



Lincoln County

Personnel Policy Manual

Effective Date: September 1, 2005

Latest Revision: March 17, 2025

Personnel Policy Revisions

| BOC Approval Date | Change Description |
|-------------------|---|
| 6/20/2022 | 1.3 Coverage – removing County Attorney, Assistant County Manager and adding Tax Administrator |
| 6/20/2022 | 17.4.9 Reinstatement – Transfer of eligible service time. |
| 3/20/2022 | 1.3 Coverage – Add County Attorney |
| 3/20/2022 | 4.7.1 Transfer – Update probationary period from twelve (12) months to six (6) months. |
| 3/20/2022 | 4.0 Probationary Period of Employment – Update probationary period for new employees from six (6) months to twelve (12) months. |
| 10/16/2023 | 7.1.1 Personal Observance Leave – section added. |
| 11/20/2023 | 5.3.2 Exempt Employees – Revision of overtime policy to include an informal leave policy for exempt employees. |
| 11/20/2023 | 6.1.2 Health Coverage at Retirement – Revision to policy including service time for continuation. |
| 11/20/2023 | 6.13 Law Enforcement Separation Allowance – Revision to policy to match General Statutes. |
| 1/22/2024 | 12.0 Drug and Alcohol Testing Policy – Transportation Lincoln County Revision to policy. |
| 2/19/2024 | 4.21 Intern and Volunteer Opportunities – Updated language to give guidelines. |
| 2/19/2024 | 7.8 Payment for Accumulated Leave at Separation – added in good standing and not in good standing procedures for payment. |
| 2/19/2024 | 17.1.1 Resignation – Added resignation requirements for separating in good standing. |
| 2/19/2024 | 17.4.7 Separation Procedure – updated language. |
| 3/1/2024 | 15.4 Smoking and Tobacco Use – update to reflect ordinance approved by BOC. |
| 4/15/2024 | 11.0 Zero Tolerance Substance Abuse – additions to procedures and random testing pools. |
| 4/15/2025 | 4.21 Intern and Volunteer Opportunities – Revision |
| 4/29/2024 | 18.0 Grievance and Appeal Procedures – Updated procedure requirements |
| 4/29/2024 | 5.1 Longevity Pay – Updated table for longevity payment and applicable recipients. |
| 5/20/2024 | 16.0 Unlawful Harassment – updated procedures for harassment investigation. |
| 7/15/2024 | 13.10 County Social Media – revised policy |
| 7/15/2024 | 13.11 Personal Social Media – revised policy |
| 10/7/2024 | 13.0 Internet and Email Use Policy |
| 3/17/2025 | 5.0 Conditions of Employment |
| 3/17/2025 | 6.0 Employee Benefits |
| 3/17/2025 | 7.0 Holidays and Leave |
| 3/17/2025 | 10.0 Severe Weather and Emergency Conditions |
| 3/17/2025 | 17.0 Separation, Disciplinary Action and Reinstatement. |

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1.0 Organization of the Personnel System

1.1 Purpose

The purpose of this Policy and the rules and regulations set forth within are to establish a fair and uniform system of personnel administration for all employees of the Lincoln County (the “County”) under the supervision of the County Manager, elected officials, Elections Board, Board of Health, and Social Services Board. These aforementioned entities are the official appointing authorities covered by this personnel policy. All previous personnel ordinances and policies are hereby void upon the adoption of this Policy. State requirements will supersede this policy for the positions subject to the State Human Resources Act whenever there is a conflict. This policy is adopted under the authority of GS 153A, Section 5 and GS 126 of the General Statutes of North Carolina.

Nothing contained in this Personnel Policy as it exists now or may be amended in the future creates a contract between Lincoln County and its employees, and all employees, except as may be otherwise required by State law, are and remain employees at will.

An official copy of the Personnel Policy and rules shall be available in the offices of the County Manager and/or Human Resources Director and viewable online. The County Manager, corresponding appointing authority, and/or Human Resources Director shall provide written procedures and forms necessary for the proper administration of the policies set forth in this manual and shall instruct staff in their appropriate use. Questions concerning the application or interpretation of the guidelines or rules of these policies shall be directed through appropriate supervisory channels. Questions by department directors regarding the applicability or interpretation of the guidelines or rules of these policies shall be directed to the County Manager, corresponding appointing authority, and/or Human Resources Director prior to making a determination for action.

The County Manager shall have the authority in individual instances to set aside sections of this Policy as he may determine in his discretion as reasonably necessary to ensure efficient operation of County government.

1.2 Policy of At-Will Employment

The County does not offer tenured or guaranteed employment. Either the County or the employee can terminate the employment relationship at any time, with or without cause, with or without notice. This at-will employment relationship exists regardless of any other written statements or policies contained in this policy or any verbal statement to the contrary. No entity except the Board of Commissioners can enter into any kind of employment relationship or agreement that is contrary to the previous statement. To be enforceable, the arrangement reflecting such relationship or agreement must be in writing; having been first lawfully adopted by the Board and is lawfully executed by the County.

1.3 Coverage

The provisions of this policy shall be applicable to all employees except as provided below.

The Board of Commissioners, County Manager, County Attorney, Tax Administrator, Clerk to the Board, consultants, volunteers and contract employees are exempt from the provisions of this policy.

Employees of the Sheriff's Office and the Register of Deeds Department shall be subject to this policy except that the Sheriff and Register of Deeds shall have the right to hire and discharge their employees subject to N.C.G.S. §153A-103.

The County Board of Elections appoints and dismisses all of the board's employees except the Director of Elections, who is appointed and dismissed by the State Board of Elections (N.C.G.S. §163-35).

People appointed by the Board of Commissioners to advisory or special boards or commissions, or appointed per statute, and not otherwise granted employee status, shall be exempt from the provisions of this policy.

All employees in the competitive service area (Public Health and Social Services) shall be subject to the provisions of this policy, except when those provisions conflict with Chapter 126 of the North Carolina General Statutes or rules and regulations as established by the State Human Resources Commission.

Employees of the North Carolina Cooperative Extension Service whose annual compensation is supplemented by State and/or Federal funds shall be subject to all provisions of this policy, except when those provisions conflict with the Memorandum of Understanding between the State of North Carolina and Lincoln County, in which case the Memorandum of Understanding shall control. These employees shall be included in the benefits of longevity pay on a pro-rated basis.

Any employee, regardless of the exceptions above, are governed by all County policies regarding use of County equipment, property, or vehicles.

1.4 Responsibilities of Officials and Employees

The Board of County Commissioners shall establish a Personnel Policy, including the Classification and Pay Plan, and shall make and confirm appointments when required by law. The County Manager shall be responsible to the Board of County Commissioners for the administration of the Personnel Policy. The County Manager shall appoint, suspend, and remove all County employees under the guidelines established in the Personnel Policy except those employees elected by the people or whose appointments are otherwise provided for by law. The County Manager shall make appointments, dismissals, and suspensions in accordance with N.C.G.S. §153A-82 of the State of North Carolina and pursuant to this Personnel Policy.

The Human Resources Director shall be responsible for the administration of the Personnel Policy and make recommendations to the County Manager on the revisions of this document subject to the approval by the Board of County Commissioners. Such recommendations may include but are not limited to revisions to: 1) the Position Classification Plan, 2) the Pay Plan, 3) leave policies, and/or 4) retirement, health insurance, and other employee benefit plans.

The Human Resources Director shall develop and administer recruiting programs to ensure an adequate supply of competent job applicants to meet the needs of the County and shall maintain compliance with all legal requirements imposed by other levels of government. The Human Resources Director shall furnish advice, technical guidance, and assistance regarding policies including devising and implementing

procedures and records management practices. The Human Resources Director shall periodically investigate the operation and effect of this document and perform other duties as assigned by the County Manager not inconsistent with this document.

1.5 Changes in Policy

This manual supersedes all previous employee manuals and memos. While every effort is made to keep the contents of this document current, The County reserves the right to modify, suspend, or terminate any of the policies, procedures, and/or benefits described in the manual with or without prior notice to employees.

2.0 Ethics

2.1 Standards of Conduct

All County employees are expected to uphold the integrity of the County Government and shall be subject to and abide by the standards of conduct outlined below.

Interest in Contracts or Agreements

With the exception of transactions specifically allowed by law, County employees may not acquire or maintain an interest in any contract or agreement with the County if the employee or their immediate family will privately benefit or profit from the contract or undertaking.

Use of Position

County employees may not use their position for personal gain. County employees shall not appear before or represent any private person, group or interest before any department, agency, or board of the County except in matters of purely civic or public concern. Employees shall not use their position to influence an official act or action taken by the County or its employees with regard to any matter or concern from which they or their immediate family may directly or indirectly derive personal gain.

Disclosure of Information

Unless disclosure is required in the performance of their official duties, County employees shall not use or disclose any information gained in the course of employment for purposes of advancing any of the following:

- The employee's financial or personal interest, or;
- The financial interest of a business entity of which the employee is an owner (in part or in whole), an officer, or director, or from which the employee derives or may derive financial benefit, or;
- The financial or personal interest of a member of the employee's immediate family, or;
- The financial or personal interest of any other person.

2.2 Gifts and Favors

All officers and employees of the County shall comply with G.S. §133-32 relating to regulation of gifts and favors.

Questions concerning the applicability of this regulation may be addressed to the County Manager or his/her designee, whose decision shall be final.

No employee or direct family member shall accept any gift, favor, or thing of value that may influence the proper discharge of their duties.

No employee or direct family member shall accept any gift, favor, or thing of value from any person or group of persons in return for, or in appreciation of, the performance of their official duties.

Employees may accept gifts on behalf of a County department or division provided such gifts are of general benefit to, or will be available for consumption by, all employees of the department or division. This section is not intended to prevent the gift and receipt of awards or honorariums for participating in meetings, advertising items or items of nominal value, or meals furnished at banquets.

2.3 Conflict of Interest

It shall be the policy of the County that no manager, department director, supervisor, or employee may use their position, or the knowledge gained from their employment, in such a manner that a conflict of interest between the County and their personal interests should arise. Activities that represent, or appear to represent, a conflict of interest include, but are not limited to, acceptance of a favor, payment, gift, payment of expenses, or any other thing of monetary value under circumstances in which the acceptance may result in or create the appearance of a conflict of interest.

An employee is prohibited from having a direct or indirect interest in any activity that would conflict with their official County duties and responsibilities. Furthermore, employees are prohibited from engaging in any transaction, directly or indirectly, that arises from information obtained through their employment with Lincoln County.

2.4 Protection of County Property

County employees are responsible for County property. Lincoln County reserves the right to recover costs in cases where employees have been responsible for the damage or loss of County property.

2.5 Disclosure of Financial Interest

County employees having official duties that are directly or indirectly related to enforcement of federal, state or local statutes, regulations, or ordinances shall disclose any financial interest in, or compensation derived from, any activity over which they may have enforcement or regulatory authority and shall totally remove themselves from any act or actions taken by the County with regard to such interest. Following review by the County Manager, County Attorney, department directors may impose additional requirements that they deem necessary to remove any real or apparent conflict of interest among employees of their departments. Such additional requirements must be filed with the Human Resources Director.

3.0 Position Classification and Pay Plan

3.1 Policy Statement

All positions covered by this Policy are to be classified according to the duties and responsibilities assigned to the position and other related classification factors. To assure its continuing value as a personnel management tool, the Classification Plan shall be maintained to reflect the current work assignments for each classification including the relevant skill, effort, responsibility, and working conditions as required by the Equal Pay Act of 1963.

Wages are based on the County's financial resources and may be amended annually by the Board of Commissioners as a portion of the Budget Ordinance. Lincoln County is also required to comply with the Fair Labor Standards Act (FLSA). County policies are intended to supplement or enhance FLSA; if the County Policy and FLSA are not in agreement, the FLSA will take precedence over County policy. In order to maintain internal equity, jobs substantially similar as to difficulty, complexity, and responsibility of work are grouped into classes and position. Each class and position is given a descriptive title and allocated to an appropriate pay grade. The County Manager, as provided in

N.C.G.S. §153a-92(c), shall be responsible for administering and maintaining the Pay Plan. Furthermore, the County Manager shall have the authority in individual instances to set aside sections of this policy as he or she shall determine in his or her discretion as reasonably necessary to ensure efficient operation of County government.

3.2 Allocation of Positions

The Board of Commissioners shall authorize the County Manager to allocate positions to the appropriate class and salary grade in the Pay Plan. The establishment of new positions or abolishment of old positions shall be made at the approval of the Board of Commissioners and upon the recommendation of the County Manager.

3.3 Administration of Classification Plan

The County Manager and the Human Resources Director shall be responsible for the administration and maintenance of the Position Classification Plan and shall recommend to the Board of County Commissioners amendments to the Classification Plan as may be necessary to ensure it accurately reflects the duties performed by employees.

Department directors are responsible for providing written notification to the Human Resources Director of the need for new positions and/or material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classification of any position.

