of your, or your family member's FMLA status and your intent to return to work.

g. The National Defense Authorization Act

On January 28, 2008, the FMLA was amended by the National Defense Authorization Act. This amendment provides an entitlement of up to 26 weeks of unpaid leave during a single 12-month period to an eligible employee who must care for a covered service member who is a spouse, son, daughter, parent or next of kin of the employee and has a serious injury or illness incurred in the line of duty which renders that person unfit to perform his or her duties in the Armed Forces. **Shoshone County** may require the request for this type of leave be supported by certification that the service member being cared for by the employee has a serious health condition.

The National Defense Authorization Act also provides 12 weeks of FMLA leave to an employee if his or her spouse, son, daughter or parent has been called to active duty with the Armed Forces. No serious medical condition is required for this type of leave. **Shoshone County** may require the request for this type of leave be supported by certification that the service member has actually been called to active duty. **Shoshone County** employees shall provide prior notice when the need for this type of leave is foreseeable.

If you have any questions about your rights under FMLA please contact your elected official or their designee.

7. Change in Benefits

**Shoshone County**, through its Board of County Commissioners, reserves the right to change, condition, or terminate any benefits set forth in this section. No employee shall acquire any rights in any current or future status of benefits except as the law otherwise requires.

8. Benefits for Part-Time or Temporary Employees

All employees shall receive benefits as required by law to include Workers Compensation insurance. All other benefits are to be determined by the **Board of County Commissioners**.



## 9. Insurance Coverage Available to Employees

Health insurance is available to employees and family members in accordance with the terms and conditions of the County's contract for such services. **Shoshone County Clerk** should be contacted to learn of sign-up and claims procedures. Other insurance offerings including life insurance, disability insurance, vision insurance and supplemental income protection may be available at employee or County expense. **Shoshone County Clerk** should be contacted for additional information. Any such offerings are subject to change at any time.

## 10. Retirement

The retirement plan of **Shoshone County** combines benefits of the Public Employees Retirement System of Idaho (PERSI) with Social Security (FICA). PERSI mandates withholding a percentage of an employee's gross salary for pension purposes, which is presently exempt from Federal and State income taxes, and **Shoshone County** matches this with an additional larger contribution. Contact the **Shoshone County Clerk** for further information.

## 11. Miscellaneous Benefits

In addition to the benefits listed on the previous pages, the following miscellaneous benefits may be available to employees for participation in accordance with the terms of their respective policy or agreement:

- a. Deferred compensation plans handled by payroll deduction.
- b. Credit union participation.
- c. Employee-requested deduction programs subject to County policy.
- d. Provision of uniforms, tools, equipment allowance, etc.
- e. Further training and higher education reimbursement or tuition refund.
- f. Any such offerings are subject to change at the Board of County Commissioners sole discretion at any time.

## 12. Transfer of Benefits with Employee Transfer

Accrued benefits for each employee remain in affect for that employee if the employee transfers from one department to another within **Shoshone County**. Any such transfer will not result in a reduction of benefit offerings separate and apart from those realized by employees similarly situated.

## V. EMPLOYEE PERFORMANCE AND DISCIPLINE

### A. PURPOSE OF DISCIPLINE/PERFORMANCE POLICY

The purpose underlying the discipline/performance policy of **Shoshone County** is to establish a consistent procedure for maintaining suitable behavior and a productive working environment in the workplace. These procedures are directory in nature and minor variations of the processes set forth herein shall not affect the validity of any actions taken pursuant to this policy.

### B. DISCIPLINARY/PERFORMANCE SYSTEM FRAMEWORK

**Shoshone County** adopts the following framework for actions to be taken in the event that any employee subject to this policy violates employment policies or fails to perform adequately. Progressive steps may be implemented in order to encourage improved performance or attitude, but are not required. **Shoshone County** reserves the right to take any of the prescribed steps in any order in the event that a supervisor deems a policy violation or action of the employee to be serious enough to warrant a certain step.

