



# Shoshone County Personnel Policy

Approved by the Board of County Commissioners

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## **WELCOME**

It is our privilege to welcome you to Shoshone County. We wish you every success in your new job, and we hope that you quickly feel at home. This Personnel Policy was developed to describe some of the expectations we have for all our employees and what you can expect from us. We hope that your experience here will be challenging, enjoyable, and rewarding.

Again, welcome!

Shoshone County Board of County Commissioners

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## I. THE ORGANIZATION FOR WHICH YOU WORK

The 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 of the County, carrying out local legislative duties and fulfilling other obligations as required by law. The Board of County Commissioners is the general policymaker for the County and has primary authority to establish terms and conditions of employment with the County.

Each employee should recognize that although he/she may serve as an employee in the office of an Elected Official, he/she remains an employee of the County, and 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terms and conditions set forth in this Policy, and in the resolutions and policy statements that support it, cannot be superseded by any other official, without the express written agreement of the Board of County Commissioners. That is particularly true for terms or conditions that would establish a current or future financial obligation for the County. You may, however, work for an office/department with an operational policy that provides additional direction to employees on expectations and procedures unique to that office/department.

## II. YOUR EMPLOYMENT RELATIONSHIP WITH THE COUNTY

This Policy is designed to introduce you to the County, familiarize you with various policies, practices and procedures currently in effect at the County, and help answer many of the questions that may arise in connection with your employment.

**This Policy is not a contract of employment and does not create a contract of employment.** This Policy does not create a contract, express or implied, guaranteeing you any specific term of employment, nor does it obligate you to continue your employment for a specific period of time. Its purpose is simply to provide you with a convenient explanation of present policies and practices of the County.

All employees of the County are at-will and are employed at the discretion of the Elected Official for whom they serve. Only a written contract expressly authorized and signed by the Board of County Commissioners can alter the at-will nature of employment regardless of anything written or spoken by an Elected Official or supervisor. Employees have no right to continued employment or employment benefits, except as may be agreed to in writing and expressly approved by the Elected Official and the Board of County Commissioners. All provisions of this Policy will be interpreted in a manner consistent with this paragraph. In the event of any irreconcilable inconsistencies, the terms of this paragraph will prevail.

The County reserves the right to modify any of the policies, benefit offerings, and procedures, including those covered in this Policy, at any time, without prior notice to, and consent of, county employees. Changes may be made in the sole discretion of the Board of County Commissioners.

### III. EMPLOYEE CODE OF CONDUCT

Employees are expected to conduct themselves in a professional manner that is both civil and cooperative. County employees are public employees and therefore are exposed to additional public scrutiny in both their public and personal conduct. This Code of Conduct has been established to aid employees in understanding both expected and prohibited conduct. Violations of the Code of Conduct will be grounds for disciplinary action up to and including termination of employment. This list is illustrative and not all inclusive. Other behaviors and acts of misconduct not specifically detailed here may be grounds for disciplinary action as well. Nothing contained herein is intended to change the at-will nature of employment or limit the reasons for which an employee may be disciplined.

#### A. EXPECTED CONDUCT

Each employee is expected to conduct himself/herself in a professional manner. In order to accomplish this, each employee must:

1. Be respectful, courteous and professional. Work cooperatively and constructively with fellow workers and members of the public.
2. Be prompt and regular in attendance at work for defined work schedules or other required employer functions, and follow procedures for exceptions to the normal schedules, including the scheduling and taking of vacation and sick leave.
3. Comply with dress standards established in the office/department for which the employee works. In the absence of any office/departmental dress standards, clothing will be appropriate for the functions performed and will present a suitable appearance to the public.
4. Abide by all office/departmental rules and direction of a supervisor whether written or oral. No employee will be required to follow the directive of a supervisor that violates the laws of the local jurisdiction, state or nation.
5. Maintain the confidential nature of records that are not open to the public in accordance with the direction of the responsible official.
6. Maintain a current appropriate driver's license when work for the County requires the employee to drive a vehicle as part of his/her responsibilities. Each such employee must report any state-imposed driving restrictions to his/her immediate supervisor and notify his/her supervisor if his/her driving abilities are impaired.
7. Follow all workplace safety rules whether established formally by the office/department or by outside agencies.
8. Report all accidents that occur or are observed on the job, or that involve County property, and cooperate as requested in the reconstruction of any such accident.

9. Avoid conflicts of interests in appointments and working relationships with other employees, contractors and potential contractors in the County and related agencies.
10. Adhere to any code of ethics in the employee's profession.
11. Ensure that all electronic mail (e-mail) communications through your assigned county email communication system are for those communications for official County business activities. This shall include but is not limited to engaging in communications that are essential to the employee's accomplishment of business-related tasks and/or communication directly related to the business, administration, or practices of the County.

## **B. Prohibited Conduct**

Employees are expected to refrain from behaviors that reflect adversely upon the County, including:

1. Not initiate or participate, or encourage others, in acts or threats of violence, bullying, malicious gossip, spreading of rumors, or any other behavior designed to create discord and lack of harmony, or that willfully interferes with another employee's ability to do his/her job.
2. Not engage in abusive conduct or language, including profanity and loud, threatening or harassing speech, toward or in the presence of fellow employees or the public.
3. Not engage in conduct at or away from work that may reflect adversely upon the County or its officials or otherwise impair the employee's ability to perform.
4. Not engage in prolonged visiting with co-workers, children, friends or family members that interfere with work in the office/department in which the employee serves.
5. Not use work time for personal business, including the selling of goods or services to the general public.
6. Not use phones or computers in the workplace in a manner that violates policy or that disrupts workplace productivity, including time spent on social media.
7. Not use work time or public premises to promote religious beliefs to members of the public or fellow employees.
8. Not have non-County employment, or serve on any board or commission, that conflicts with duties performed for the County in any meaningful way. Individual offices/departments may determine permissible examples of outside employment.
9. Not knowingly make any false report or complaint regarding behavior of others or participate in such report or complaint.
10. Not release any public record, including personnel records, without the express authority of the public official responsible for custody of the record
11. Not use any substances, lawful or unlawful, that will impair the employee's ability to competently perform his/her work or threaten the safety and well-being of other

workers or the public. If the employee is prescribed a medication that may impair the employee's ability to safely do his/her job, the employee is required to provide a physician's note explaining the possible effects of the medication on the employee's ability to do his/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 leave while taking the medication.