3.4 Amendment and Procedure for Change

Periodically, classifications of positions may be added to or deleted from the Classification Plan in support of the needs of the County. For example, new classifications of jobs may be required due to a new field of employment or to reflect additional levels of work within an existing class series. In addition, if a department director believes a new classification is required, they shall furnish a written statement of the proposed duties of the new class to the Human Resources Director.

The Human Resources Director is responsible for determining if the nature or level of the duties and responsibilities of an existing position has changed. If a change has occurred, the Human Resources Director shall forward a recommendation to the County Manager to:

- Revise the existing class specification,
- Reallocate the position to an appropriate class within the existing classification plan, or
- Recommend to the Board of Commissioners to amend the position classification

3.5 Adoption of the Pay Plan

The salary schedule, reflecting both the salary grade level and step, as approved by the Lincoln County Board of County Commissioners, is hereby adopted as the "Pay Plan."

3.6 Administration of the Pay Plan

The County Manager and Human Resources Director are responsible for the administration and maintenance of the Pay Plan. The Pay Plan is intended to provide a means of equitable compensation for all positions when considered in relation to:

- Internal equity.
- Externally competitive rates of pay for similar work performed in the relevant labor market.
- Fluctuations in pay rates of the labor market and availability of candidates.
- The financial conditions of the county and other objective factors.

3.7 Maintenance

The Pay Plan shall be administered and maintained in a fair and systematic manner in accordance with work performed. The pay structure shall be externally competitive and maintain proper internal relationships among all classifications of positions based on comparable skill, effort, responsibility, and working conditions. The Pay Plan recognizes performance as the basis for pay increases within the established pay range if funds are available. The Pay Plan shall meet the requirements of the State Competitive System for local government employees, while maintaining a countywide plan.

To ensure competitiveness of salary ranges in the Pay Plan, the County Manager shall recommend to the Board of Commissioners any increases, reductions or amendments to the Pay Plan as may be deemed necessary. Based upon the recommendations of the County Manager and the general financial condition of the County, the Board of Commissioners may authorize changes to the salary ranges of salary grades in the Pay Plan. The adoption of the annual budget by the Board of Commissioners, together with any authorized

amendments and appropriations, shall constitute the approval of the Pay Plan.

3.8 Allocation of Positions

The Board of Commissioners shall authorize the County Manager to allocate positions to the appropriate class and salary grade in the Pay Plan. The establishment of new positions or abolishment of old positions shall be made at the approval of the Board of Commissioners and upon the recommendation of the County Manager.

3.9 New Positions

Department Directors must submit requests for all new full-time and part-time positions to the Human Resources Director for review and subsequent approval by the Board of Commissioners.

3. 10 Reclassification

A re-classification is an action which may increase, decrease, or otherwise change a position's pay grade, classification title, and/or duties and responsibilities. A Department Director, the County Manager or Human Resources Director may initiate a re- classification. The Department Director must submit in writing a request to the Human Resources Director for a review of the position to be re-classified.

When a reclassification of a position occurs, the employee whose position is reclassified to a class having a higher salary range shall be increased to the minimum step on the new pay range. If the employee's current salary is already at or above the minimum salary rate, his/her current salary shall be adjusted upward or left unchanged at the discretion of the County Manager after recommendation of the department director. If the reclassification is at a higher level of responsibility, the employee may be eligible for an increase at the end of six (6) months.

When a class of positions is assigned to a higher salary range, employees in that class may receive a pay increase of one step or an increase to the minimum step of the new range whichever is higher. If the employee's current salary is already above the new salary grade minimum, the employee's salary may be increased or left unchanged, subject to available funds and the discretion of the County Manager. In no instance, will the employee's new adjusted salary exceed the maximum of the newly assigned salary grade. If the classification of positions is reallocated to a lower salary grade and the employee's salary is above the maximum rate established for the new salary grade, the salary of the employee shall remain unchanged until such time as the position's salary grade maximum is increased above the employee's salary.

3.11 Reallocation

A reallocation is a change in the salary grade for a classification of positions, either higher or lower salary grade, and affects all positions in the classification. Reallocation may occur as a result of internal and/or external job studies, salary surveys that support a change due to market competitiveness, or other factors.

4.0 Hiring

4.1 Diversity and Equal Opportunity Employment

Lincoln County Government recognizes that its continued success in meeting the needs of its citizens requires the full and active participation of talented and committed individuals, regardless of their gender, age, race, color, creed, religion, national origin, disability, or other legally protected class. It is the policy of the County to foster, maintain, and promote equal employment opportunity. The County shall select employees on the basis of applicants' qualifications without regard to race, color, creed, religion, national origin, disability, or other legally protected class. Discrimination on the basis of age or sex is prohibited except where age or sex constitutes a bona fide occupational qualification necessary for job performance. Applicants with disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not present an unreasonable barrier to satisfactory performance of duties, or in which reasonable accommodations to their disabilities will remove such barriers. Notices addressing equal employment matters shall be conspicuously posted in all county government buildings where notices are customarily posted.

4.2 Equal Employment Opportunity Plan (EEOP)

In establishing and following employment policies, the County strives to attract, select and employ the most qualified and best suited candidates for position vacancies, all the while fostering and promoting equal employment opportunity. These policies apply to all applicants and employees applying for position vacancies.

It is the policy of the County to employ according to merit and fitness. To that end, it shall be the practice of the County to use all available means to attract qualified candidates for employment, and to make such investigations and examinations as are deemed appropriate to fairly assess the aptitude, education and experience, knowledge and skills, abilities, character and other standards required for positions in the service of the County.

The County shall recruit for and select individuals for employment or promotion in compliance with federal, state, and local laws; executive orders; and regulations prohibiting discrimination in employment practices with regard to race, color, religion, sex, national origin, disability, age, or any other legally protected status. The Human Resources Department shall review hiring qualifications periodically to ensure that requirements conform to the actual job performance requirements and are consistently administered and shall identify and eliminate any employment practice which may result in treatment that is disparate or that has a discriminating effect.

The County Manager shall have overall responsibility for the administration of this equal employment opportunity policy. The Human Resources Director is charged with the day-to-day implementation, direction, and continuous evaluation.

The Human Resources Director shall present periodic reports on the progress of the program to the County Manager. Additionally, all management and supervisory personnel shall be equally responsible for compliance with the equal employment opportunity policy. The equal employment opportunity policy embraces all positions in county government.

4.3 Goals and Objectives

The goal of the equal employment opportunity policy is to:

- Prevent discrimination in employment practices with regard to race, color, religion, sex, national origin, non-disqualifying disability, or age, and any other legally protected status; and
- Identify and eliminate any employment practice which may result in treatment that is disparate or that has a discriminating effect.

In order to reach these goals, the following policies are reiterated and/or established:

The Human Resources Department shall maintain records and statistical information in support of the equal employment opportunity policy to monitor the program. The information shall include the following:

- Applicant flow by race and/or national origin, sex, and age;
- New employees by race and/or national origin, sex, and age;
- Transfers and promotions by race and/or national origin, sex, and age; and
- Voluntary and involuntary terminations by race and national origin, sex, and age.

Disability information shall be used when available. This information, as well as age and race and/or national origin, may not be required of applicants or employees.

The Human Resources Director shall annually prepare an equal employment opportunity report which reflects race and/or national origin and gender of employees by job categories.

4.4 Recruitment

The Human Resources Director is responsible for providing an active recruitment program to meet current and projected staffing needs and will ensure equal employment opportunities are based on job-related requirements with the exception of the Sheriff's Office and the Register of Deeds Office which are each statutorily responsible for their own respective recruitment. Recruitment efforts shall be coordinated in a timely manner. The County Manager or the Human Resources Director and the department director shall jointly determine if a vacancy is to be filled by an external recruitment process or promotion from existing County employees. In instances of disagreement, the corresponding appointing authority, or County Manager, shall make the final determination as the case may be applicable.

Each department shall maintain a coordinated recruitment process with the Human Resources Department.

Pre-employment policies and procedures shall be based on essential functions of the position.

Vacancies filled from within the County work force shall be posted via intranet, and emailed. All vacancies for which outside applicants are considered shall be listed with the local job service office of the employment security commission.

Job announcements shall be readable, realistic, and accurate in describing minimum requirements for the job, essential functions, physical requirements, job title, salary, and application process.

4.5 Hiring Guidelines

All initial appointments and promotions of employees shall be made solely on the basis of qualifications. All employees other than those subject to the State Personnel Act are considered "employed at will" and these policies are considered a guide, not a contract.

The hiring rate for new employees will normally be the beginning rate of the salary grade assigned to the position. The department director has the discretion to hire a new employee at a pay rate of up to 5% of the beginning of the salary range without County Manager approval. However, the County Manager may authorize the hiring of an employee at a pay rate more than five percent (5%) above the beginning rate of the salary grade of the Salary Plan based on the applicant's qualifications and experience, or a shortage of qualified applicants available at the hiring rate.

If a department director desires to hire a new employee at a pay rate more than five percent (5%) above the beginning of the salary range, they shall submit a written recommendation to the Human Resources Director outlining their reasons for requesting a higher salary prior to extending an employment offer. After a careful analysis of the department director's recommendation, the Human Resources Director shall make a recommendation to the County Manager prior to extending a formal offer of employment.

4.6 Payment as a Listed Rate in the Salary Range

Employees covered by the Salary Plan shall be paid at a rate within the salary range established for their classification and position.

Exception – Trainee

If an employee is in trainee status, they may be paid at a rate less than the minimum of the classification of their position and are not eligible to progress to the minimum of the salary range until they are removed from trainee status. Employees *subject to* the State Personnel Act will be designated as "trainees" in accordance with rules and regulations established by the Office of State Personnel. Persons hired for positions requiring certification and/or license will be designated as "trainees" until such licenses or certifications are attained. The department director shall determine when the "trainee" is capable of performing the duties of the job.

Exception - Above Maximum

If an employee's salary is at or above the maximum rate of the salary range for their position, the employee is not eligible for additional salary increases until: 1) the position is reclassified to a higher salary range, 2) the employee is promoted to another position with a higher salary range, or 3) the salary range for their present position is increased. The County Manager may make exceptions to this limitation with proper justification.

4.7 Pay Rates in Promotion, Demotion, Transfer, Reclassification/Reallocation

The County shall maintain a consistent and systematic policy regarding promotions, demotions, transfers, and reclassifications. In filling vacant positions, first consideration shall be granted to qualified and eligible County employees. When an employee is promoted, demoted, transferred, reclassified, or their position is reallocated, the rate of pay for the new position shall be established as follows:

Promotion

Consideration for promotions will be given to County employees first based on their experience and qualifications. If a current employee is chosen for the promotion, the department manager shall forward the request to the County Manager with recommendations for classification and salary. An employee approved for the promotion by the County Manager will be placed in that position at the beginning of a specified pay period. If an employee's current salary is already at or above the new minimum salary rate, his/her current salary shall be adjusted upward or left unchanged at the discretion of the County Manager. The employee may be eligible for a salary increase at the end of six (6) months in the new classification.

Demotion

If an employee is demoted as a result of a reclassification or involuntary transfer, and the employee's current salary is above the maximum rate of the salary range for the lower class, the employee's salary will remain unchanged for a period of two years. The employee will not be eligible for salary increases until such time as the maximum salary rate of the lower classification meets or exceeds the employee's salary.

If an employee is demoted for cause, the employee's salary will be reduced to the lower salary grade so long as the reduced salary does not fall below the minimum salary of the new position's salary range.

Transfer

If a vacancy occurs and an eligible employee who has successfully completed a probationary period wishes consideration to transfer to another department or position, he/she must complete an application during the recruitment period. If a current employee is chosen, the department director will again forward the recommendation and request to the County Manager.

An employee who is approved for a lateral transfer by the County Manager in the same salary grade shall be given his/her same current salary in that classification. Lateral transfers will not be eligible for an increase at the end of six (6) months.

An employee that wishes to accept and transfer to a lower position and salary grade will be recommended and the request forwarded to the Human Resources Director by the department director. The request shall be subject to approval from the County Manager, with the exception to the Sheriff's Office and Register of Deeds. The employee's current salary shall be reviewed and adjusted at the discretion of the County Manager. Transfers to lower grades will not be eligible for a salary increase at the end of twelve (12) months.

Any employee, who has successfully completed the twelve (12) months probationary period, with exception to the Sheriff's Office and Register of Deeds, and is classified as a Regular Full-Time employee, may appeal an unrequested transfer in accordance with the grievance procedure in Section 18.0. as stated in the County Personnel Policy.

Reclassification

When a reclassification of a position occurs, the employee whose position is reclassified to a class having a higher salary range shall be increased to the minimum rate per the new pay range. If the

employee's current salary is already at or above the minimum salary rate, his/her current salary shall be adjusted upward or left unchanged at the discretion of the County Manager after recommendation of the department director. If the reclassification is at a higher level of responsibility, the employee will be eligible for an increase at the end of six (6) months.