### C. DISCIPLINARY ACTIONS AVAILABLE

The following actions are among the disciplinary steps that may be taken by the supervisor in response to personnel policy violations:

- Oral warning
- Written warning or reprimand
- Suspension without pay
- Probation
- Demotion
- Dismissal

### D. OPPORTUNITY TO BE HEARD CONCERNING PROPOSED DISCIPLINE OR FAILURE TO PERFORM

The personnel policy of **Shoshone County** establishes the right of regular employees (but not independent contractors, introductory employees, temporary employees, seasonal employees or legal counsel for the County) to be heard in the event of contemplated demotion with an attendant change in pay, suspension without pay or dismissal from employment. The opportunity to be heard is designed to be informal, allowing the employee to discuss with his/her supervisor or Elected Official (at the employer's discretion) the facts surrounding the proposed disciplinary action or performance-based personnel action and to

provide any additional documentation that the employee believes would be helpful in explaining his/her actions, attitude or behavior.

The following steps should be followed at the direction of the supervisor or Elected Official ("employer"):

1. The employee shall be provided with a written notice of the reasons for the proposed personnel action that would affect him/her, along with an outline of the County's supporting information and the proposed personnel action.
2. The written notice will include a date, time and place for the employee to be heard to discuss the proposed personnel action.
3. The notice should state whether the employee is being placed on suspension pending the outcome of the opportunity to be heard, and whether any such suspension will be with or without pay.
4. If the employee is unable to participate in the scheduled opportunity to be heard, s/he may request an alternate date and time. Any approved alternate date that falls after the scheduled date and time will not extend any continuing pay allowance, if one has been provided by the County.
5. The employee must notify his/her employer within two (2) business days of the date of the notice that s/he desires to be heard as scheduled in order to discuss the reasons for the proposed personnel action. If notice of acceptance of the opportunity to be heard is not received within two business days, the opportunity to be heard will be vacated and deemed waived.
6. As an alternative to an opportunity to be heard, the employee may choose to provide a written response to the bases for the proposed personnel action. This written response must be submitted no later than the scheduled date and time initially set for the opportunity to be heard.
7. The opportunity to be heard, if chosen, will last no longer than one hour, unless otherwise approved by the employer, and will be limited to discussion of the issues contained in the notice and to any allegations by the employee of unlawful discrimination in employment.
8. The employee will not be prohibited from having an attorney assist him/her at the employee's own expense.
9. The employee will be allowed to present oral testimony from his/her witnesses (or provide written statements) about the issues contained in the notice.
10. The employer may ask the employee's witnesses questions for clarification purposes should that be necessary during the discussion.

11. The employee shall not have the opportunity to question the supervisor, unless the supervisor introduces a new basis for the personnel action during the discussion.
12. The Idaho Rules of Evidence shall not apply to the opportunity to be heard.
13. Unlawful discrimination allegations must be raised during this process, or they will be deemed waived by the employee.
14. There will be a record maintained, including a tape recording of the discussion that constitutes the opportunity to be heard.
15. The employer will render a written decision after considering employee's responses, if any, to the allegations set out in the notice.

FAILURE TO PARTICIPATE IN THIS OPPORTUNITY TO BE HEARD ALLOWED HEREIN SHALL CONSTITUTE A FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES UNDER THIS POLICY.

E. OPPORTUNITY TO BE HEARD—ASSERTIONS OF UNLAWFUL DISCRIMINATION AND “NAME-CLEARING HEARING”

This policy establishes an opportunity to be heard in the event of a discharge or demotion; and 1) the employee asserts that the discharge or demotion is actually the consequence of alleged unlawful discrimination by the County; or 2) if the allegation involves dishonesty, immorality or criminal misconduct that would entitle the employee to a “name-clearing hearing.” *Cox v. Roskelley*, 359 F.3d 1105 (9<sup>th</sup> Cir. 2004).