12. Not 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).
13. Not engage in political activities while on duty. This rule does not apply to Elected Officials.
14. Not provide false or misleading information on employment applications, job performance reports or any other related personnel documents or papers.
15. Not engage in conduct that 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. §74-401 *et seq.* (Ethics in Government Act), I.C. §74-501 *et seq.* (Prohibitions Against Contracts) and I.C. §18-1359 (Using Public Position for Personal Gain).
16. Not accept gifts or gratuities in any personal or professional capacity that, although it may be legal, 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.
17. Not engage in criminal conduct of any kind while on or off duty.
18. Not utilizing county assigned e-mail for personal communications.

### C. Computer Usage

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.

### 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 rooms, social media (i.e. Facebook, Instagram, twitter), 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. WORKPLACE VIOLENCE**

The County seeks to provide a violence-free workplace. Violence in the workplace poses a threat to the safety of employees and the public. The County will not tolerate acts and behaviors that are likely to result in workplace violence, including, but not limited to, abusive language, hitting or shoving, threats of bodily harm, threats or acts of violence, brandishing

of an object which may be used as a weapon, sending threatening, harassing or abusive e-mail and faxes, using the workplace to violate protective orders and stalking.

All employees are responsible for minimizing workplace violence. All acts or threats of violence should be promptly reported to a supervisor or Elected Official. Employees should also report situations that they believe could lead to workplace violence, including but not limited to protective orders or other no-contact orders.

Any employee who is determined to be responsible for acts or threats of violence, or other conduct listed in this section, will be subject to prompt disciplinary action up to and including termination of employment.

## V. UNLAWFUL WORKPLACE DISCRIMINATION, HARASSMENT AND RETALIATION

The County strives to maintain a supportive and civil workplace—one in which employees treat each other with respect and dignity. In keeping with these values, the County prohibits and does not tolerate unlawful workplace discrimination, harassment or retaliation.

The following defined terms are applicable to this section:

**Legally protected class** means a personal characteristic that is protected by law. This includes race, color, national origin, religion, sex, age (40 and over), disability, or any other characteristic protected by law.

**Participation in the workplace** includes all aspects of being an employee at the County, including recruitment, hiring, job performance, performance reviews, training, development, promotion, demotion, transfer, compensation, benefits, educational assistance, layoff and recall, participation in social and recreational programs, termination and/or retirement.

### A. Workplace Discrimination

Workplace discrimination is when one or more persons in a **legally protected class** are treated adversely with respect to their **participation in the workplace**. Adverse employment actions usually involve decisions made by supervisors, department heads, or Elected Officials that affect the workplace status and benefits of employees.

Illegal adverse employment actions may include, but are not limited to, not hiring a qualified applicant due to his/her age, not promoting an employee due to his/her religious beliefs, denying an employee a raise due to his/her race, disciplining an employee more harshly than others due to his/her sex, and terminating an employee due to his/her national origin.

### B. Workplace Harassment

Workplace harassment is unwelcome conduct that is directed to one or more persons in a **legally protected class** that interferes with their **participation in the workplace**. The offensive conduct must be *severe or recurring* such that it creates a work environment that a reasonable person would consider intimidating, hostile or abusive. Petty slights,

annoyance, and isolated incidents (unless extremely serious) will not rise to the level of illegality.

Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures.

### C. Workplace Sexual Harassment

Sexual harassment is a specific type of workplace harassment. Since it is particularly destructive to the work environment it is more thoroughly addressed here.

Sexual harassment occurs when one or more persons are subject to unwelcome sexual advances, request for sexual favors, or other verbal, non-verbal, visual or physical harassment of a sexual nature that is so *severe or recurring* such that it creates a hostile or offensive work environment.

Sexual harassment includes sexually harassing others of the same and/or different gender, gender identity or gender expression.

Sexual harassment is unlawful whether it involves co-workers, supervisors, elected officials, or customers of the County.

Sexual harassment may include, but is not limited to:

1. Leering, making sexual gestures, or displaying derogatory and or sexually suggestive objects, pictures, cartoons, posters or drawings;
2. Sexually degrading language, derogatory comments, epithets, slurs, sexually explicit jokes or comments;
3. Verbal or non-verbal unwanted sexual advances or propositions;
4. Threatening or making reprisals after a negative response to sexual advances;
5. Offering employment benefits such as raises, promotions and job retention in exchange for sexual favors;
6. Unwanted physical conduct such as touching, massaging, pinching, patting, hugging; and
7. Physical interference with normal work or movement including impeding or blocking movement.

### D. Hostile Work Environment

A hostile work environment is discrimination or harassment in the workplace in which comments or conduct based on a **legally protected class**, unreasonably interferes with **participation in the workplace**. To a reasonable person, the comments or conduct must be *severe or recurring* such that it creates an intimidating or offensive work

environment. Isolated incidents, petty slights, occasional teasing or impolite behavior are generally not sufficient to create a hostile work environment.

Examples of a hostile work environment may include, but are not limited to, being subjected to daily racial slurs, recurring derogatory comments about job performance based on gender, continuous sexual advances or propositions, frequently receiving sexually explicit emails from a coworker, physical harassment like hitting, pushing, groping and other touching.

## **E. Workplace Retaliation**

Workplace retaliation is when an employee is punished or negatively treated because the employee engaged in legally protected activity, including initiating a complaint of discrimination or harassment, providing information or assisting in an investigation or refusing to follow orders that would result in discrimination or harassment. Retaliation can result from employment action taken by a supervisor, office/department head or Elected Official or from acts of other employees.

Examples of conduct that might be considered retaliation for engaging in protected activity include assigning the employee to less desirable tasks or shifts in the office, denying an employee a promotion or raise, socially isolating an employee, playing practical jokes on the employee, and allowing other employees to be critical of an employee for participating in a workplace investigation into alleged discrimination or harassment.

## **F. RESPONSIBILITIES**

### **1. Employee Responsibilities**

Employees should report incidents of discrimination, harassment, sexual harassment, hostile work environment or retaliation as soon as possible after the occurrence. Reporting should be made to any of the following:

- Designated Official
- Elected Official
- Supervisor
- Office/Department Head
- Legal Counsel for the County

If the employee's supervisor is the subject of the incident, the employee should instead report the incident to one of the other listed officials. Reporting should be made regardless of whether the offensive act was committed by a supervisor, co-worker, vendor, visitor or customer.