Reallocation

When a class of positions is assigned to a higher salary range, employees in that class may receive a pay increase to the minimum step of the new range whichever is higher. If the employee's current salary is already above the new salary grade minimum, the employee's salary may be increased or left unchanged, subject to available funds and the discretion of the County Manager. In no instance, will the employee's new adjusted salary exceed the maximum of the newly assigned salary grade. If the classification of positions is reallocated to a lower salary grade and the employee's salary is above the maximum rate established for the new salary grade, the salary of the employee shall remain unchanged until such time as the position's salary grade maximum is increased above the employee's salary.

4.8 Announcing Vacancies

The applicable department director, County Manager and/or Human Resources Director shall review vacant positions to determine the need for staffing. Position vacancy announcements will be posted for a minimum of ten (10) working days on the Lincoln County Website, the local office of the Employment Security Commission, and Emailed to each employee. Optional recruiting publicity may be carried out through the media as appropriate. Position vacancy announcements shall contain at least:

- The title, grade, and work location of the position.
- The closing date of the announcement.
- A summary of the duties of the position.
- A summary of the basic qualifications.
- The procedures for making applications.
- A statement of equal employment opportunity.

Internal Posting

At the Department Director's discretion, vacant positions may be posted internally. If an internal candidate is not identified and hired, the vacancy will be posted to the public. Internal postings may be posted for 5 (5) days before being posted to the public.

Public Posting

The general public shall be notified of job vacancies through the posting of job announcements on the public bulletin board outside the Human Resources Department and by the listing these positions with the NC Employment Security Commission and on the County website. All public postings will run for ten (10) days.

Department Directors should ensure all employees have access to both internal and public job announcements and opportunities to apply.

4.9 Application for Employment

The County's employment application shall be accepted for any and all position listings. No other department or agency of the County other than the County Human Resources Department is authorized to accept employment applications. The County accepts applications for vacancies that are publicized. Applicants must complete a separate application for each vacancy. Copies are not accepted. Applications are received via county online software and are kept for a minimum of one year.

4.10 Applicant Tracking

The Human Resources Department is responsible for maintaining records of all position vacancies, including posting and closing dates, optional referral sources used in the recruitment process, and the pool of applicants considered for each vacancy. The applicant data pool for each position includes a list of all applicants and results of interviews or test scores, (where applicable), for each position vacancy announcement. In addition, the Human Resources Department shall maintain a separate file for EEO-4 information for Federal reporting requirements.

4.11 Citizenship Requirements

Pursuant to the provisions of the Immigration Reform and Control Act of 1986, Lincoln County hires only U.S. citizens and lawfully authorized alien workers. Applicants for employment shall be required to provide documentation of United States citizenship, or application for documentation demonstrating United States citizenship, or documentation of authorized alien worker status within 3 working days from date of employment.

4.12 Appointments

Prior to employment, the Human Resources Director may meet with the department director to discuss the selection process and review the application and any additional supporting documents. If the duties of the position include the operation of County-owned or County-insured vehicle, applicants applying for the position may be required to provide an official driving history record with their application. The driving record of the selected applicant shall become a part of the personnel file.

4.13 Probationary Period of Employment

An employee appointed to a regular full-time position shall serve a probationary period of twelve (12) months. The department director, with approval of the Human Resources Director, may extend the probationary period of an employee up to an additional six (6) months. Sworn law enforcement officers will serve a twelve (12) month probationary period. Employees subject to the Office of State Human Resources (OSHR) must also complete a twelve (12) month probationary period.

Upon the approval of the department director, Human Resources Director, County Manager, or corresponding appointing authority, an employee may be separated during the probation period without the right of appeal if the judgment is that work performance or other employment related requirements are not satisfactory. Upon the satisfactory completion of the probationary period, an employee may be dismissed only as provided in Section 17.4. (Types of Disciplinary) An employee who has been promoted or had their position reclassified may not be required to serve a new probationary period.

An employee who has successfully completed a probation period, and whose performance has been evaluated at the overall meets expectation level, shall obtain regular full-time status and may receive a pay increase in their salary range if recommended and approved by the supervisor, the department director, the Human Resources Director and the County Manager.

The County Manager shall follow the above procedures in evaluating department directors before completion of their probationary period.

4.14 Job Offers

Job offers must be in writing and must contain the job title, starting salary, or hourly pay, start date, and any contingencies to hiring including drug testing, background checks, and verification of qualifications.

4.15 Contract Employees/Temporary Agencies

Departments must receive approval from the Human Resources Director prior to hiring an individual as an independent, non-employee contractor or hiring an individual from a temporary agency.

4.16 Nepotism

No two members of an immediate family (as defined in the Definition of Terms) may be employed within the same department if such employment would result in one member of the immediate family member supervising the other family member. This includes any situation in which one member may occupy a position of influence over the other's employment, promotion, salary administration, or related management or personnel decisions.

The Board of County Commissioners shall approve the appointments by the Sheriff or Register of Deeds of a relative by blood or marriage of nearer kinship than first cousin, as required by N.C.G.S. §153A-103.

Provisions of this section shall not be retroactive, and no action shall be taken concerning those members of the same family employed in conflict with Section 4.16 (Nepotism). before the adoption of this Policy.

Relatives of County employees may be employed in any position in any department provided neither employee will be under the direct or indirect supervision of the other. A related employee is an employee's spouse, mother, father, guardian, child, sister, brother, grandparent, grandchild, and all combinations of half, step, in-law, and adopted relationships.

In the event of employees marrying, or of a promotion resulting in the direct or indirect supervision of a County employee by another employee to whom they are related, one of the employees shall be transferred to another position, if available, within the County. If a suitable position within the County is not secured, one of the employees may be discharged.

4.17 Qualification Standards

All applicants for employment or promotion shall meet the minimum qualification standards established by the class specification and/or job description relating to the position being advertised.

Applicants shall be considered on the basis of qualifications without regard to age, sex, race, color, creed, religion, marital status, political affiliation, disability, or national origin, except where age (if under age 18 or other legal minimum age), sex, or physical or mental requirements constitute a bona fide occupational qualification necessary for job performance. Applicants with disabilities shall be given equal consideration

in compliance with Section 504 of the Rehabilitation Act of 1973 as amended and other appropriate laws. Consideration may be given to "trainee" appointments if there is an absence of suitably qualified applicants in the selection list. In this instance, the employee will be designated a "trainee" by the Human Resources Director, and/ or corresponding appointing authority, and any qualification deficiencies will be eliminated through orientation and on-the-job training. If a trainee appointment is required, the employee's supervisor will prepare a training schedule and the department director will review the progress of each trainee at a minimum of once every three months. A trainee shall not remain in trainee status for longer than one year, unless otherwise required.

Once employed, employees must remain fully qualified for the position held, in that they must continue to meet all the minimum requirements, including licenses, certifications, on-going education requirements, etc., and continue to meet the physical and mental demands of the position including the work load demands in quantity and quality of work and remain able to perform all essential functions of the position with reasonable accommodation.

4.18 Selection

All applicants must meet the minimum training, education, experience, certification, and/or license requirements established for the position, except those positions defined as trainee.

The County shall use an open competitive process for the filling of vacancies subject to occasional exceptions as may be determined from other sections of this Policy. Department directors are responsible for developing, using, and documenting the selection process that best meets the needs of the County and all methods of selection shall be valid measures of job performance.

If training and experience are among the criteria for employment, the department director will determine a procedure for evaluating the training and experience of applicants. The appraisal of training and experience shall be based on the recentness, breadth, and depth of the applicant's experience and training in relation to the job requirements. Where applicable, the appraisal process shall allow for the equitable substitution of training for experience, and experience for training, within the limits stated in the position specifications.

Applicants shall not be notified of the outcome of their application for employment unless a supervisor or department director interviews them. It is the responsibility of the department director or supervisor to notify all other interviewed applicants of the status of the position.

4.19 Appointments

Prior to employment, the Human Resources Director may meet with the department director to discuss the selection process and review the application and any additional supporting documents. If the duties of the position include operation of county-owned or county-insured vehicle, applicants applying for the position may be required to provide an official driving history record with their application. The driving record of the selected applicant will become a part of the personnel file.

4.20 Trainee Status

If an employee is in trainee status, they may be paid at a rate less than the minimum of the classification of their position and are not eligible to progress to the minimum of the salary range until they are removed from trainee status. Employees subject to the State Personnel Act will be designated as "trainees" in

accordance with rules and regulations established by the Office of State Personnel. Persons hired for positions requiring certification and/or licensure will be designated as trainees until such licenses or certifications are attained. The department director shall determine when the "trainee" is capable of performing the duties of the job.

4.21 Internship/Volunteer Policy

Lincoln County strives to connect with the public by giving talented and diverse students opportunities to better understand the day-to-day functions of county government. The primary objective of the county internship program is to instill useful skills and meaningful experiences for individual career development. Lincoln County also provides opportunities to volunteer in those areas that are of great interest to them and strives to build those relationships for connections with the community in which we serve.

The Human Resources Department shall create and make available all necessary documentation required for Internship and Volunteer opportunities.

4.21.1 Definition:

Pursuant to 29 CFR 553.101 (a), a Volunteer is an individual who performs hours of service for a public agency for civic, charitable, or humanitarian resources, without promise, expectation or receipt of compensation for services rendered, is considered to be a volunteer during such hours.

An internship is a temporary work experience offered by Lincoln County to individuals interested in gaining skills, knowledge, and hands-on experience in a given field. Internships shall collectively include both Unpaid Internships and Paid Internships.

An intern is an individual participating in an internship (as defined above), and is required to be involved in a course or program where the individual is receiving school credit for participation in the internship program from an accredited college or university, or a high school. Any Intern in a high school program is required to be at least 17 years of age.

An Unpaid Intern is an Internship (as defined above), where there is no expectation of compensation and said Intern shall not be considered an employee under law. All Interns in a high school program are required to be Unpaid Interns.

A Paid Internship is an Internship (as defined above), where the Intern is considered a temporary employee and is subject to minimum wage requirements and all other FLSA requirements.

4.21.2 Internship Policy

Internship opportunities are available at the discretion of the Department Directors and the County Manager, and subject to available budget appropriations.

If it is determined by the County Manager that an Internship is interfering with the adequate production of services for a County department, the County Manager may terminate the Internship program or re-assign the Intern to a different department.

Pre-Internship Screening.

All Interns (18 years or older) shall be subject to a Criminal Background Check and Drug Screening, with satisfactory results, prior to the start of the Internship. If an Intern reaches age 18 during the term of Internship then it shall be at the discretion of the Director as to whether or not any screening is required.

Requirement of Educational Institution.

The educational institution for which the Intern is affiliated with shall be required to provide a contract with the County which obligates the educational institution to cover the cost of all pre-internship screening, and to be responsible for the provision of any insurance coverage necessary to protect the Intern from injury while participating in the Internship. Any request to waive this requirement shall be subject to the discretion of the County Manager. All contracts with the educational institution shall incorporate this Section 4.21, in its entirety, into said contract.

Confidentiality.

Any Intern who *may* have access to confidential information shall be required to sign a confidentiality agreement stating that they agree not to disclose any confidential information to a third party or use confidential information for their own benefit or the benefit of a third party. All confidentiality agreements shall be reviewed by the County Attorney prior to acceptance by the Director.

No Intern that is still enrolled in high school, or an equivalent thereof, regardless of age, shall be permitted to participate in an internship opportunity in a department where the Intern would regular or frequent access to confidential information.

Paid Internships.

Paid Internships are available to Departments that have adequate budget appropriations to cover the cost of said Internship. The Finance Director shall pre-audit any Internship request to confirm that the Department has adequate funding for said Internship.

Paid Interns shall be placed in a Paid Intern position, and compensation shall be processed on the normal County payroll cycle. All Paid Interns must be paid at least the then-current minimum wage.

A Paid Intern shall not be eligible for any retirement, leave, or health insurance benefits provided to regular full-time employees of Lincoln County.

Unpaid Internships.

Unpaid Internships are available to all Departments in Lincoln County, subject to the requirements provided in this Policy.

Unpaid Interns shall not be entitled to compensation for work performed, but may be reimbursed for expenses, paid for reasonable benefits, paid a nominal fee or any combination thereof. No amount paid

to an Unpaid Intern may be based on the Intern's productivity or hours of service.

Minor Interns.

No Intern under the age of 18 shall be allowed to participate in an Internship in any County department where the Intern would have regular or frequent access to confidential or privileged information.

No Intern under the age of 18 shall be allowed to work in a position that is considered a Hazardous or Detrimental Occupation as defined by the North Carolina Department of Labor.

All Interns under the age of 18 shall be subject to all work-hour limitations as set forth by the North Carolina Department of Labor.

4.21.3 Volunteer Policy

Section 3(e) of the Fair Labor Standards Act provides that individuals performing volunteer services for units of State and local governments will not be regarded as "employees" under law.

Confidentiality.

No Volunteer shall be allowed to volunteer in any County department where the Volunteer would have regular or frequent access to confidential or privileged information.

Employees of Lincoln County to Volunteer.

Section 3(e)(4)(A)(ii) of the FLSA does not permit an individual to perform hours of volunteer service for a public agency when such hours involve the same type of services which the individual is employed to perform for the same public agency. For example, a public health nurse who works in the Health Department's clinic may not volunteer to provide nursing services at a free clinic on the weekend provided by the Senior Services Department.