Unlawful discrimination addresses actions that are alleged to involve decisions based upon age, sex, race, religion, national origin or disability that is not a bona fide occupational qualification. Issues of job performance or employee attitude are not the proper subject of this opportunity to be heard. **Shoshone County** does not condone discrimination on the basis of the foregoing unlawful categories. **FAILURE TO SEEK AN OPPORTUNITY TO BE HEARD PURSUANT TO THIS POLICY SHALL CONSTITUTE A FAILURE TO EXHAUST REMEDIES UNDER THIS POLICY.** Any employee entitled to an opportunity to be heard as a result of a disciplinary action that concerns job performance or behavior must raise allegations of unlawful discrimination or the need for a “name-clearing hearing” in the course of that disciplinary process, with such issues to be addressed as provided by this section of the policy.

When the employee asserts an allegation of unlawful discrimination or the need for a “name-clearing hearing,” the elements of procedure to be followed and undertaken at the direction of the Board of County Commissioners or its designated official, unless waived by the employee, are as follows:

1. The employee may, within fourteen (14) days of his/her termination or demotion, submit a written allegation of unlawful discrimination or a request for a “name-clearing hearing,” stating with particularity the basis for the requested opportunity to be heard. Complaints filed untimely or failing to state a particular, legally recognized basis for this opportunity will not be heard.
2. The opportunity to be heard with regard to the employee’s allegations shall be provided as promptly as possible after receipt of a properly documented request.
3. An employee alleging unlawful discrimination or entitlement to a “name-clearing hearing” shall be allowed one (1) hour, unless otherwise approved by the Board or official, to meet and discuss the allegations with the Board of Commissioners or designated official.
4. There shall be a record maintained, including a tape recording, of the discussion that constitutes the opportunity to be heard.
5. The employee’s supervisor shall provide a brief, written statement in response to the particular allegation of discrimination or “name-clearing” request. The Board may request that the employee’s supervisor participate in the discussion.
6. The employee will not be prohibited from having an attorney assist him/her at the employee’s own expense.
7. The employee will be allowed to present oral testimony (or provide written statements) concerning evidence upon which the alleged discrimination or “name-clearing” is based.
8. The Board may ask the employee’s witnesses questions for clarification purposes should that be necessary during the discussion process.
9. The employee shall not have the opportunity to question any participants during this process, but may submit written questions for the Board to consider.
10. The Idaho Rules of Evidence do not apply to this opportunity to be heard.

After the conclusion of the discussion, the Board of County Commissioners will consider the information submitted and such other information as might be in the County’s records to arrive at a decision concerning the employee’s allegations. Said decision shall set forth the reasons for the Board’s determination in writing. If as a result of this opportunity to be heard, the Board finds fault with the basis for the County’s action, remedial action may be prescribed, including restoration of employment and payment of back pay.

## VI. DISCRIMINATORY WORKPLACE HARASSMENT POLICY AND COMPLAINT PROCEDURE

### A. PURPOSE

The purpose of this Harassment Policy is to clearly establish the County's commitment to work to provide a work environment free from unlawful harassment, to define discriminatory harassment, and to set forth the procedures for investigating and resolving internal complaints of harassment. Because of the importance of a workplace free from unlawful harassment.

It is important that all employees treat all other employees and members of the public with decency and respect. It is the responsibility of each and every employee, supervisor and Department Head to prevent inappropriate behavior in the workplace. Inappropriate behavior, which impacts the workplace, or has the potential to impact the workplace, will **not** be tolerated.

This Policy applies to all terms and conditions of employment, including but not limited to, hiring, placement, job retention, promotion, disciplinary action, layoff, reinstatement, transfer, leave of absence, compensation and training.

### B. POLICY

Harassment of an applicant for employment, a member of the public, or an employee by any employee of the County on the basis of race, color, religion, national origin, sex, age (40 and over) and disability is in violation of State and/or Federal law and will not be tolerated by **Shoshone County**.