## 2. Supervisor Responsibilities

All supervisors are expected to ensure that the work environment is free from unlawful discrimination, harassment, sexual harassment, retaliation or the development of a hostile work environment. They are responsible for the application and communication of this policy within their work areas. Supervisors should:

- Encourage employees to report any violations of this policy before the harassment becomes *severe or recurring*.
  - Make sure the Designated Official is made aware of any inappropriate behavior in the workplace.
  - Create a work environment where sexual and other harassment, discrimination, or retaliation is not permitted.
  - Correct any behaviors they observe that could constitute unlawful discrimination, harassment, sexual harassment or hostile work environment.
  - Report any complaint of unlawful discrimination, harassment, sexual harassment, retaliation or hostile work environment to the Designated Official.
3. The County designates the Elected Official or Office/Department Head, or his/her designee, as the Designated Official who will be responsible for directing the procedures of this policy for his/her employees.

## G. PROCEDURE FOR REPORTING AND INVESTIGATING

The following steps must be followed to report and investigate incidents of unlawful discrimination, harassment, sexual harassment, retaliation, or the development of a hostile work environment.

1. A person who believes he/she has been unlawfully discriminated, harassed or retaliated against, or who observes or knows about behavior in the workplace that could be unlawful discrimination, harassment or retaliation, should report it to the Designated Official, his/her supervisor, office/department head, Elected Official, or legal counsel for the County. The individual receiving the report must then forward it to the Designated Official. If the Designated Official is the subject of the complaint, the report must then be forwarded to legal counsel for the County.
2. Once such a complaint has been made, the complaint cannot be withdrawn by the complainant without a determination that it was made erroneously.
3. The Designated Official should promptly review the complaint and consult with legal counsel for the County.

4. In appropriate circumstances, the person who is alleged to have committed the offense may be placed on paid or unpaid administrative leave pending a resolution of the allegations.
5. The Designated Official, in consultation with legal counsel for the County, should engage an appropriate person to investigate the complaint. The investigator should be a neutral party.
6. The investigator should interview the complainant, the person alleged to have committed the offenses, and any relevant witnesses to determine whether or how the alleged conduct occurred.
7. At the conclusion of the investigation, the investigator will submit a report of the findings to the Designated Official, who will then route it as appropriate.
8. The Designated Official and/or the appropriate supervisors and legal counsel for the County will meet separately with both the complainant and the person alleged to have committed the offenses to notify them in person of the findings of the investigation.
9. The complainant and the person alleged to have committed the offenses may submit written statements to the Designated Officials and/or supervisors challenging the factual basis of the findings. Unless circumstances prevent, the statement must be submitted no later than 5 working days after the meeting in which the findings of the investigation are discussed.
10. After the Designated Official and/or supervisors have met with both parties and reviewed the documentation, and after consultation with legal counsel for the County, a decision will be made as to what action, if any, should be taken by the Elected Official or department head.
11. At the conclusion of this complaint procedure, the complainant should be informed that appropriate action, if any, has been taken. Because disciplinary personnel matters are confidential, details of the specific discipline should not be shared with the complainant.

## H. DISCIPLINARY ACTION

1. If it is determined that unlawful discrimination, harassment or retaliation has occurred, an appropriate course of action will be taken by the County. The action will depend on the following factors:
  - a. The severity, frequency and pervasiveness of the conduct;
  - b. The conduct of the respective employees;
  - c. Prior complaints made against the person alleged to have committed the offenses;  
and
  - d. The quality of the evidence (first-hand knowledge, credible corroboration etc.).

2. If problematic conduct is revealed in the investigation, corrective action may be taken even if the investigation is inconclusive or if it is determined that there has been no unlawful discrimination, harassment or retaliation.

## **I. 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. The County's insurer may also be engaged to assist in all phases of any proceeding or investigation.

## **VI. GENERAL POLICIES**

### **A. ATTENDANCE AND PUNCTUALITY**

It is important for you to report to work on time and to avoid unnecessary absences. The County recognizes that illness or other circumstances beyond your control may cause you to be absent from work from time to time. However, frequent absenteeism or tardiness may result in disciplinary action, up to and including discharge. Excessive absenteeism or frequent tardiness puts an unnecessary strain on your co-workers and can have a negative impact on the success of the County.

You are expected to report to work when scheduled. Whenever you know in advance that you are going to be absent, you should notify your immediate supervisor or the designated manager. If your absence is unexpected, you should attempt to reach your immediate supervisor as soon as possible, but in no event later than one hour before you are due at work. In the event your immediate supervisor is unavailable, you must speak with your Elected Official or his/her designated representative. If you must leave a voicemail, you must provide a number where your supervisor may reach you if need be.

### **B. SUBSTANCE ABUSE**

The County recognizes alcohol and drug abuse as potential health, safety and security problems. The County expects all employees to assist in maintaining a work environment free from the effects of alcohol, drugs or other intoxicating substances. Compliance with this substance abuse policy is made a condition of employment, and violations of the policy may lead to discipline and/or discharge.

All employees are prohibited from engaging in the unlawful manufacture, possession, use, distribution or purchase of illicit drugs, alcohol or other intoxicants, as well as the misuse of prescription drugs on County premises or at any time and any place during working hours. While we cannot control your behavior off the premises on your own

time, we certainly encourage you to behave responsibly and appropriately at all times. All employees are required to report to their jobs in appropriate mental and physical condition, ready to work.

Substance abuse is an illness that can be treated. Employees who have an alcohol or drug abuse problem are encouraged to seek appropriate professional assistance. You may inform your immediate supervisor or Elected Official for assistance in seeking help, including possible coverage under the County's medical insurance plan, to address substance abuse.

When work performance is impaired, admission to or use of a treatment or other program does not preclude appropriate action by the County.

You are also notified that to the extent necessary to ensure the County maintains a workplace free from the effects of alcohol, drugs or other intoxicating substances, you may be subject to random urinalysis testing at the request of a supervisor or Elected Official. In addition, to the extent an employee presents with circumstances indicating he/she may be under the influence of alcohol, drugs or another intoxicating substance, the employee must submit to urinalysis testing upon request of a supervisor or Elected Official.

To the extent that an additional and more detailed policy is established for a department, which is adopted and approved by the Board of County Commissioners, the more restrictive policy shall control.

### **C. RELATIONSHIP POLICY**

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. Employees involved in such relationship bear a responsibility to the County to cooperate in any effort to avoid the potential conflicts that can arise from such personal relationships in the workplace. Such relationship may result in a change of employment duties.