Any employee of Lincoln County wishing to volunteer for another department of Lincoln County, or any department wishing to allow an employee of Lincoln County to volunteer should consult with the Human Resources Department to determine if it is allowable.

Private Individuals to Volunteer.

Individuals who are not employed in any capacity by Lincoln County may donate hours of service for civic or humanitarian reasons. Any individual doing so is considered a Volunteer and not an employee of Lincoln County if their hours of service are provided with no promise expectation, or receipt of compensation for the services rendered, except for reimbursement for expenses, reasonable benefits, and nominal fees, or a combination thereof, as permitted by 29 CFR 553.106. No amount paid to a Volunteer may be based on the Volunteer's productivity or hours of service.

4.21.4 County Equipment or Vehicles

No Intern or Volunteer shall be eligible to operate a County-owned Vehicle, or any other County-owned and operated equipment.

4.21.5 Revision

Lincoln County at its option, may change, delete, suspend, or discontinue parts or the policy in its entirety, at any time without prior notice.

4.22 Armed Forces Reinstatement (USERRA)

An employee who enters extended active duty with the armed forces will be granted reinstatement rights commensurate with the Uniformed Services Employment and Reemployment Rights Act (USERRA) as well as other applicable State and Federal Law. An employee who is reinstated shall be credited with previous service and previously accrued sick leave.

5.0 Conditions of Employment

5.1. Purpose

It is imperative for every County employee to maintain good character and ethical practices to ensure efficient and effective government. The purpose of this Policy is to set forth rules that promote the retention of capable, diligent, and honest career employees in accordance with the Fair Labor Standards Act (FLSA).

5.2. Pre-Employment Criminal Background Check

Lincoln County shall conduct criminal background checks for all applicants that are selected as final candidates to fill either a full-time, part-time, or temporary position. The purpose of this policy is to ensure employees hired by Lincoln County have not committed crimes or infractions that prohibit them from performing or limit their performance in the job for which they are applying.

It shall be the responsibility of Human Resources to conduct and evaluate criminal background checks within the guidelines as provided herein. When implementing this policy, the County will ensure fair and unbiased treatment regardless of gender, race, color, disability, national origin, marital status, religion, or other protected class of a candidate and will comply with the Fair Credit Reporting Act, Americans with Disabilities Act, Equal Employment Opportunity Commission guidance, and other Federal and State laws.

5.3. Establishment of Workweek, Work Period and Exemption Status

5.3.1. Workweek for All Employees Except Law Enforcement

Lincoln County's established workweek (pursuant to Fair Labor Standards Act) for all employees, excluding law enforcement, shall begin at 12:01 A.M. on Saturday and run to 12:00 Midnight on Friday (the "County Workweek")

Exceptions: The County Manager may authorize a different workweek for certain departments or employees whose schedules may be better suited for different workweeks.

The regular working hours of the County (the "County Operating Hours"), unless designated otherwise, is a 40-hour work week and is established as:

| | |
|-----------|-------------------|
| Monday | 8:00AM to 05:00PM |
| Tuesday | 8:00AM to 05:00PM |
| Wednesday | 8:00AM to 05:00PM |
| Thursday | 8:00AM to 05:00PM |
| Friday | 8:00AM to 05:00PM |

Meal Periods. Each workday, an employee is entitled to one hour per day for a lunch period. In certain instances, and dependent upon the shift assignment, employees assigned to work schedules other than a normal County Operating Hours may be authorized meal periods of less than one hour.

Alternate Schedules. Departments that operate on a 24/7 work schedule shall be considered to operate using the County Workweek, and on a 40-hour workweek for overtime purposes. All alternate schedules, even those Departments not considered emergency shall be reviewed and approved by the HR Director and the County Manager when implemented.

5.3.2. Workweek and Work Period of Law Enforcement Personnel

Law Enforcement Workweek. The established workweek (pursuant to Fair Labor Standards Act) shall begin at 06:00PM on Friday and run for a period of fourteen (14) days to 05:59PM on Friday (the “LEO Workweek”).

Law Enforcement Work Period: The standard working period/hours for all law enforcement personnel is 86 hours as provided under Section 7(k) of FLSA over the workweek established hereunder (the “LEO Work Period”).

Meal Periods. Each workday, an employee is entitled to one hour per day for a lunch period.

5.3.3. Exempt or Non-Exempt Status.

The Fair Labor Standards Act provides that all employees are entitled to overtime pay at not less than time-and-a-half the regular rate of pay for all hours worked over the established work period. However, Section 13(a)(1) of the FLSA provides an exemption for employees considered to meet one of the following requirements under FLSA: (1) Executive Employee, (2) Administrative Employee, (3) Professional Employee, (4) Computer Employee, (5) Outside Sales, or (6) Highly Compensated Employee. It shall be the responsibility of the Human Resources Department to determine the status of each position within Lincoln County.

If an employee meets one of the exemptions, as stated herein and further described in Section 13(a)(1) of FLSA, then the employee shall be considered Exempt.

If an employee does not meet the requirements under FLSA to be considered Exempt, then the employee shall be considered Non-Exempt.

Law Enforcement Personnel, Fire Personnel and other First Responders are subject to additional review and scrutiny in the determination of their Exempt or Non-Exempt status pursuant to 29 C.F.R. § 541.3.

5.4. Timesheets and Time Keeping

All employees are required to submit a fully executed bi-weekly time sheet. Failure to properly turn in a timesheet may result in a delay in payment. Employees shall include all actual hours worked on their time sheet, regardless of any other time-keeping process utilized by Departments and regardless of exempt or non-exempt status.

Failure of an employee to properly record actual hours worked shall be considered falsification of a time sheet and may result in disciplinary action. Directors and/or supervisors are responsible for the review and approval of all time sheets for the adequate use of leave time and the incurrence of overtime.

5.5. Overtime Policy

Overtime is defined as work performed by an employee in excess of the normal established workweek or established work period (for law enforcement), and not on a daily basis. As provided in Section 5.3 of this Policy, the County Workweek for all regular employees is forty (40) hours per calendar week, and the LEO Work Period is eighty-six (86) hours over a two-week period.

Department directors are responsible for the oversight and control of work schedules for their employees to ensure County services are provided without the use of Overtime. However, the department director shall have the discretion to allow employees to work overtime if the director feels that it would otherwise hinder the provision of essential county services.

If an employee incurs Overtime Pay without the authorization of their Department Director or direct supervisor, then the employee may be subject to disciplinary action.

5.5.1. Overtime for Non-exempt Employees

Regular Non-Exempt Employees. All time worked in excess of 40 hours in each workweek will be compensated as Overtime Pay. Overtime Pay is calculated by multiplying an employee's regular hourly rate by 1.5 for every hour physically worked over 40 hours in a workweek.

Law Enforcement Non-Exempt Personnel. All time worked in excess of 86 hours in the established work period will be compensated as Overtime Pay. Overtime Pay is calculated by multiplying an employee's regular hourly rate by 1.5 for every hour physically worked over 86 hours in the established work period.

Use of Leave. If an employee uses leave during the workweek or established work period, those leave hours shall not be considered hours physically worked and will not be considered in the calculation of Overtime Pay. This includes the use of Holidays, as established under Section 7.0 of this Policy.

Jury Duty. Any time spent on jury duty (state or federal) shall be considered hours physically worked and will be used in the calculation of Overtime Pay.

5.5.2. Overtime and Informal Leave for Exempt Employees

Overtime. All full-time employees designated as an Exempt Employee shall not be eligible for Overtime Pay at the rate of time-and-a-half unless expressly authorized elsewhere in this Policy.

Informal Leave for Some Exempt Employees. A department director may authorize informal leave for any exempt employee under his/her supervision if a valid business reason necessitates an unusually high number of hours worked by that employee. The Department Director shall be responsible for documenting all hours of informal leave hours accrued, and used by their exempt employees. Any informal leave accrued by an exempt employee must be used within the same calendar year upon which it is accrued. Any informal leave that is not used within the calendar year shall not carry forward to the next year without written approval from the County Manager.

Informal Leave Authorization for Department Directors. Any informal leave for Department Directors shall be approved by the County Manager. The County Manager shall retain the discretion to establish additional policies and procedures related to the use of informal leave by Department Directors.

5.6. On-Call Standby and Compensation

The County provides essential services to the public and therefore has multiple departments which require the implementation of on-call standby policies and procedures. Departments may implement department-specific policies related to setting on-call standby schedules, however departments must have any such policies approved by the HR Director and the County Manager.

When an employee is in on-call standby status, the employee shall remain in a suitable condition to respond to an emergency. For that reason, alcohol and other intoxicants are not to be consumed when in on-call standby mode. Those employees shall be available to report to work within one hour of receiving a call requiring reporting for duty.

On-Call Standby Time. On-call Standby Time consists of scheduled non-work hours in excess of the employee's standard work period when an employee is required to be available to be called back to work in emergency situations. Any time spent waiting in on-call standby time shall not be considered hours worked for the purposes of overtime calculation.

Compensation for Non-Exempt Employees. All non-exempt employees who are considered to be in on-call standby status shall receive compensation based on their normal hourly rate and subject to the Overtime Policy, **only if** they are activated to work during that time. Any non-exempt employee activated to work during on-call standby status shall be compensated for a minimum of two hours if the employee physically reports to work. If the employee only handles a phone call, then they will only be paid for the time handling the call.

Compensation for Exempt Employees. Any exempt employee who is in on-call standby status and who is activated to return to work shall not be compensated on an hourly basis but may be entitled to receive Informal Leave pursuant to Section 5.5.2 of this Policy.

Inapplicability. This section does not apply to employees who are hired into a position that is solely an on-call position and is considered "engaged to be waiting" under FLSA.

5.7 Teleworking

Upon approval of the Department Director, the Human Resources Director and the County Manager, eligible County employees in certain classifications may be permitted or required to perform approved County work functions from locations other than official and traditional government office locations.

5.7.1 Purpose

The Lincoln County Government Teleworking program is designed as a temporary work arrangement in response to a public health pandemic, state of emergency declaration, or other emergent situation where an alternative arrangement for an employee's work location may be deemed necessary.

Teleworking is not a benefit or entitlement, but an alternative work arrangement intended to keep employees safe and in good health during times where physical separation between employees from the traditional workplace may be necessary.

A teleworking arrangement may include working in an alternate location exclusively or a combination of an alternate location and conventional office. Some positions, by the nature of their expectations and responsibilities, lend themselves to the possibility of teleworking; others do not. In all cases, the needs of the County and service to the citizens and internal customers take precedence in decisions about teleworking. Teleworking does not change the basic terms and conditions of employment with the County and employees are subject to all County policies that apply when working at a County facility. This policy covers the employees' and the County's obligations when the employee works at an alternate location, including the employee's residence.

5.7.2 Scope

This policy applies to employees in any type of position whose job functions could be performed as effectively in an alternate work location as in a conventional work location as determined by the Department Director in consultation with the Human Resources Director and the County Manager. The decision whether to allow a position or an employee to telework is subject to the sole discretion of management and is not appealable to Human Resources.

5.7.3 Definitions

Teleworking - The practice of an employee working at a location other than the conventional office such as the employee's home.

Telework employee- Employee who works in or from a non-traditional location and conducts County business functions.

5.7.4 Organizational Rules

Employee Eligibility - Employee eligibility for teleworking will be determined based on all of the following:

The nature of position is one where the expectations can be clearly defined and work performance can be effectively evaluated regardless of where it is performed.

The nature of the position is analyzed by the department and is recommended as suitable by the Human Resources Director for approval by the County Manager as a teleworking arrangement.

The alternate work site is conducive to teleworking and free of distractions deleterious to teleworking as determined by the requesting department and the Human Resources Department.

The position can function independently, and the supervisor can adequately assess the work performance

Non-exempt positions shall not create additional overtime liability without the approval of the Director.

Implementation of General Requirements

The Department Director or the County Manager may terminate teleworking at any time and for any reason for any teleworking employee.

The telework employee's conditions of employment with the County remain the same as for non-teleworking employees and employees are subject to the same policies as applicable when working at a County facility.

Employee salary, benefits and employer-sponsored insurance coverage will not change as a result of teleworking.

Any change to the schedule must be reviewed and approved in advance by the Department Director and must be communicated to the Human Resources Department.

While teleworking, the employee and Department Director or direct Supervisor shall decide in advance the method of contact whether via telephone, email, or cellular phone during agreed upon hours.

Telework employees must notify their supervisor if they leave their teleworking location, as they would when leaving the traditional office during the workday.

Telework employees are prohibited from conducting face-to-face County business from their personal residence.

The teleworking employee has responsibility for accounting, accurately documenting, and reporting time worked to the supervisor.

More specific conditions relating to the employee's teleworking arrangements are detailed in the Teleworking Agreement which must be completed by the employee and their supervisor and approved by the Department Director, Human Resources Director and the County Manager.

Home Office Requirements

To ensure that safe working conditions exist, the employee assumes responsibility for maintaining a safe workplace and safe work behavior during work hours.