Employees found to be participating in any form of employment-related unlawful harassment or retaliating against another employee for filing a complaint or cooperating with an investigation shall be subject to disciplinary action up to and including termination of employment.

### C. RESPONSIBILITIES

**The County**: It is the responsibility of the County to develop this policy, and to ensure that any violation of this policy brought to its attention is dealt with as required by law and according to this Policy.

The County should designate an official who will be responsible for following the Complaint Procedures as set out in this policy. This official will be referred to as the "Designated Official."

**Supervisors**: It is the responsibility of supervisors to enforce the policy, to train new employees on the policy, to make a review with all employees to ensure they know the policy and to check the workplace to make sure the policy is being followed.

If a supervisor observes that unlawful discrimination, harassment or retaliation is occurring, he/she should take immediate action to address the problem. Such action should include, but is not limited to, speaking directly with the affected person, developing a specific account of the actions, omissions or occurrences that are deemed discriminatory, consulting with the supervisor, or a Department Head and taking corrective or disciplinary action as appropriate. If the alleged discrimination, harassment or retaliation is not within the supervisor's area of responsibility or oversight, he/she should notify the Department Head or other appropriate management employee, who should then take prompt steps to address the allegation.

If unlawful harassment is reported or alleged, it must be followed up. No complaining party should be allowed to retract an allegation of unlawful harassment without proving that it was made erroneously. If a supervisor receives information that discrimination, unlawful harassment or retaliation might be occurring, he/she should follow the Complaint Procedure as set out in this policy below.

**Employees:** It is the responsibility of each and every employee to know this policy and to follow it. All County employees share the responsibility of understanding and preventing unlawful discrimination and harassment. But, ultimately, no satisfactory investigation or resolution of complaints can occur without the initiative and continued cooperation of the affected person. Individuals who believe they have been discriminated against or unlawfully harassed have the primary obligation of informing their supervisor, Department Head, or legal counsel for the County of the act of discrimination, unlawful harassment or retaliation, recounting specific actions or occurrences whenever possible. It is imperative that every employee treat every other employee and members of the public with decency and respect so as to facilitate a sound professional work environment.

#### D. DEFINITIONS

For purposes of clarification unlawful harassment includes, but is not limited to, the following behaviors:

1. **Verbal Harassment** – Epithets, derogatory comments, slurs, propositioning, or otherwise offensive words or comments on the basis of race, color, religion, national origin, sex, age (40 and over) and disability whether made in general, directed to an individual, or directed to a group of people regardless of whether the behavior was intended to harass. This includes, but is not limited to, inappropriate sexually oriented comments including dress or physical features, sexual rumors, code words, and race-oriented stories, as well as jokes of a sexual or discriminatory nature or “kidding” which is oriented towards a prohibited form of harassment.

2. **Physical Harassment** – Assault, impeding or blocking movement, leering, or the physical interference with normal work, privacy or movement when directed at an individual on the basis of race, color, religion, national origin, sex, age (40 and over) and disability. This includes pinching, patting, grabbing, inappropriate behavior in or near bathrooms, sleeping facilities and eating areas, or making explicit or implied threats or promises in return for submission to physical acts.
3. **Sexual Harassment** – Any act which is sexual in nature and is made explicitly or implicitly a term or condition of employment, is used as the basis of an employment decision, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

There are basically two types of sexual harassment:

- i) "Quid pro quo" harassment, where submission to unlawful harassment is used as the basis for employment decisions.

Employee benefits such as raises, promotions, better working hours, job retention, etc., are directly linked to compliance with sexual advances. Therefore, only someone in a supervisory capacity (with the authority to grant such benefits) can engage in quid pro quo harassment. Example: A supervisor promising an employee a raise if she goes on a date with him; a manager telling an employee she will fire him if he does not have sex with her.

- ii) "Hostile work environment," where the unlawful harassment creates an offensive and unpleasant working environment.