### **D. NO SMOKING POLICY**

The County buildings and facilities are non-smoking in accordance with state and federal requirements. Use of tobacco products of any kind or e-cigarettes is not allowed within all indoor spaces of the County's buildings and facilities or in County vehicles. Smoking is only permitted outside of County buildings and facilities at least 50 feet away from entrances.



## VII. EMPLOYEE DISCIPLINE

### A. PERFORMANCE/DISCIPLINE FRAMEWORK

The following framework provides discipline options that may be taken when an employee violates employment policies or fails to adequately perform his/her duties. Nothing contained herein is intended to change the at-will nature of the employee's employment or limit the reasons for which the employee may be disciplined, including termination of employment. Progressive steps may be implemented in order to encourage improved performance or attitude but are not required. The County may take any of the following disciplinary actions, or any other action, in any order when a supervisor deems an action or performance of the employee to be serious enough to warrant a certain discipline.

### B. DISCIPLINARY ACTIONS AVAILABLE

1. The following actions are among the disciplinary actions that may be taken in response to personnel policy violations or performance deficiencies:
  - a. Oral warning
  - b. Written warning or reprimand
  - c. Suspension without pay
  - d. Demotion
  - e. Dismissal
  
2. Conditions of maintaining employment that relate to particular performance/behavior issues may be established in conjunction with any of these actions.

### C. OPPORTUNITY TO BE HEARD—NAME-CLEARING HEARING

1. All employees are at-will. However, an at-will public employee who is being terminated, or demoted with a reduction in pay, based upon allegations of *dishonesty, immorality or criminal misconduct* is constitutionally entitled to a name-clearing hearing when one is requested.
  
2. Failure by the employee to pursue this hearing procedure constitutes a waiver of this opportunity.

3. Issues involving dishonesty, immorality or criminal misconduct are the only issues that will be heard in this procedure.
4. The procedure for the hearing is as follows:
  - a. Within 14 days of his/her termination or demotion, the employee may submit to the Board of County Commissioners a written request for a name-clearing hearing and state the basis for it.
  - b. A request for hearing will be denied if the employee misses the deadline for submittal of the request or does not state a valid reason. An employee will be notified if a requested hearing is either granted or denied.
  - c. An employee granted a hearing will meet with the Board of County Commissioners. The hearing will not exceed 1 hour in duration.
  - d. An audio recording of the hearing will be made and maintained as part of the personnel record.
  - e. The employee's supervisor may provide a brief written statement at least 24 hours prior to the hearing. The Board of County Commissioners may require the supervisor to participate in the hearing.
  - f. The employee will be provided an opportunity to present evidence upon which the claims are based.
  - g. The Board of County Commissioners may ask questions during this process.
  - h. The Idaho Rules of Evidence do not apply to this hearing.
5. After the hearing, the Board of County Commissioners will consider the information submitted, and other information as might be in the County's records, to arrive at a decision and will issue a written statement setting forth the reasons for the decision.

## **VIII. HIRING POLICIES**

### **A. EQUAL EMPLOYMENT OPPORTUNITY**

1. All selection of 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, or any other characteristic protected by law. 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.
2. All objections to hiring or other employment practices will be brought to the attention of the Elected Official, office/department head or supervisor, or in the

case of objection to actions undertaken by that person, to legal counsel for the County.

3. Employees can raise concerns and make reports without fear of retaliation. Anyone found to be engaging in any type of unlawful discrimination will be subject to disciplinary action, up to and including termination of employment.
4. The County will endeavor to make reasonable accommodations for qualified individuals with known disabilities, unless doing so would result in an undue hardship. An employee should advise either the supervisor or Elected Official if he or she requires an accommodation to enable the employee to perform the essential tasks of the job.
5. The County will also endeavor to make reasonable accommodations for its employees' religious needs and practices, including those related to appearance and observance of holidays. An employee should advise either the supervisor or Elected Official if he or she requires accommodation for religious reasons.

#### **B. PREFERENCE FOR HIRING FROM WITHIN**

Qualified County employees may be given preference over outside applicants to fill vacancies in the work force without following the notice and selection procedures normally required for hiring new employees. If the internal preference process is used, it should be completed prior to seeking outside applicants for the position.

#### **C. VETERAN'S PREFERENCE AND RIGHTS**

1. The County will grant a preference to U.S. Armed Services veterans, or certain of his/her family members, in accordance with provisions of Idaho Code, Title 65, Chapter 5. In the event of equal qualifications for an available position, a veteran or family member who qualifies for the preference will be employed.
2. Employees who are qualified veterans returning to employment with the County following qualified military leave shall have the rights and responsibilities provided by Idaho Code §65-508 and the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §4301, et seq. The returning veteran will be restored to his/her position with the same seniority, status and pay that he/she would have had if there had been no military leave. In addition, in accordance with the provisions of these laws, the veteran will not be discharged from his/her position without cause for a period of 1 year after the restoration of his/her employment with the county.

## **D. NEPOTISM/HIRING OF RELATIVE**

1. No person will be employed by the County when the employment would result in a violation of provisions found in Idaho Code, including but not limited to I.C. Title 74, Chapter 4, I.C. §18-1359 and their successors. Any employment made in violation of these sections may be void. The appointment or employment of the following persons is expressly prohibited:
  - a. No person related to a County Commissioner by blood or marriage within the second degree will be appointed to any compensated office, position, employment or duty; and
  - b. No public servant, including Elected Officials and employees, will appoint or vote for the appointment of any person related to him/her by blood or marriage within the second degree to any compensated office, position, employment or duty. This means no one related within the second degree to anyone involved in any way in the hiring process can be hired and/or that no one related to an applicant within the second degree can take part in the hiring process.
2. An employee whose relative is subsequently elected may be eligible to retain his/her position and pay increases as allowed by relevant provisions of Idaho law, including Idaho Code § 18-1359(5).

## **IX. EMPLOYEE PERSONNEL FILES**

### **A. Personnel Records**

1. The official employee records for the County will be kept in the Office of the Elected Official, Designated Department Head, or by the County Clerk.
2. The personnel files should contain records related to employee performance, employee status, and other relevant materials related to the employee's service with the County.
3. The employee's supervisor, Elected Official or the employee himself/herself may contribute materials to the personnel files deemed relevant to the employee's performance.

### **B. Access to Personnel Files**

1. Only 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, the employee's Elected Official, and the employee him/herself are authorized to view materials in a personnel file. Access of others to such files will be allowed only when authorized after consultation with legal counsel for the County.