Restricted-access materials shall not be taken out of the office or accessed through the computer unless approved in advance by the telework employee's supervisor. Some materials, as determined by the County Attorney, are prohibited from being removed from governmental offices; telework employees who need to access these materials will be required to come to the County's departmental location to access them.

Office supplies for use in the alternative workspace will be provided by the County through normal channels and shall be obtained during the employee's in-office work period. Telework employees shall *not* be reimbursed for out-of-pocket expenses for work-related supplies unless approved in advance in writing by the County.

Basic level equipment such as a computer, printer, and software may be provided to the employee. Provision of Internet access and basic level equipment will generally be provided by the employee and will be determined in writing as a part of the Teleworking Agreement.

County equipment (if any) that is placed in the employee's home office is to be used for County business only. All equipment distributed for teleworking remains the property of the County. The employee is required to return all County owned equipment and related material when the teleworking arrangement is discontinued.

Information Services Requirements

To ensure hardware and software security, all software used for teleworking must be approved through the County's Information Technology department before installation. Networking can only be established using compatible hardware and software. Only approved communication sources may be accessed using County equipment.

Software licensed to the County shall not be duplicated or used on any equipment not approved by the County.

Equipment, software, or files that are stolen must be reported as soon as practical but no later than the next business day.

Unless otherwise agreed to in writing prior to any loss, damage or wear, Lincoln County does not assume liability for loss, damage or wear of employee-owned equipment.

It is not possible to identify all of the situations that may arise from a specific teleworking relationship. As such, issues will be addressed on a case-by-case basis and may not be binding to other arrangements.

5.7.8 Procedures

The Department Director will assess the nature of the job role and determine the compatibility of the job role and the employee's past performance to determine suitability for teleworking in accordance with the requirements of this policy.

If, after completing an assessment, the Department Director is prepared to recommend a teleworking arrangement, a Teleworking Agreement form will be required to be completed. The Department Director will submit the recommended Teleworking Agreement to the Human Resources Director and County Manager for approval.

5.8 Paycheck Deductions

Pursuant to N.C.G.S. § 95-25.8(2) employees must provide a written authorization for deductions or withholdings (other than taxes or other amounts empowered by law). If the deduction is for the benefit of the employer, then the employer cannot bring the employee below the minimum wage for the first 40 hours in a workweek. Repayment of wage advances or unpaid loans is not a deduction and does not require written authorization from the employee.

5.8.1 Final Paycheck Deductions

An employee's final paycheck is subject to deductions allowable by law. This may include garnishments, payment in arrears, and deductions for equipment/clothing that was issued but not returned or damaged beyond use. Pursuant to N.C.G.S. § 95- 25 an employee's wages can be held without written authorization if criminal process has been issued against an employee, if the employee has been indicted, or if the employee has been arrested pursuant to Sections 17, 20, and 32 of Chapter 15A of the North Carolina General Statutes for a charge incident to a cash shortage, inventory shortage, or damage to an employer's property. If the amount in dispute is equal to or more than the employee's final pay the employer may withhold all the employee's wages.

5.9 Payroll Procedures

All employees shall be compensated every other Thursday, on a bi-weekly basis. Should a regular payday occur on a holiday, employees may be paid at an earlier day in the week. Mandatory electronic payroll deposits are required for all County employees. It is the responsibility of the employee to properly complete and submit their time sheet to the department director.

5.10 Effective Date of Salary Adjustments

Salary adjustments shall become effective on the first day of the next payroll period.

5.11 Longevity Pay

Longevity pay is to recognize long-term service. An eligible employee who has met the criteria listed below shall, upon an annual vote of approval of the Board of Commissioners, receive a lump sum payment as described herein.

Annual longevity pay amounts are based on the employee's service time. Service time shall be calculated by the number of eligible service years by December 31st of the then-current year. Longevity pay amounts are computed by total years of service according to the following table:

| Years of Service | Lump Sum Bonus Payment |
|------------------|------------------------|
| 1 – 5 Years | \$300 |
| 5-10 Years | \$500 |
| 10-15 Years | \$600 |
| 15-20 Years | \$800 |
| 20-25 Years | \$900 |
| 25 Plus | \$1000 |

To be eligible an employee must meet all of the following criteria:

- (1) have been employed with Lincoln County for at least one consecutive year as of December 31st of the calendar year.

(2) be in active pay status at the time of pay out, with the exception of FMLA leave, Workers Compensation leave and Military leave.

(3) be in either a: (1) full time position or (2) a part time position working a total of 520 hours as of September 30th of the then-current calendar year.

Longevity Pay for Part-Time. Part-time employees shall receive a \$200 lump sum payment per budget year. Years of service will not be considered.

5.12 Confidentiality of Information

Employees shall refrain from transmitting any knowledge of County considerations or decisions, or any other information that might be prejudicial to the interest of the County, to other persons other than in connection with the discharge of their official responsibilities.

5.13 Political Activity

While on duty, no official or employee of Lincoln County shall:

- Engage in any political activity.
- Use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.
- Be required as a duty of office or employment, or as a condition for employment or promotion or tenure of office, to contribute funds for, or to a political or partisan purpose.
- Solicit or act as custodian of funds for political or partisan purposes.
- Coerce or compel contributions for political or partisan purposes from any other employee of Lincoln County.
- Use funds, supplies, or equipment of Lincoln County for political or partisan purposes.

Every employee of Lincoln County has a civic responsibility to support good government by every available means and in an appropriate manner. As such, employees may join or otherwise affiliate with civic organizations of a partisan or political nature, may attend political meetings, advocate and support the principles or policies of civic or political organizations so long as such an affiliation does not violate any Federal or State law. None of these activities shall occur while on duty. Employees subject to the Hatch Act may not be candidates for elected office in a partisan election. Any violation of this section may subject the employee to dismissal or other disciplinary action.

5.14 Outside Employment

The work of the County takes priority over other employment interests of employees. As such, Lincoln County employees are required to provide written notification to their department director and Human Resources Director, or corresponding appointing authority, of their desire to engage in, or intent to engage

in, any external employment. All requests for employment outside of the normal work schedule of an employee must be approved in advance by their department director, Human Resources Director, and County Manager. Outside employment by department directors must be approved by the County Manager. In order to avoid any potential conflict of interest, no current employees of departments under the authority of the County Manager shall be approved to work for a current vendor or contractor of Lincoln County.

Outside employment without prior approval from the County will be deemed improper conduct and subject the employee to disciplinary action, up to and including dismissal. Adherence to this policy, as set forth herein, is a condition of employment. Failure to comply with this policy shall result in disciplinary action, up to and including termination.

5.15 Solicitations, Distributions and Use of Bulletin Boards

Under no circumstances may an employee disturb the work of others by soliciting or distributing literature during working time. Solicitations must be for non-profit only.

Persons not employed by Lincoln County may not solicit Lincoln County employees for any purposes on County premises without authorization of the department director.

Bulletin boards maintained by Lincoln County are to be used only for posting or distributing material pertaining to notices containing matters directly concerning County business, or announcements of a business nature that are equally applicable and of interest to employees. The department director must authorize all posted material. All employees are expected to check these bulletin boards periodically for new and/or updated information and to follow the rules set forth in all posted notices. Employees are not to remove material from the bulletin boards.

No employee shall solicit pledges, contributions, or promote sales for any cause during working hours without the prior approval of their Department Director. Vendors may not solicit from employees during working hours. County-wide solicitations must receive prior approval from the County Manager.

5.16 Safety

To help ensure every employee's safety and the security of the work environment, the County has established a Safety Program under the supervision of the Human Resources Director. This program provides a framework for providing a safe workplace and is incorporated by reference into this Personnel Policy Manual.

5.16.1 Employee Responsibility

Each employee is responsible for following good, safe work habits and for complying with safety and health regulations. Safety and health are to be placed first in importance in the performance of work duties. The protection of employees and the public on County property is a shared responsibility of every employee. Employees are responsible for notifying their immediate supervisors of violations or deficiencies in safe and healthful working conditions. This responsibility includes recommending corrective measures.

5.16.2 Safety Incidents Notifications

Employees shall notify their immediate supervisors of every injury or accident regardless of their scope or severity by the end of their shift. Failure to follow required procedures, directives, policies, rules, supervisory orders, or safe work habits will result in corrective or disciplinary action up to and including discharge.

5.17 Employee Identification

All County employees while on duty shall be identified by either an official Lincoln County uniform, a shirt that contains the Lincoln County seal or the logo of the department, or a Lincoln County issued ID badge. (Exception: Special Unit law enforcement)

6.0 Employee Benefits

6.1 Group Health Insurance

Regular full-time employees may participate in a group health and medical care plan. Lincoln County shall pay such portion of the employee's coverage as determined annually during the budget process. The employee shall be responsible for any additional cost of the plan for the employee's child/children or family coverage. Additional insurance options are available at the employee's expense through payroll deduction, including life insurance, accident insurance, cancer insurance, disability insurance, etc.

6.1.1 Health Insurance Coverage After Employment Termination

The Consolidated Omnibus Budget Reconciliation Act (COBRA) requires Lincoln County to offer an employee who is terminated from an employment, a temporary extension of health insurance benefits that would otherwise end with said termination. All information related to COBRA benefits are available in the Lincoln County HR Department.

6.1.2 Health Coverage at Retirement

Lincoln County offers Health Insurance Coverage after retirement, for some employees who retire with Lincoln County from a budgeted full-time position.

6.1.2.1. Eligible Employees

The following individual employees are eligible to receive Individual Health Insurance Coverage, at no cost to the individual, until the individual reaches the age of 65:

- Individuals hired by Lincoln County prior to **April 1, 2025**, with a service date prior to September 1, 2005 who retire with at least 20 years of creditable service under the Local Government Employees Retirement System (LGERS).
- Individuals hired by Lincoln County prior to **April 1, 2025**, with a service date between September 1, 2005 and June 30, 2013 who retire with 25 or more years of creditable service under LGERS.
- Individuals hired by Lincoln County prior to **April 1, 2025**, who were vested in the LGERS as of July 1, 2013 and receive a disability retirement.

After the individual employee reaches the age of 65, the individual shall then be eligible to receive a Medicare Supplement Policy, at no cost to the individual, until the individual's death. If said Supplement Policy exceeds the cost of the Individual insurance coverage provided prior to the individual's 65th birthday as provided herein, then the individual shall be responsible for the difference. Any payment thereof shall be paid by the 25th of each month.

Any individual eligible for Health Coverage at Retirement as a result of the transfer of eligible service time (pursuant to Section 17.4.9) shall be required to work for Lincoln County for five (5) consecutive years prior to retirement.

The term “service date” used in this Section shall have the same meaning as Service Date used for tracking of retirement benefits by Lincoln County, which may include eligible service time transferred pursuant to Section 17.4.9 of this Policy.

6.1.2.2. Ineligible Employees

Any individual failing to meet the requirements of 6.1.2.1 shall not be eligible to receive Health Coverage at Retirement. Further, no individual hired by Lincoln County on or after April 1, 2025 shall be eligible to receive Health Coverage at Retirement by the transfer of service of time from another entity, or reinitiation of previous service time with Lincoln County.

6.1.2.3 Health Insurance Stipend

Employees who were employed as of October 2, 2016 and were hired by Lincoln County between April 23, 1990 and February 20, 1995 shall be eligible to receive a stipend in the amount of \$345.00 per month or a lump sum one-time payment, which shall be calculated using the number of months remaining until the employee reaches the age of 65 multiplied by \$170.00, if and only if, the employee meets one of the following requirements:

- The employee retires after March 1, 2017, and thereafter retires with at least 24 years of service, at least 15 years of which are continuous service with Lincoln County; or
- The employee retires after June 1, 2017, and thereafter retires with at least 22 years of service, at least 15 years of which are continuous service with Lincoln County; or
- The employee retires after November 1, 2017, and thereafter retires with at least 20 years of service, at least 15 years of which are continuous service with Lincoln County.

Employees eligible to receive this Health Insurance Stipend shall receive it until the employee reaches the age of 65. If the employee dies prior to the age of 65 then the Health Insurance Stipend shall immediately terminate.

6.1.2.4 Health Insurance Provider

The health insurance provider for the Health Coverage at Retirement shall be the same provider that is contracted for the provision of those health insurance coverage to current employees of Lincoln County. However, if the County determines that it is in the best financial interest of the County to select a different provider for Health Coverage at Retirement, then it shall have the sole discretion to do so.

6.2 Dental Insurance

Regular full-time employees may participate in the County's dental plan. Lincoln County pays such portion of the employee's coverage in the plan as determined annually during the budget process, but the employee is responsible for any additional cost of the plan for the employee's child/children or family coverage. Information on the types, levels of coverage, and rates for services can be obtained from the

Human Resources Department.

6.3 Vision Care Benefits

Vision care benefits are available to regular full time employees. Information on the types, levels of coverage, and rates for services can be obtained from the Human Resources Department.