Hostile work environment can be created by anyone in the work environment, whether it be supervisors, other employees, or the public. Hostile environment harassment consists of verbiage of a sexual nature, unwelcome sexual materials, or even unwelcome physical contact as a regular part of the work environment. Cartoons or posters of a sexual nature, vulgar or lewd comments or jokes, or unwanted touching or fondling all fall into this category.

## E. COMPLAINT PROCEDURE

The following complaint procedure will be followed in order to address a complaint regarding harassment, discrimination, or retaliation:

1. A person who believes they have been unlawfully harassed, discriminated or retaliated against should report it to their supervisor, Department Head, Human Resource Officer, or legal counsel for the County. If a supervisor becomes aware that unlawful harassment or discrimination is occurring in any County department as a result of an



employee coming forward, the supervisor should immediately report it to a designated official pursuant to this policy. Once a complaint of unlawful harassment, discrimination or retaliation has been made, the complaint cannot be withdrawn by the complainant without a determination that it was made erroneously.

2. Promptly upon receiving the complaint, the Designated Official should initiate the investigation to determine whether there is a reasonable basis for believing that an alleged violation of this Policy occurred.
3. Upon receiving the complaint, or being advised by a supervisor that violation of this policy may be occurring, the Designated Official should review the complaint with the attorney for the County, or Board of County Commissioners.
4. The Designated Official, in conjunction with legal counsel for the County, should engage an appropriate person to investigate the complaint. The investigator should be a neutral party.
5. The investigator will interview the complainant, the respondent, and any relevant witnesses to determine whether the conduct occurred.
6. As soon as practical, the investigator will conclude the investigation and submit a report of his or her findings to the Designated Official, who then will route it as appropriate.
7. If it is determined that unlawful harassment or discrimination in violation of the County's policy has occurred, the appropriate official will recommend the appropriate course of action to be taken by the County. The appropriate action will depend on the following factors:
  - (i) The severity, frequency and pervasiveness of the conduct;
  - (ii) Prior complaints made by the complainant;
  - (iii) Prior complaints made against the respondent; and
  - (iv) The quality of the evidence (first hand knowledge, credible corroboration etc.).
8. If the investigation is inconclusive or it is determined that there has been no unlawful harassment or discrimination in violation of this Policy, but some potentially problematic conduct is revealed, corrective action may be taken.
9. Promptly after the investigation is concluded, the supervisor(s) will meet with the complainant and the respondent separately in order to notify them in person of the findings of the investigation.
10. The complainant and the respondent may submit statements to the supervisor(s) challenging the factual basis of the findings. Any such statement must be submitted no later than five (5) working days after the

meeting with the supervisor(s) in which the findings of the investigation is discussed.

11. Promptly after the supervisor(s) has met with both parties and reviewed the documentation, he or she will decide, after consultation with legal counsel, what action, if any, should be taken.

#### F. DISCIPLINARY ACTION

If unlawful harassment is determined to have occurred, the supervisor should take prompt and effective remedial action against the harasser. The action should be commensurate with the severity of the offense, up to and including termination of employment.

#### G. RETALIATION

Retaliation in any manner against a person for filing an harassment charge or initiating a harassment complaint, testifying in an investigation, providing information or assisting in an investigation, is expressly prohibited and subject to disciplinary action **up to and including termination**. The supervisor, Department Head and Elected Official should take reasonable steps to protect the victim and other potential victims from further harassment or related consequences.

#### H. CONFIDENTIALITY

Confidentiality will be maintained to the fullest extent possible in accordance with applicable Federal, State and local law. However, a complete and thorough investigation of the allegations will require the investigator to inform witnesses of certain aspects of the complaint in order to obtain an accurate account of the actions of the parties involved.

#### I. FALSE COMPLAINTS

Any complaint made by an employee of the County regarding employment-based harassment which is conclusively proven to be false, should result in discipline. This discipline may include termination of employment. This section is not intended to discourage employees from making complaints regarding employment-based harassment. However, false complaints adversely impact the workplace and the career of the accused, even when disproved, and will not be tolerated.