2. Information regarding personnel matters will only be provided to outside parties with a release from the employee, when deemed necessary by legal counsel for the County, or pursuant to a Court order or a proper subpoena.
3. The County reserves the right to disclose the contents of personnel files to outside state or federal agencies, its insurance carrier or its carrier's agents for risk management purposes, or when necessary to defend itself against allegations of unlawful conduct.
4. Copies of materials in an employee's personnel file are available to that employee without charge, subject to exceptions provided by statutes.

### C. Management of Information in Personnel Files

Each employee will be provided an opportunity to contest the contents of his/her personnel file at any time, by filing a written objection and explanation that will be included in the file along with the objectionable material. In the sole judgment of the Elected Official, after consultation with legal counsel for the County, any offending material may be removed upon a finding by the County that it is false or unfairly misleading. In general, there is 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. Any such approved removal of information will be documented in writing and maintained in the employee's personnel file.

## X. EMPLOYEE CLASSIFICATION

For various reasons, employee status must be organized by classes 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 is ultimately responsible to assure that his/her service is properly addressed.

### A. Employee Classification for Employment Status

1. All employees of the County, including part-time and temporary employees, are **at-will employees**, except as otherwise required by law or pursuant to a written contract approved by the Board of County Commissioners.
2. Deputy Prosecuting Attorneys and Other Legal Counsel.

Because the Idaho Rules of Professional Conduct 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. They can be appointed or removed at the pleasure of the Elected Official for whom they serve.

3. Senior Deputies.

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 whom they serve and are at-will employees.

## B. Employee Classification for Benefit Purposes

The classification of the position an employee holds with the County may affect the status of obligations or benefits associated with his/her employment. The primary classes of employees are:

1. 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.

2. Full-Time Regular Employees

Employees whose employment is sustained and continuing and whose typical work week consists of at least 35 hours are considered full-time regular employees. Full-time regular employees are eligible for employee benefits provided by the County.

3. Part-Time Regular Employees

Employees whose employment is sustained and continuing and whose typical work week consists of at least 20 hours, but less than 35 hours, on a regular basis are considered part-time regular employees. Part-time regular employees may receive reduced employee benefits as authorized by the Board of County Commissioners and as required by federal and state law. The scope of benefits received may vary proportionately with the number of hours typically worked for a part-time regular employee. The number of hours worked may also affect the employee's obligation to participate in certain mandatory state benefit programs. Certain benefits may not be available because qualifying thresholds have not been reached.

4. Temporary Employees

Employees who work on an irregular, seasonal or temporary basis are temporary employees. Temporary employees receive no benefits provided to regular employees, except those required by law or authorized by the Board of County Commissioners.

Any employee entitled to medical insurance benefits pursuant to their qualified classification shall begin receiving those benefits on the 1<sup>st</sup> day of the month following their 30<sup>th</sup> day of hire. Ex. If an employee has a hire date of June 20, the employee would not be eligible for medical insurance benefits until August 1<sup>st</sup>.

## **XI. COMPENSATION POLICIES**

### **A. Establishment of Employee Compensation**

Employees are compensated in accordance with, and subject to, decisions of the Board of County Commissioners as annual budgets are set and are subject to increase, reduction, or *status quo* maintenance for any time period. The Elected Official or department head may make suggestions about salary compensation and other pay system concerns, but the final decision regarding compensation policy rests with the Board of County Commissioners.

### **B. Compliance with State and Federal Pay Acts**

The County will comply with all state and federal pay acts governing compensation of its employees.

### **C. Right to Change Compensation and Benefits**

The County may 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 office/departments as necessary to meet budgetary constraints or as work needs change.

### **D. Overtime/Compensatory Time Policy**

1. In addition to the employee classifications set forth elsewhere in this policy, all employees are classified as exempt (salaried) or non-exempt (hourly) for purposes of complying with the federal Fair Labor Standards Act (FLSA). Exempt employees perform work that qualifies for the professional, executive or administrative exemption and do not qualify for overtime compensation. Employees should contact their office/department supervisor, or Elected Official for further clarification of the employee's FLSA status.
2. Overtime for non-exempt, hourly employees will be allowed only when authorized by the appropriate supervisor or when absolutely necessary in an emergency. Employees may not work any hours outside of their scheduled work day unless the supervisor has given advanced authorization for the unscheduled work. Employees may not start work early, finish work late, work during meal breaks or perform any other extra or overtime work unless they are authorized to do so, and it is reported on the employee's timesheet. Any employee who fails to report, or inaccurately reports, any hours worked will be subject to disciplinary action, up to and including termination.
3. Non-exempt employees entitled to overtime compensation will either accrue compensatory time or overtime pay, as established by policy adopted by the Board of County Commissioners. Compensatory time or overtime pay for work in excess of 40 hours per week, or in excess of the work period interval established for law

enforcement officers or firefighters, will be computed at 1½ hours for each additional hour worked. The Board of County Commissioners has set a maximum accumulation of 40 hours of compensatory time. Any compensatory time shall be used within 90 days following the pay period in which it is earned, unless a request for extension is approved by the Supervisor, Elected Official, and the Board of County Commissioners.

4. Compensatory time may be used whenever required by a supervisor or when requested by an employee with the concurrence of a supervisor. Use of requested compensatory time will depend upon the ability of the office/department to tolerate a requested absence. If repeated requests to use compensatory time are denied by a supervisor, or reasonable opportunities to use such time are unavailing, an employee must be paid for such accrued time.

### **E. Reporting and Verifying Time Records**

1. Each hourly employee is responsible to timely and accurately record time that he/she has worked in accordance with the procedures authorized by the Board of County Commissioners and the payroll office. Each report of non-exempt employees must be signed manually or electronically by both the supervisor and the employee and must contain a certification that it is a true and correct record of the employee's actual time worked and benefits used for the time period covered. Any changes to the time record made by a supervisor or the payroll office to correct mistakes must be acknowledged by the employee. Exempt employees may be required to document time worked or benefits used for accountability purposes.
2. Any employee concerned about his/her compensation, rate of pay, payroll status, deductions, *etc.*, must communicate such concerns to the payroll office or his supervisor as soon as any such concern becomes evident. Documentation of any such issue should be maintained in the employee's personnel file.
3. Employees may not falsify their own timesheet or alter another employee's timesheet in any way. Employees must not under- or over-report hours worked by themselves or other employees, or conceal any falsification of time records, even if instructed to do so by a supervisor, Elected Official or other person. If instructed to do so, the employee must immediately report it to the Prosecuting Attorney.