6.4 Social Security

Employees of Lincoln County are covered by Social Security. The County matches employee contributions to the Social Security System. Further information about Social Security benefits can be obtained from the local office of the Social Security Administration.

6.5 Unemployment

Employees are covered for unemployment compensation as provided under North Carolina law. County employees laid off or dismissed may apply for unemployment compensation through the office of the State Employment Security Commission.

6.6 Retirement

Lincoln County participates in retirement systems operated by the State of North Carolina to provide future security for eligible employees. Membership in Law Enforcement Officers' Benefit and Retirement Fund or the North Carolina Local Governmental Employees' Retirement System (LGERS) is mandatory as a condition of employment. The Human Resources Department shall administer the system for the County and shall provide information and assistance to employees as to its operation and benefits. An employee who is employed to fill a regular budgeted position, and works a minimum of 1,000 hours per year, becomes a member of the Local Governmental Employees' Retirement System. After completion of one year of employment, the LGERS provides a death benefit for each member employee equal to the annual salary of the member but not less than \$25,000 and not more than \$50,000. Other benefits and highlights of the LGERS can be found in the booklet provided to all employees upon employment, or from the Human Resources Office.

6.7 Supplemental Retirement Income Plan of NC (401K)

The Supplemental Retirement Income Plan of North Carolina, often referred to as the 401(k) program, is a supplemental retirement plan for all employees who are members of the Local Governmental Employees' Retirement System of North Carolina. The plan is designed to be a supplemental income upon retirement. All deductions are tax-deferred on both the employee's investment and the income that might be generated by the investment until a later date, usually at retirement. Employees may select from a variety of investment plans. All amounts contributed are vested immediately.

6.8 Credit Union

Credit Union membership is available to regular and part time employees through the Local Government Employees' Credit Union. Membership is open to employees and family members.

6.9 Deferred Compensation and Supplemental Retirement

The Deferred Compensation Plan 457(b) is open to all employees. Employees may defer a portion of their salary on a regular basis, and as with the 401(k) plan, all deductions are tax deferred on both the employee's investment and the income that might be generated by the investment until a later date. The program provides a tax shelter and investment opportunity, and deferred amounts may be invested in one fund or in a combination of funds to maximize the investment return. The amounts deferred to the program are from gross wages, which results in a lower net income on which to pay Federal tax, which reduces current taxes. Both the amount deferred and what it earns is permitted to accumulate tax deferred in the employee's account. Federal income taxes on the deferred amount and earnings are not payable until payments are received from the accumulated account.

6.10 Flexible Benefits Account

The County has an established Flexible Benefit Plan that allows employees the opportunity to tax shelter or "pre-tax" that portion of their income paid for health, accident, sickness, disability, cancer, and intensive care premiums, as well as, medical reimbursement, insurance reimbursement and dependent care through payroll deduction. There are two plans, 1) medical and, 2) dependent care, in which an employee may elect to participate.

The Flexible Spending Account Plan year is January 1 through December 31 with an annual "open enrollment" period. The dependent care benefit is the only available plan for any employee who has a Healthcare Spending Account (HSA).

6.11 Employee Assistance Program

Through the Employee Assistance Network, Lincoln County provides an Employee Assistance Program for its employees. The program is designed to assist employees by providing counseling for personal, family, or other problems for employees and their family members that are on the employee's insurance plan. Lincoln County will pay for the first three sessions. For more information, contact the Human Resources Department.

6.12 Law Enforcement Supplemental Retirement Income Plan (401K)

The Supplemental Retirement Income Plan of North Carolina, often referred to as the 401(k) program, is a supplemental retirement plan for law enforcement officers who are members of the Local Governmental Employees' Retirement System of North Carolina. The plan is designed to supplement the law enforcement officer's income upon retirement. Law enforcement officers may also voluntarily participate in the plan by contributing their own payroll deductions to the investment program of their choice. All deductions are tax-

deferred on both the employee's investment and the income that might be generated by the investment until a later date, usually at retirement. Employees may select from a variety of investment plans. All law enforcement officers participate in the plan beginning on the date of employment. State law requires the County to contribute, monthly, an amount equal to five percent (5%) of each law enforcement officer's salary. All amounts contributed are vested immediately.

6.13 Law Enforcement Special Separation Allowance

A certified law enforcement officer who retires from Lincoln County may be eligible for a Special Separation Allowance as provided for in N.C.G.S. §143-166.42, as amended from time to time. A determination of eligibility for said allowance shall be considered on a case-to-case basis.

7.0 Holidays and Leave

7.1 Holidays Observed

The following holidays* shall be observed as paid holidays for County offices:

1. New Year's Day
2. Martin Luther King, Jr. Day
3. Good Friday
4. Memorial Day
5. Independence Day
6. Labor Day
7. Veteran's Day
8. Thanksgiving Day (2 days – Thursday and Friday)
9. Christmas Day (3 workdays)

*If a holiday falls on Saturday, the preceding Friday will be observed. If the holiday falls on Sunday, the following Monday will be observed.

The schedule for the calendar year shall be presented for approval to the Board of Commissioners and published by December 1st of the preceding calendar year for distribution to employees.

All Non-Essential Employees (as defined in Section 10.3 of this Policy) normally scheduled to work on the day a holiday occurs, shall receive compensation based on their normally scheduled workday. However, employees must be in pay status (physically worked or using paid leave) the day before and the day after a holiday to be eligible for payment of that holiday.

All Essential Employees (as defined in Section 10.3 of this Policy) shall be allowed to flex a holiday to another day within the calendar year, if they are scheduled or activated to work on the scheduled holiday. The holiday may be used following the occurrence of the scheduled day in the calendar year. For example, if an Essential Employee is scheduled to work on July 4th, then they can use that holiday anytime between July 5th and December 31st of the then-current year. An Essential Employee may carryover the Christmas holidays to the following calendar year. Any other unused holiday time will be converted to annual leave at the end of the calendar year.

If an Essential Employee transfers to a Non-Essential Employee then any unused holiday time at the time of transfer will be converted to annual leave.

7.1.1 Personal Observance Leave

All full-time employees of Lincoln County are eligible for one (1) day of Personal Observance Leave each calendar year. The leave may be used by eligible employees for any single shift or calendar day of personal significance, including but not limited to days of cultural or religious importance. *Temporary and part-time employees are not eligible for Personal Observance Leave.*

Personal Observance Leave is a form of management-approved leave, subject to the following terms:

- a) All hours of Personal Observance Leave must be used on a single day of scheduled work.
- b) Personal Observance Leave may be taken by an employee only upon authorization by the employee's supervisor. The supervisor shall review the request and assess the operational impact of granting leave.

Whenever possible, supervisors are encouraged to approve reasonable requests for personal observance leave.

- c) In some cases, personal observance leave requests may require approval from the County Manager if there are scheduling conflicts.
- d) Supervisors shall not require justification from the employee to utilize the Personal Observance Leave. Lincoln County prohibits discrimination or retaliation against any employee for requesting or taking personal observance leave.
- e) The day used for Personal Observance Leave does not have to be a day from the employee's own religious or cultural background.

Renewal of Leave.

On January 1st of each calendar year, all full-time employees will receive an additional one (1) day of Personal Observance Leave that will be available for use until December 31st of that calendar year.

Calculation of Leave.

The total hours of Personal Observance Leave is determined based on the employees assigned work shifts (hours worked per shift). For example, if the employee works in a designated 10-hour shift position, then the employee shall receive 10 hours of Personal Observance Leave each year.

Any unused Personal Observance Leave at the end of the calendar year will expire and will not transfer to the following year. Further, Personal Observance Leave shall have no cash value, and employees will not be paid for unused Personal Observance Leave upon separation from employment.

7.2 Work on Holidays and Other Types of Paid Leave

Holidays that occur during an employee's annual or sick paid leave period shall not be charged against the employee's annual or sick leave. Employees who are on unpaid leave during a holiday will not receive holiday pay or be credited for holiday time.

7.3 Holidays – When Work Required

Any *Non-Essential Employee* required to work on a scheduled holiday shall be permitted to receive both holiday pay and paid hourly for hours physically worked and shall be entitled to any Overtime Pay earned based on that work.

All *Essential Employees* required to work on a holiday are allowed to flex the holiday as provided in Section 7.1.

7.4 Annual Leave

Annual leave is paid leave earned by all full-time employees, and that leave may be taken by the employee for any reason, not covered by other leave policies.

7.5 Transfer of Annual Leave

Lincoln County does not accept any transfer of annual leave from any private or public employer.

7.6 Annual Leave Accumulation

Employees who are employed as regular full-time employees working a County Workweek or LEO Workweek, or who are on paid leave, shall earn annual leave at the following rates based on years of service:

| Years of Service | Hours/Pay Period | Hours/Year |
|----------------------------|------------------|------------|
| Less than 2 | 3.50 | 91.00 |
| More than 2, less than 5 | 4.00 | 104.00 |
| More than 5, less than 10 | 5.00 | 130.00 |
| More than 10, less than 15 | 6.00 | 156.00 |
| More than 15, less than 20 | 7.00 | 182.00 |
| More than 20 | 8.00 | 208.00 |

An employee must be in pay status at least half of the scheduled workdays in a payroll period in order to be credited with annual leave. Annual leave shall accumulate with no maximum limit until the last pay period in each calendar year. At the end of each calendar year, any hours in excess of 240 hours of annual leave shall be converted to sick leave.

7.7 Approval and Use of Leave

An employee requesting annual leave must complete a Request for Leave or Approved Absence form and submit it to the employee's supervisor at least 14 days prior to the requested time off. A Department Director shall have the discretion to approve any request submitted late based on individual circumstances surrounding the request. Annual leave shall be calculated in 15-minute increments. Annual leave shall be approved at any time that it is requested unless it is determined that approving the leave request will hinder the orderly and efficient operations of the department. An employee may not take annual leave that has not been earned at the time it is requested.

Annual leave may not be used if the use of said leave exceeds the regularly scheduled workweek and work schedule for the employee. Directors, supervisors and time-keyers shall reduce annual leave hours entered on an employee's timesheet if excess leave is included.

7.8 Payment for Accumulated Leave at Separation

All full-time employees shall receive a payment for their accumulated annual leave upon resignation in Good Standing (as defined in Section 17.1.1.1 of this Personnel Policy), retirement or layoff, not to exceed 240 hours, unless the employee requests a transfer of the annual leave balances to another employer.

Dismissal.

If an employee is dismissed for good cause, the employee shall not be eligible to receive payment of their accumulated leave as provided herein. The County Manager shall have the discretion to waive this if provided with just cause for doing so.

Death of Employee.

If an employee dies while still employed with the County then payment of the deceased employee's annual leave, not to exceed 240 hours, shall be made to the Clerk of Court of the county where the deceased employee resided at the time of the employee's death.

Retirement of Employee.

If an employee elects to transfer any annual leave hours in excess of 240 hours to sick leave, the employee must notify the Human Resources department in writing at least (30) days prior to retirement.

One-Time Transfer to 401(k) or 457 Accounts.

If an employee retires or resigns in Good Standing then the employee who is enrolled either a 401(k) or 457 Account may elect to make a one-time payment to that account for all annual leave, not to exceed 240 hours.

7.9 Sick Leave

Sick leave is leave earned by all full-time employees with pay when either the employee or an immediate family member is sick.

Sick leave shall be used by an employee for absences from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, pregnancy, childbirth and postpartum care, or exposure to a contagious disease when continuing to work might otherwise jeopardize the health of others. Sick leave may also be used for illness or injury of a member of the employee's immediate family that requires the employee to provide care.

7.9.1 Accumulation of Sick Leave

All full-time employees working a normal County Workweek or LEO Workweek shall accumulate sick leave at the rate of 3.75 hours per pay period, or 97.50 hours for each completed year of service. Sick leave may be accumulated without any maximum limit while the employee is in continuous service with Lincoln County and in pay status.

7.9.2 Verification of Sick Leave

If sick leave is requested, employees may be required to provide documentation, including medical certification of the need for sick leave. Falsification of information or misuse of sick leave policies may be grounds for disciplinary action, including dismissal.

7.9.3 Use of Sick Leave

Employees who desire to take sick leave must notify their supervisor prior to use of the leave, and notification should be provided at least one hour prior to the beginning of the workday. If the employee cannot contact their supervisor directly, a family or friend may contact the supervisor on their behalf and provide proof of the need for the use of sick leave.

Excess Use.

Sick leave may not be used if the use of said leave exceeds the regularly scheduled workweek and work schedule for the employee. Directors, supervisors and time keyers shall reduce sick leave hours entered on an employee's timesheet if excess leave is included.

Consecutive Sick Leave.

If an employee uses more than 2 consecutive scheduled workdays of sick leave, the employee may be required to furnish a physician's note concerning the nature of the illness and the proposed date upon which the employee can return to work. If the employee does not return to work on that proposed date, then the employee shall be required to utilize annual leave or leave without pay.

Un-Accrued Sick Leave.

No employee may use sick leave prior to accruing it. Sick Leave Prior to Resignation. If an employee has already submitted a letter of resignation of their employment with Lincoln County, the employee shall not be permitted to utilize more than one day of sick leave without a physician's note.