#### J. DISTRIBUTION

This policy should be disseminated to all employees, supervisors and Elected Officials of the County. Any questions, concerns or comments related to this policy should be directed to the Department Head, or Elected Official.

***A designated official will be appointed when the need is identified by the Board of Shoshone County Commissioners on a case by case basis for the purposes of this Policy.***

## **VII. SEPARATION FROM EMPLOYMENT**

### **A. REDUCTIONS IN FORCE (RIF)**

When financial circumstances or changes of workload require, **Shoshone County** reserves the right to reduce forces in such manner as it deems necessary to maintain the effective functioning of **Shoshone County** services. Decisions about the functions or positions to be reduced are not subject to the hearing procedure established by **Shoshone County**.

Reorganization initiated to make more efficient use of resources or to accommodate budgetary needs shall not be subject to the hearing procedure established by **Shoshone County**.

### **B. RETIREMENT POLICY**

The retirement policy of **Shoshone County** shall comply in all respects with federal and state requirements respecting mandatory retirement and the obligations established by the Public Employee's Retirement System of Idaho (PERSI).

### **C. COBRA BENEFITS**

Employees of **Shoshone County** who currently receive medical benefits, who separate their employment may be eligible to continue those medical benefits at the employee's sole cost and expense for a limited time in accordance with the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). If you have any questions regarding your right to continue your health coverage after separating from **Shoshone County** please contact ***the Shoshone County Clerk.***

### **D. EXIT INTERVIEW**

Each employee who terminates from employment with **Shoshone County** is encouraged to participate in an exit interview with the designated representative of the County, or in the event of involuntary termination with the ***Board of County Commissioners.*** In such interview, the employer should notify the employee when certain benefits will terminate, when final pay will be issued and review the process to receive COBRA benefits. The employee will be invited to inform the interviewer about his/her impressions of employment in such interview. An employee exit form may be completed at this point and will be retained in the employee's personnel file.

## E. RESIGNATION POLICY

Voluntary resignations will generally be made in writing. If the employee wants their formal records to indicate "voluntary resignation", they must do so in writing to their supervisor or department head. Oral resignations will be documented by the supervisor after consultation with the elected official or department head in charge. Evidence of acceptance of a resignation should be provided to the ex-employee if possible. Employees who have an unexcused or unauthorized absence of three (3) working days or more may be considered to have abandoned their position and therefore resigned.

### **Shoshone County Board Commissioners:**

s/Jon Cantamessa  
Jon Cantamessa, Chairman

July 1, 2009  
Date

s/Vern Hanson  
Vern Hanson, Commissioner

s/Vince Rinaldi  
Vince Rinaldi, Commissioner

ATTEST:

s/Susan K. Johnson  
Susan K. Johnson  
Administrative Assistant

**APPENDIX "A"**

**ACKNOWLEDGMENT OF RECEIPT OF Shoshone County PERSONNEL POLICY**

**Shoshone County** Personnel Policy, adopted on **July 1, 2009**.

- I understand that it is my responsibility to read and review this Policy.
- I understand that this Policy is not a contract and cannot create a contract.
- I understand that I am obligated to perform my duties of employment in conformance with the provisions of this Personnel Policy Manual and any additional rules, regulations, policies or procedures imposed by the department in which I work whether or not I choose to read the new Policy.
- I understand that this Policy may be modified without prior notice to me.
- I understand that should this Policy be modified that I will be provided with a copy of the modifications.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Employee) Signature

\_\_\_\_\_  
(Employee) Print Name

I, \_\_\_\_\_, provided a copy of the **Shoshone County**  
(Name-Title-Department)

Personnel Policy, as adopted by the Board of County Commissioners on

**July 1, 2009** to \_\_\_\_\_, on this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Name - Title - Department)