### **F. Work Periods**

1. The workweek for all non-law enforcement, non-exempt employees who are subject to the FLSA begins at 12:00 a.m. on Sunday of each week and concludes at 11:59 p.m. of the succeeding Saturday.
2. The work period for sworn law enforcement officers and firefighters may be up to the 28-day work period allowed by the FLSA, 29 U.S.C. § 207(k), as adopted by the Board of County Commissioners.



## **G. Payroll Procedures and Paydays**

1. Employees are paid every month throughout the year. Paychecks or direct deposit receipts are issued on the last working day of the month. Paychecks compensate employees for work performed in the pay period preceding the week in which the check is issued.
2. Every effort will be made to ensure that employees are paid correctly. Occasionally, however, inadvertent mistakes can happen. Each employee must monitor the accuracy of compensation received and review his/her paper or electronic paycheck stub when received to make sure it is correct. Information shown on the employee's paycheck stub is provided for information only. Actual practices regarding 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, the policy will prevail. Employees are obligated to call to the County's attention any such errors, whether to the advantage or disadvantage of the employee. When mistakes are made and are called to the County's attention, the County will correct the mistake as soon as possible.

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

1. The County encourages employees to fulfill their civic responsibilities by serving on jury duty when required. 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.
2. Employees must show the jury duty summons or notice to their supervisor as soon as possible so that the supervisor can make arrangements to accommodate their absence. Employees are expected to report for work whenever the court schedule permits.

## **I. Military Leave**

An unpaid leave of absence will be granted to an employee to participate in ordered and authorized field training in accordance with Idaho Code §§ 46-407 and 46-409, and the Uniformed Services Employment and Reemployment Rights Act (USERRA). The employee shall be required to comply with all State and Federal statutes and regulations pertaining to advanced and timely notice to the County and provide the necessary documentation to their supervisor.

## J. Payroll Deductions

No payroll deductions will be made from an employee's paycheck unless authorized in writing by the employee, or as required by law (Idaho Code § 45-609).

## K. Travel Expense Reimbursement

An employee on approved County business will be reimbursed for expenses incurred in completing his/her assignment in accordance 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 (Idaho Code § 31-1501). Upon approval from the supervisor or elected official of the department, the employee may be authorized to expense travel to an assigned credit account of the County but is required to maintain receipts for such travel expenses and shall not be entitled to direct reimbursement in that circumstance.

## L. On-the-Job Injuries

1. Employees are covered by worker's compensation insurance for on-the-job injuries. All on-the-job injuries must be reported to the employee's supervisor as soon as practicable so that a worker's compensation claim can be filed. Return to employment will be authorized on a case-by-case basis in consultation with the supervising official and the State Insurance Fund and may require a fitness for duty medical review. Concerns associated with injured worker status may be brought before the appropriate Elected Official for review.
2. The County will handle worker's compensation claims for sworn law enforcement officers pursuant to Idaho Code, Title 72, Chapter 11.

## XII. EMPLOYEE BENEFITS

The County offers a number of employee benefits for full-time and part-time regular 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.

### A. Vacation Leave

1. 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 leave accrues at the rate dependent upon the length of service with the County as follows:

<u>Length of Service</u>	<u>Vacation Accrual</u>
0 through 1 year	6 days or ½ day per month
2 through 5 years	12 days or 1 day per month
6 through 10 years	15 days or 1 ¼ day per month

11 through 15 years  
Over 16 years

18 days or 1 ½ day per month  
21 days or 1 ¾ day per month

2. Vacation leave can only be accrued up to the maximum of 15 days (120 hours). 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. However, the responsible Elected Official may request a reasonable extension of the time in which to use the accrued vacation for an employee which is subject to the approval of the Board of County Commissioners.
3. Vacation leave is to be scheduled with consent of the responsible Elected Official or office/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 office/departments. Upon separation from employment, unused vacation leave up to the maximum allowed accrual will be compensated by lump-sum payment at the then-current hourly or daily rate.

## B. Sick Leave

1. Sick leave benefits are provided to regular full-time employees at the rate of 4 hours per month. Part-time regular employees accrue sick leave per month at the rate of 4 hours. Sick leave is a benefit to provide relief to the employee when an illness or injury prevents the employee from working productively or safely, or when an immediate family member's (spouse, child, parent) illness presents no practical alternative for necessary care. Sick leave must be requested at least within two hours of the time the scheduled work period is to begin, unless circumstances outside the control of the employee prevent such notice. Elected Officials or office/department supervisors may require the employee to provide a doctor's note, or require, at the County's expense, an independent review of reported illness by a competent medical authority.
2. Sick leave can only be accrued up to the maximum of 192 hours. Once an employee reaches the maximum accrual, no additional sick leave will accrue until the employee's accrued hours are reduced below the maximum.
3. Sick leave benefit recipients will receive their normal compensation when using sick leave. All unused sick leave will be forfeited without compensation upon separation from employment.
4. To the extent the County has established a sick leave bank for eligible employees, the terms of the sick leave bank policy as established and adopted by the Board of County Commissioners shall control concerning any benefit associated with that sick leave bank.

### C. Holidays

Eleven official holidays are provided for full-time regular employees. Full-time regular employees receive compensation for that day even though they do not work. Holidays which fall on Saturday will be observed on the preceding Friday. Those which fall on Sunday will 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 are scheduled to work on a holiday or perform unscheduled emergency work on holidays will be compensated in one of the following ways:

- (1) at a rate of 1 ½ times the employee's regular rate of pay; or
- (2) by scheduling the employee for a substitute holiday within sixty (60) days.

**The elected official or department head shall have discretion on which method of compensation shall be utilized taking into consideration resources and ability to schedule additional days off within the time frame outlined above.**

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
Juneteenth Day	Christmas Day
Independence Day	

### D. Bereavement Leave

Up to 3 days of paid leave of absence will be provided for a death in the immediate family (spouse, parents, grandparents, children, grandchildren, brothers and sisters, including in-laws). Employees have the right to use accrued vacation leave beyond the leave of absence allowed by this section.

### E. Leaves of Absence

Up to 30 days of unpaid leave of absence can be granted by the Elected Official for any justifiable purpose. Paid leave in any amount or unpaid leave in excess of 30 days will require written approval of the Board of County Commissioners.