7.9.4 Transfer of Sick Leave to Lincoln County

All employees may transfer accrued but unused sick leave hours that were credited to them while employed with another local government that is a member of the Local Government Retirement System of North Carolina. Any employee that desires to transfer time to Lincoln County should consult with the HR Department to acquire the necessary forms. Any request should be submitted to the HR Department within 90 days of starting employment. This shall include all sick leave previously accrued but unused with Lincoln County, if rehired within 5 years.

7.9.5 Sick Leave Upon Separation

Upon separation of employment from Lincoln County, no employee will receive payment for unused accumulated sick leave.

7.9.6 Retirement Credit for Accumulated Sick Leave

Employees who are members of the North Carolina Local Governmental Employee's Retirement System (LGERS) will receive credit for accrued Sick Leave at the time of retirement as established by the retirement system.

7.10 Bereavement Leave

All employees are entitled to three (3) days of bereavement leave for the death of an immediate family member. Immediate family is considered an employee's spouse, mother, father, guardian, child, sister, brother, grandparent, grandchild, and all combinations of half, step, in-law and legally adopted relationships. Any leave designated as bereavement leave shall be deducted from the employee's sick leave.

If additional time is needed related to the death, then the employee shall be required to utilize annual leave. If an employee wishes to attend the funeral of someone other than immediate family, then that leave shall be considered annual leave.

7.11 Leave without Pay

A regular employee may be granted a leave of absence without pay for compelling personal reasons. The department director shall submit the recommendation for leave without pay for an employee for approval by the Human Resources Director.

Leave without pay requested for a department director shall be submitted to the County Manager for approval.

A request for leave without pay must be submitted in writing to the supervisor. The employee is obligated to return to duty within or at the end of the time determined by the department director or appointing authority. Upon returning from a leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted, or to one of like classification, seniority, and pay.

With proper documentation, extended medical leave without pay, not exceeding six months, may be granted upon written request in the event of a serious health condition of an employee or a member of the employee's immediate family.

Leave without pay is subject to the following conditions:

- This leave cannot exceed six months, including up to 12 weeks of family medical leave with or without pay.
- All accrued sick leave must be used first and may not be advanced.
- After all, accrued sick leave has been exhausted, all accrued annual leave must be exhausted before leave without pay will be approved.

Leave without pay for non-medical reasons may be granted upon written request to the supervisor subject to the following conditions:

- This leave cannot exceed 30 working days.
- All accrued annual leave must be exhausted before leave without pay will be approved.

7.11.1 Insurance

Employees transferring from active pay status to leave without pay under the FMLA, workers' compensation, or Military Leave may continue to benefit from County-paid insurance premiums for the duration of the leave but will be responsible for timely paying the employee's portion of any insurance premiums. Employees transferring to or in a leave without pay status for any other reason shall become ineligible to benefit from County-paid insurance premiums beginning the first pay period in which they are paid for less than 1/2 of their regular work schedule. The employee, however, may elect to pay the total premium for their insurance(s) coverage during such periods of leave without pay. Failure to pay premiums within 30 days of the due date will result in termination of insurance coverage.

7.12 Unauthorized Leave

Employees will be considered to be on Unauthorized Leave if they are absent at any time during their regularly scheduled work day, and do not have approved leave by the authorizing party. Unauthorized Leave is considered voluntary resignation and grounds for discharge.

7.13 Family and Medical Leave (FMLA)

7.13.1 Eligibility

Pursuant to the provisions of the Family and Medical Leave Act (FMLA), employees who have worked for Lincoln County for at least 12 months and at least 1,250 hours during the prior 12 months may take unpaid leave for the following reasons:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newlyplaced child within one year of placement;
- to care for the employee's spouse, child, or parent who has a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty;" or

Eligible employees may take a total of 12 workweeks of FMLA based on a 12- month rolling calendar or twenty-six (26) work weeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).

Use of FMLA for the birth, adoption, or placement of a child must be completed within 12 months after the birth, adoption, or placement. If both parents are employed by Lincoln County, they are allowed 12 weeks' total.

7.13.2 Serious Health Condition

Lincoln County shall charge any work absences due to a serious health condition against an employee's FMLA entitlement. FMLA leave is not available for colds, stomach viruses, the flu or similar conditions unless they require inpatient care or continuing treatment by a health care provider. A serious health condition means an illness, injury, or impairment, or physical or mental condition that involves any period of incapacity:

- Any period of incapacity requiring the absence of more than three full, consecutive calendar days that also involves continuing treatment by a health care provider (Continuing treatment means one-in-person visit to a health care provider within the first 7 days of incapacity and either a second visit within the first thirty days or a regimen of continuing treatment under the supervision of a health care provider).
- Any period of incapacity or treatment connected with inpatient care;
- Any period of incapacity due to pregnancy;
- Any period of incapacity or treatment due to a chronic health condition;
- Any period of incapacity that is long-term or permanent due to a condition for which treatment may not be effective (e.g., cancer, AIDS)
- Any absence to receive multiple treatments (and to recover from the treatments) for a condition that would likely result in an incapacity for more than three consecutive days if left untreated (e.g.,

physical therapy, chemotherapy, dialysis).

7.13.3 Use of Leave with FMLA

Employees are required to use available Sick Leave, Compensatory time, and Annual Leave, in this order, concurrently with FMLA. Worker's Compensation will always run concurrently with FMLA.

7.13.4 Notice

Employees must provide sufficient information for their supervisor to determine if the leave may qualify for FMLA, and the anticipated timing and duration of the leave.

When the need for leave is foreseeable, employees must provide the County at least 30 days' notice of their intent to take leave.

When the need for leave is unforeseeable, the employee must give notice as soon as possible.

7.13.5 Beginning Date

The County shall determine the beginning date of FMLA in accordance with Federal Law.

7.13.6 Intermittent Leave

FMLA may be taken intermittently. When an employee requests FMLA on an intermittent basis, the County may, at its sole discretion, require the employee to temporarily transfer to an alternative position for which the employee is qualified. During this time, the employee will receive pay and benefits equivalent to their regular position. At the conclusion of FMLA, the employee will be returned to their regular position, as specified in Return to Duty.

7.13.7 Health Provider's Certification

Any FMLA leave request based on a serious health condition of an employee or their family member must be supported by certification from a health care provider. The employee must provide a completed copy of the certification on Department of Labor Form WH-380 within 15 calendar days of submitting the request.

If a certification is returned incomplete or insufficient, the employee will have seven (7) days to provide the required information.

The County may obtain a second opinion on an employee's condition. The selection and payment of the physician for a second opinion shall be the County's responsibility. If the second opinion does not agree with the opinion of the employee's health care provider, then a third opinion may be obtained and shall be binding. The selection of the physician for a third opinion shall be made jointly by the employee and the County at the County's expense.

Employees who do not return the certification within 15 days lose their right to FMLA leave and to return to the same or a substantially equivalent job.

7.13.8 Insurance and Benefit Accrual

During FMLA, the County and affected employees will continue to pay their respective portions of health insurance premiums. Failure of the employee to pay their share of the health insurance premium may result

in loss of coverage; loss of coverage may be averted if the employee notifies the Director of the department, Human Resources and establishes a repayment schedule based on their ability to pay. If the employee does not return to work after the expiration of FMLA, they will be required to reimburse the County for payments of health insurance premiums during leave, and the County may institute legal action to collect these payments. The employee may be required to sign a promissory note in favor of the County for the amount to be reimbursed.

Employees who are in concurrent pay status during a period of FMLA shall continue to accrue paid leaves of absence (Sick Leave, Vacation Leave, Compensatory Time Off, and Holidays), provided they are in pay status for at least 40 hours during the pay period in which leave accrues. Employment benefits accrued by the employee up to the day FMLA begins and not taken by the employee during the leave period, will not be lost.

7.13.9 Outside Employment While On FMLA

The County prohibits outside employment while on FMLA leave.

7.13.10 Employee Reporting and Recertification

The County may require an employee on FMLA to report periodically on their status and intent to return to work. The County also may require periodic recertification of the employee's medical condition.

7.13.11 Return to Duty

When applicable employees returning from FMLA are required to provide a fitness for duty release from their physician.

Employees who return to work from FMLA, prior to or on the business day following the expiration of said leave, are entitled to return to their job, or an equivalent position, without loss of benefits or pay.

Employees who are unable to return to duty at the conclusion of their FMLA may:

- Use any remaining sick leave or annual leave accrual or request additional FMLA if they have not exhausted their FMLA entitlement.
- If an employee has exhausted all leave and fails to return to work, the absence will be considered unauthorized, and the employee may be discharged.

7.14 Qualifying Exigency Leave

Qualifying Exigency Leave allows up to 12 weeks of leave for employees to deal with some of the informational, financial and child-related issues that arise when a family member (spouse, child of any age or parent) is called to or on federal active duty in support of a contingency operation of the Reserve or National Guard.

Qualifying Exigency Leave may be taken on an intermittent or reduced schedule.

7.14.1 Eligibility

Qualifying Exigency Leave can be used for the following events:

- Deployment of a service member with fewer than a seven-day notice;
- Military ceremonies and events, as well as support, family-assistance or informational programs related to a service member's active duty call to active duty status;

- Providing urgent, immediate childcare or arranging for alternative childcare for the children of the service member called to active duty;
- Attending school or daycare meetings relating to the child of a service member on or called to active duty;
- Making financial or legal arrangements related to a service member's active duty status or call to active duty; or
- Post-deployment activities for a period of 90 days after the termination of the service member's active duty status.

If both spouses are County employees, they are limited to a combined total of 12 weeks.

7.14.2 Notice

Notice of the need for qualifying exigency leave must be as soon as possible.

7.14.3 Certification

Employees requesting qualifying exigency leave must:

- Fill out form WH-384 and return it to their supervisor within 15 days; and
- Provide a copy of the military member's active duty orders or other documentation issued by the military indicating that the military member is on or called to active duty in support of a contingency operation and the dates of active duty.

7.15 Military Caregiver Leave

Eligible employees may take up to 26 weeks of leave within a single 12-month period (to begin the first day the employee takes leave) to care for a family member (spouse, child or next of kin) who has been injured or become ill while serving in the armed forces.

Military Caregiver Leave is limited to one-time per covered service member per injury. Military Caregiver leave may be taken on an intermittent or reduced schedule.

7.15.1 Eligibility

Military Caregiver leave can be used for family members in the following branches of service:

- Members of the regular Armed Forces
- Members of the National Guard or Reserves, and
- Members of the regular Armed Forces or National Guard or Reserves who are on the temporary disability retired list.

To qualify for Military Caregiver Leave, a family member must have a serious injury or illness incurred in the line of duty or active duty that renders them medically unfit to perform the duties of his or her office, grade or rating, and for which:

- the service member is undergoing medical treatment, recuperation or therapy,
- is otherwise in outpatient status or
- is otherwise on the temporary disability status list.

Employees may not take military caregiver leave to care for former or retired members of the regular Armed Forces, National Guard or Reserves or for members on the permanent disability retired list.

If both spouses are County employees, they are limited to a combined total of 26 weeks.

7.15.2 Notice

Employees requesting military caregiver leave must provide a 30-day notice when the leave is foreseeable or as soon as possible when it is not foreseeable.

7.15.3 Certification

Employees requesting military caregiver leave must fill out form WH-385 and return it to their supervisor within 15 days. Invitational Travel Orders will be accepted in lieu of Form WH-385.

7.16 Worker's Compensation Leave

All County employees are covered by the North Carolina Worker's Compensation Act (the "Act") at no cost to the employees. In the event of inconsistency with this document, the "Act" supersedes this document.

If an employee is accidentally injured or contracts an occupational disease as a result of their employment with the County, employee medical expenses related to the injury or disease will be paid by this program. A disability of greater than seven (7) days is required before Workers' Compensation benefits begin as authorized under the Workers' Compensation Act. If the disability exceeds twenty-one 21 days, Workers' Compensation benefits will be provided for the first seven (7)

G.S. § 97-28). If an employee is unable to work after a seven (7) day waiting period, the employee will receive a weekly cash benefit of up to two-thirds of the employee's salary, but not over the maximum established by State law.

To ensure the continuation of this benefit, an employee must immediately submit a Form 19 ("Employer's Report of Injury to Employee") identifying any job-related injury or accident specifying in detail how the injury was sustained. The employee must state whether they saw a doctor or visited a hospital or other health care facility. Form 19 is then forwarded to the Personnel Department through the employee's department. If the employee is prevented from immediately reporting the injury by reason of physical or mental incapacity, such written notice must be given within 30 days after the occurrence of the accident (N.C. G.S. §§97-22; 97-23). They in turn will complete the applicable form within 24 hours of the accident/injury and send one copy to the Personnel Department. Failure to submit a Form 19, as soon as possible, may subject the employee, the supervisor or any other responsible person to disciplinary action. Department directors will be responsible for cooperating in investigations of the accidents as requested and take necessary steps to prevent recurrences.