### F. Benefits for Temporary Employees

All temporary employees will receive benefits as required by law, including worker's compensation insurance. All other benefits are to be determined in the discretion of the Board of County Commissioners.

### G. Insurance Coverage Available to Employees

Various insurance benefits are available to employees and family members in accordance with the terms and conditions of the County's contract for such services. The elected official or dept. head is responsible for sign-up and claims procedures. Other insurance offerings may be available at employee or shared expense.

#### **H. Retirement Program Offering**

The County participates in the retirement program of the Public Employees Retirement System of Idaho (PERSI) and with Social Security (FICA). PERSI requires the County to withhold a percentage of an employee's gross salary for pension purposes, and to contribute an additional larger amount on behalf of the employee. Contact your Department Head or Elected Official for more information.

#### **I. Transfer of Benefits with Employee Transfer**

Accrued benefits continue when the employee transfers from one office/department to another within the County. However, upon such transfer, the employee is only eligible for those benefits authorized for the particular position and employment status.

#### **J. Miscellaneous Benefits**

In addition to the benefits listed on the previous pages, the following are examples of miscellaneous benefits, subject to change in the sole discretion of the Board of County Commissioners, that may be available to employees for participation in accordance with the terms of their respective policy or agreement:

1. Deferred compensation plans handled by payroll deduction.
2. Credit union participation.
3. Employee-requested deduction programs.
4. Allowance for uniforms, tools, equipment, etc.
5. Parking privileges.
6. Training and higher education reimbursement or tuition refund.

### **XIII. Family Medical Leave Act (FMLA)**

This section contains a summary of FMLA rights and responsibilities and is not intended to be a complete statement of all FMLA issues that may arise. Please check with your Department Head or Elected Official in identifying FMLA leave issues. The US Department of Labor has published an FMLA resource for employees: [www.dol.gov/whd/fmla/employeeeguide.pdf](http://www.dol.gov/whd/fmla/employeeeguide.pdf). It has also published a guide for employers that is also beneficial to employees: [www.dol.gov/whd/fmla/employerguide.pdf](http://www.dol.gov/whd/fmla/employerguide.pdf).

#### **A. Eligibility Requirements**

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

1. must have worked for the County for at least 12 months, which in some circumstances may include separate periods of employment with the County;
2. must have actually worked at least 1,250 hours for the County during the previous 12 months; and
3. the County must employ at least 50 employees within 75 miles of the employee's workplace measured by using available transportation on the most direct route.

## **B. FMLA Rights**

1. An eligible employee is entitled to job-protected, unpaid leave for the following reasons: a. birth and care of the eligible employee's child; b. placement for adoption or foster care of a child with the employee; c. care of an immediate family member (spouse, child, parent) who has a serious health condition; or d. care of the employee's own serious health condition.
2. A "serious health condition" is a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any subsequent period of incapacity or treatment in connection with such inpatient care, or a condition that requires continuing care by a licensed health care provider.
3. The employee may request up to 12 weeks of leave during a 12-month period in which the County will continue the employee's benefits (employer portion only). The 12-month period is determined using a "rolling" 12-month period measured backward from the first day of the employee's FMLA leave. If the employee does not return to work at the end of the FMLA leave for reasons other than the continued serious health condition of the employee or eligible family member, the County may recover from the employee the premiums that were paid for the employee's medical coverage during the FMLA leave period.
4. Total FMLA leave for employee spouses/parents who both work for the County is 12 weeks combined if the leave is for reasons other than the employee's own personal serious illness.

## **C. Concurrent Use of Accrued Leave and Worker's Compensation Required**

1. Employees are required to use any accrued paid vacation and sick [PTO] leave and compensatory time off ("comp time") concurrently with any FMLA leave. If the employee does not have sufficient accrued vacation and sick [PTO] leave and comp time to cover the time out on FMLA leave, the employee may take the remainder of FMLA leave as unpaid leave.
2. If the employee is on worker's compensation leave, such leave will also run concurrently with any FMLA leave.

## **D. Employee Obligations**

1. Employees are required to give 30 days' advance notice, or as much time as practical, when the need for FMLA leave is foreseeable. The employee may be required to provide medical certification by his/her physician or medical practitioner indicating the diagnosis and probable duration of the FMLA qualifying medical condition. The County may also require second or third opinions at the County's expense.
2. Employees who are on FMLA leave for their own serious illness for at least thirty (30) days are required to provide a medical practitioner's fitness for duty report prior to returning to work. The employee must provide his/her medical practitioner with a job description so that the practitioner can evaluate whether the employee will be able to perform all of his/her duties on his/her return to work. FMLA leave may be denied if these requirements are not met. The decision to allow an employee to return to work will be solely the County's in compliance with the provisions of FMLA. If a doctor finds that the employee is not fit to return to duty, the employee will not be allowed to return to work.
3. Employees should contact their supervisor or dept. head to discuss their rights and obligations for continuation of any current benefits they are receiving. Employees must make arrangements for payment of their portion of their benefit costs or discontinuation of those benefits will occur.
4. To request FMLA leave, the employee must contact their supervisor or dept. head indicating the reason for requesting FMLA leave and the expected duration of leave.
5. Employees eligible for FMLA protected leave may decline the use of such leave but will then be subject to the attendance and leave policies of the County.

#### **E. Intermittent Leave Requests**

FMLA leave may be taken intermittently or on a reduced leave schedule with prior written approval from the employee's supervisor or when "medically necessary." Intermittent leave may not be used for the birth or placement of a child for adoption or foster care without the written approval of the Elected Official.

#### **F. Employer's Rights and Obligations**

1. The County has the duty to notify employees of the availability of the right to FMLA leave and to determine whether the employee is or is not an "eligible employee" under the Act.
2. The County may require periodic notices of the employee's FMLA status and his/her intent to return to work.
3. The County will return the employee to the same or an equivalent position after returning from FMLA leave, subject to the terms of the FMLA. 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".

## **G. The National Defense Authorization Act**

1. The FMLA also 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. A "covered service person" 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 that renders that person unfit to perform his or her duties in the Armed Forces. If this type of leave is requested, the County may require medical certification that the service member being cared for has a serious health condition and that it was incurred in the line of duty.
2. FMLA also now 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. If this type of leave is requested, the County may require certification that the service member has actually been called to active duty.
3. The allowed length of FMLA military leave is measured from the first day of leave taken and ends 12 months later. FMLA time already taken may be deducted from the 26 weeks of leave in some circumstances. See your Department Head or Elected Official to determine available leave.
4. Employees are required to provide prior notice when the need for this type of FMLA military leave is foreseeable.

## **XIV. AMERICANS WITH DISABILITIES ACT**

### **A. Eligibility**

The Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA) prohibit employers with 15 or more employees from discriminating against individuals with disabilities.

### **B. Reasonable Accommodation**

The County will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job, unless:

1. doing so causes a direct threat to these individuals or others in the workplace, and the threat cannot be eliminated by reasonable accommodation; or
2. the accommodation creates an undue hardship to the County.
3. Employees should contact their supervisor with any questions or requests for accommodation.



## **XV. FITNESS FOR DUTY EXAMS**

### **A. Safe Work Environment**

The County is committed to maintaining a safe and productive workplace. Every employee is required to report to work fit to perform his/her job in a safe, appropriate and effective manner.

### **B. Conditions for Exam**

The County may require a fitness for duty evaluation as part of a physical exam of the employee to determine the employee's physical, mental and emotional readiness to perform the essential functions of his/her job with efficiency and safety for himself/herself and others. Fitness for duty evaluations may be done in the following circumstances:

1. following a conditional offer of employment;
2. prior to return to work following a leave related to injury or illness;
3. when an employee expresses concern about his/her ability to perform the functions of his/her job; or
4. when there is reasonable belief that the employee cannot safely perform the functions of his/her job.

## **XII. IDAHO WHISTLEBLOWER PROTECTION**

### **A. Scope**

Idaho Code, Title 9, Chapter 21, provides protections to public employees who experience adverse employment actions as a result of the good faith reporting of the existence of any waste of public funds, property or manpower, or of a violation, or suspected violation, of law, rule or regulation of the County, state of Idaho or the United States of America.

### **B. Reporting**

Any such report must be made at a time, and in a manner, which gives the County a reasonable opportunity to correct the waste or violation.

### **C. Protection**

The County may not take adverse action against an employee because the employee in good faith reports the suspected waste or violation, or participates or gives information in an investigation, hearing, court proceeding or any other form of administrative review of the report.

## **D. Enforcement of Rights**

If the employee believes that he/she has experienced an adverse employment action protected by the Whistleblower Act, he/she may bring a civil action in District Court within 180 days of the occurrence of the violation of the Act.

## **XIII. CANDIDACY FOR ELECTIVE OFFICE**

### **A. First Amendment**

While the 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 interest in promoting the efficiency of the public services it performs through its employees.

### **B. Reasonable Prediction of Disruption**

1. If an employee initiates candidacy against an 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 resign or face possible employment action, including being placed on an unpaid leave of absence or termination.
2. A reasonable prediction of disruption is based upon any of the following factors:
  - a. The size of the office in which the employee works—the smaller the office, the greater the likelihood of disruption;
  - b. Whether the employee candidate holds a position of trust and confidence to the incumbent—the closer the ties, the greater the likelihood of disruption;
  - c. 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 likelihood of disruption would be greater; or
  - d. 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 likelihood of disruption.
  - e. Not all of the above factors must be met to find a reasonable prediction of disruption.

### **C. Evaluation and Action**

1. The Elected Official should consult with legal counsel for the County in determining whether there exists a reasonable prediction of disruption and the appropriate employment action to take.

2. The Elected Official should set out in writing the factual basis for finding that there exists a reasonable prediction of disruption using the above factors and his reasoning for taking the specific action. The written findings should be provided to the employee and placed in the employee's personnel file.
3. All other applicable procedures that allow an opportunity to be heard, as set out in this policy, will apply.

## **XIV. SEPARATION FROM EMPLOYMENT**

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

When financial circumstances or changes of workload require, the County may reduce forces in such manner as it deems necessary to maintain the effective functioning of the County services. Employee assignments may be affected by reductions in force made due to economic conditions or to changes in staffing and work needs. The Board of County Commissioners and/or Elected Officials may make any changes in the work force or assignment of resources deemed to be in the County's best interests.

### **B. COBRA BENEFITS**

Employees who currently receive medical benefits and who resign or are terminated from their employment may be eligible to continue those medical benefits for a limited time in accordance with the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Employees with questions regarding the right to continue health coverage after termination of their employment should contact the Department Head or Elected Official.

### **C. EXIT INTERVIEW**

Each employee who terminates from employment is encouraged to participate in an exit interview with the designated representative of the County. In such interview, the County 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 should be invited to inform the interviewer about his/her impressions of employment. An employee exit form may be completed and will be retained in the employee's personnel file.

### **D. RESIGNATION POLICY**

1. Written and oral resignations are effective upon receipt by a supervisor or Elected Official. Oral resignations should be documented by the supervisor after consultation with the Elected Official or office/department head. Evidence of the written or oral resignation should be provided to the employee and placed in the employee's personnel file.

2. Employees who have an unexcused or unauthorized absence of 3 or more working days in a row may be considered to have resigned through abandonment of his/her position. If an employee's words or actions indicate an intent to resign, including having an unexcused or unauthorized absence of 3 or more working days in a row, the County will consider the employee as having resigned and immediately notify him/her of such.

ADOPTED this 11<sup>th</sup> day of December 2019.

BOARD OF COUNTY COMMISSIONERS

s/Mike Fitzgerald

Mike Fitzgerald, Chairman

s/John Hansen

John Hansen, Commissioner

s/Jay Huber

Jay Huber, Commissioner

Attest: s/Susan K. Hendrixson

Deputy Clerk

APPENDIX "A"

ACKNOWLEDGMENT OF RECEIPT OF the Shoshone County PERSONNEL POLICY

I, \_\_\_\_\_ acknowledge receipt of the \_\_\_\_\_ Personnel Policy, adopted on \_\_\_\_\_.

- I understand that it is my responsibility to read and review this Policy.
- I understand that I am an at-will employee of the County, that this Policy is not an employment contract, that none of the provisions of this Policy can create a contract and that the Policy is not a guarantee of any particular length or term of employment.
- I understand that I am obligated to perform my duties of employment in conformance with the provisions of this Personnel Policy I and any additional rules, regulations, policies or procedures imposed by the office/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.
- I understand that this Policy may be provided to me in either paper format or by electronic access.

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

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

I, \_\_\_\_\_, provided a copy (either electronically or by paper) of the Shoshone County Personnel Policy, as adopted by the Board of County

Commissioners on \_\_\_\_\_ to \_\_\_\_\_, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_

*(Name - Title - Office/department)*