An employee unable to work will not receive compensation during the first seven calendar day waiting period. Employees may choose to use accrued sick or annual leave during the first seven-day period. If the injury results in a disability of more than 21 days, the Workers' Compensation shall be allowed from the date of the disability at a rate Lincoln County Personnel Policy established under State law. Any period of leave without pay or "light duty" if available for a Workers Compensation disability that qualifies as a "serious health condition" and "period of incapacity" under FMLA will run concurrently with FMLA leave.

If an employee is able to work, they may seek medical care during work time. The employee will not be charged sick or annual leave while receiving medical treatment.

While on Workers' Compensation leave, an employee retains benefits. Employees placed on Workers' Compensation leave will cease to accrue annual and sick leave hours for any pay period during which they are on leave for more than 50% of the period. Employer/employee contributions to the Local Government Retirement System of North Carolina will not be made and retirement service credit will not be earned while on leave without pay. Premiums for dependent coverage are the employee's responsibility. The employee will be in a leave without pay status and must send payment for dependent coverage to the Finance Department.

Employees receiving Workers' Compensation can expect to return to an equivalent position if they return within the 52-week limit and with a written release from their physician. However, if the employee is medically unable to perform the essential duties of their previous position, they will be placed in a suitable position according to their qualifications, availability of a position, and North Carolina Workers' Compensation Law.

7.17 Return to Work Program

Lincoln County is committed to providing a safe workplace for our employees. Preventing work related illness and injury is a primary goal.

Our Return-to-Work Program provides a mechanism for employees who are injured on the job to work toward returning to full duty. If the injured employee is not physically capable of returning to full duty, the program provides opportunities to perform his or her regular job with modifications or, when available, to perform alternate temporary work that meets the injured employee's physical capabilities, until he or she can return to full duty.

This Return-to-Work Program is intended to conform with and comply with all applicable law, including but not limited to the NC Workers' Compensation Act, the Americans with Disability Act, and the FMLA. To the extent this policy is inconsistent with any such law, the provisions of the applicable law shall control. This policy is not intended as, nor shall it be construed as a specific term of employment, guarantee, or right. The application of this Program is subject to budget constraints and other organizational concerns. This Program is not intended as a contract, nor shall it be construed as a guarantee of employment for any specific period of time.

7.17.1 Goals

The overall goal of the Program is to return an employee to work as soon as they are medically able after suffering from job-related injury or illness. To do so is in the best interest of the employee. The Return-to-Work Program promotes rehabilitation and enhances the recovery process of employees experiencing work-related injuries or illnesses, while maximizing productivity and controlling related expenditures. The Program is a partnership, which includes the injured employee, medical providers, and key Lincoln County personnel working together toward the common goal of expediting the employee's return to physical and psychological wellbeing.

7.17.2 Benefits of Return-to-Work Program

Studies have shown that Return to Work Programs help both the employer and the employee. A Return-to-Work Program will help control costs directly related to the injury and reduce the impact of the injury on the County operations as well as on the injured worker's life.

Employees, who return to work as soon as possible following an injury, have been shown to heal faster and better than those injured employees who remain off work. Injured employees who return to work during their healing period tend to require fewer medical treatments and incur less medical expense related to the injury. Work becomes part of medical treatment and rehabilitation and allows the injured employee to take an active role in his or her recovery.

Below are benefits Lincoln County and Lincoln County employees from this program:

Employee Benefits:

Recovery time is shortened;
Injured workers remain active and productive;
Permanent disability associated with injury is reduced;
Concerns about continued employment are resolved;
Full or partial wages are earned bringing the injured worker's income closer to pre-injury wages;
Injured workers and their families experience less disruption to lives and family and social lifestyles are maintained;
Injured workers maintain contact with and support from co-workers and friends;
Injured worker maintains job skills;
Overall wellness is promoted; and
Reduced accident and injury related costs may help preserve benefits and jobs as well as contribute to improved work environment.

Lincoln County Benefits:

Our interest and concern for employees are reinforced;
Workers' compensation costs are reduced;
Medical and disability costs are reduced and recovery time shortened;
Decreased loss ratios and experience modifiers help control premium costs;
Productivity is maintained and human resources are used to the maximum extent;
Wage costs for substitute employees are saved.
Retains skilled and experienced workers;
Injured employees will continue to contribute;
Expenses are not incurred for recruiting, hiring, training or salary of replacement workers;
Work delays and business interruptions are eliminated when an experienced employee returns to work;

7.17.3 How the Return-to-Work Program Process Works

Once the injured employee has reported their injury to their Department Director/Supervisor, they will be given a packet of information advising them about the Return-to-Work Program. They will be referred to a contracted physician to evaluate their injury and their capabilities for performing job tasks based on job descriptions and job task analysis information.

The County's Worker's Compensation third party administrator shall be responsible for overseeing, coordinating, and approving the injured employee's medical care. The physician may recommend treatment and will make a determination on the employee's ability to return to work. The physician may recommend the employee:

- Can return to work at full capacity without restrictions: When the doctor gives the injured employee full release to work; the employee can go back to his or her original job.
- Can return to work in a "Transitional Duty" assignment: This status would include temporary modifications to the employee's regular job such as schedule changes, reduced hours, reduced capacities, or sharing parts of the work with others are effective accommodations.
- Is unable to return to work. In this case the worker's compensation claim would be processed and completed.

7.17.4 Transitional Duty

If the employee requires temporary modifications to his or her job, the Workers Compensation Coordinator in the Human Resources Department will work with the Department Director/Supervisor to coordinate the changes needed. Every effort will be made to ensure that Transitional Duty assignments are meaningful and productive and within the injured employee's restrictions, as defined by the doctor.

Transitional Duty assignments will be consistent with the treating physician's work release and will be consistent with and not exceed the limitations set by the treating physician (e.g., limits on how much the injured employee can lift, how long the injured employee can sit or stand, use of injured employee's hands, etc.).

Transitional Duty assignments will be considered temporary and no longer than thirty (30) days without status review by the Workers' Compensation Coordinator and designated management. Upon status review, Transitional Duty may be extended up to ninety (90) days at the discretion of Lincoln County. Extensions beyond ninety (90) days will be on a case-by-case basis and at the discretion of Lincoln County.

No permanent jobs will be created to accommodate a disability from a work-related injury. Transitional Duty assignments will include tasks not being completed by others at the present time, tasks that are only done occasionally, tasks not being performed that, if assigned to someone participating in a Transitional Duty assignment, would allow co-workers time to accomplish additional work assignments.

Work availability may make it necessary to transfer injured employees from one Transitional Duty work assignment and department to another. Pay will be at the rate of the employee's appointed position classification and all hours worked while on Transitional Duty may be counted as FMLA. It is the option of Lincoln County to change regular days off and work hours while an employee is in a Transitional Duty work assignment.

If Transitional Duty is offered and the injured employee refuses the offer, the Department Director/Supervisor and Human Resources Director must meet with and discuss options with the employee and determine the reasons for not participating in the Transitional Duty return to work program. After determining the reasons, the Workers' Compensation Insurance Carrier may be notified of the injured employee's refusal to participate, and Workers' Compensation benefits may be terminated.

Injured employees participating in Transitional Duty may be eligible to work overtime as determined on a case-by-case basis by the Workers' Compensation Coordinator. However, injured employees may be denied overtime opportunities based on restrictions imposed by the medical provider or other factors.

When an injured employee is released to participate in the Transitional Duty Program, the injured employee does not have the option to substitute paid sick leave because he/she does not personally feel ready to perform Transitional Duty.

Once the employee is determined to be medically capable, he /or she will be returned to their normal job duties.

7.17.5 Procedures and Responsibilities in the Event of an Injury

Employee Responsibilities When Injury Occurs

- An employee who is injured at work must immediately report the incident to their Department Director/Supervisor.
- If medical treatment is necessary the employee will be directed by the Department

Director/Supervisor to go to the County's contracted physician, unless it is a true emergency and then emergency assistance shall be obtained.

- The injured employee is responsible for following medical instructions on and off the job.
- Employees will receive a Form 19 Notice of Injury Form from the County within three (3) business days. If the employee does not agree with the description or time of the accident as stated on Form 19, the employee shall make a written report to Lincoln County Human Resources Department within thirty (30) days of the injury.
- If placed on restricted/modified work by the treating physician, the employee is required to provide the Workers' Compensation Coordinator with the restrictions as noted by the physician, as soon as possible after the physician's appointment, but no later than 24 hours after the appointment. If the injury occurs after hours (defined as Friday after 5:00 p.m. and Monday before 8:00 a.m.), the employee is required to provide medical restrictions by close of business on the next working day.
- If the employee's medical status changes at any time during the processing of an open claim, it must be reported immediately to the Workers' Compensation Coordinator and Department Director.

Employee Responsibilities When Returning to Work

- Following return to work, the injured employee must immediately report any difficulties with performing assigned work to their Department Director/Supervisor and the Worker's Compensation Coordinator. If the injured employee reports any difficulties, the Department Director/Supervisor and the Workers' Compensation Coordinator will work with the injured employee and the workers' compensation medical provider to determine the appropriate resolution.
- If an employee is in a Transitional Duty assignment and is unable to report to work, the employee must call and report in to the Department Director/Supervisor who is overseeing the Transitional Duty assignment.
- Maintain regular communication with Department Director/Supervisor.
- Advise Workers Compensation Coordinator when Physician authorizes return to full /regular duties.

Department Director/Supervisor Responsibilities When Injury Occurs

- Obtains immediate medical attention for the injured employee.
- Report incident to Lincoln County Workers Compensation Coordinator within 24 hours but no later than the close of business the next working day.
- Complete an incident investigation report within 72 hours after the injury.
- Provide employees with Lincoln County Return to Work information packet.
- If the injured employee is unable to return to work on the day following the injury, the Department Director/Supervisor is responsible for notifying the Workers' Compensation Coordinator.
- The Department Director/Supervisor reviews information received from the doctor and in conjunction with the Workers Compensation Coordinator, determines if appropriate work is available.
- The Department Director/Supervisor must complete the Job Task Analysis/Job Risk Assessment Form and forward to the Workers' Compensation Coordinator.

Department Director/Supervisor Responsibilities When Employee is Unable to Return to Work

- If the treating physician determines that an employee is unable to return to work, and Transitional

Duty work assignment is not available, the Department Director/Supervisor is responsible for notifying the Worker's Compensation Coordinator.

- The Department Director/Supervisor must maintain weekly communications with employee.

Department Director/Supervisor Responsibilities When Employees Return to Work

- When an injured employee is unable to return to work on the day following the injury, the Department Director is responsible for notifying the Workers' Compensation Coordinator in the Human Resources Department. The Workers' Compensation Coordinator will review information about the case with the Department Director including information received from the doctor. The Workers' Compensation Coordinator and Department Director will decide jointly as to whether or not a Transitional Duty work assignment can be provided which will be consistent with the treating physician's work release.
- Following an injured employee's return to work, the Department Director/Supervisor shall monitor the injured employee's progress to ensure that restrictions are carefully followed and assist in resolving any difficulties.
- Maintain regular communication with employees.

Workers Compensation Coordinator Responsibilities When Injury Occurs

- Complete a Form 19 Notice of Injury and forward to Workers Compensation Claims Administrator within three (3) business days. Send a copy of this form to the employee.
- If the employee provides a written statement disputing the description or time outlined on Form 19, will conduct a follow-up investigation.

Workers Compensation Coordinator Responsibilities When Employee Returns to Work

- Review all changes in medical status throughout an open claim and assess job restrictions.
- Coordinate and monitor Transitional Duty work assignments. If transitional work is not available in the injured employee's department, the Workers' Compensation Coordinator will determine if appropriate work meeting the employee's medical restrictions is available in other departments. The Workers' Compensation Coordinator is responsible for facilitating discussions among Department Director/Supervisors to assure placement of injured employees in Transitional Duty work assignments.
- Obtain employee signature on Transitional Duty Work Assignments Right and Responsibilities Form and Transitional Duty Offer Letter. The original copy of the Transitional Duty Work Assignment Form and Transitional Duty Offer Letter will be maintained by the Workers' Compensation Coordinator and one copy of the Transitional Duty Work Assignment form and Transitional Duty Offer Letter will be provided to the employee.
- Forward the Return to Work/Transitional Duty Physician's Medical Form to the treating physician.
- Monitor the injured employee's progress, in conjunction with the Department Director/Supervisor, to assure that restrictions are carefully followed and assist in resolving any difficulties.
- The Workers' Compensation Coordinator will schedule and coordinate a status review with the employee, Department Director/Supervisor, and physician if applicable, every thirty (30) days for all employees on transitional assignments. The status reviews determine whether an extension of transitional employment will be recommended to the Human Resources Director for final approval.
- Coordinate communications and the exchange of information among the treating doctor, the Department Director/Supervisor and workers' compensation administrator.

- Coordinate benefit payments.
- Provide the employee a copy of the Transitional Duty Completion/Closure form at the conclusion of the Transitional Duty assignment.
- Coordinate monthly open claims status meetings with County Manager, Human Resources Director, Department Director/Supervisor, and claims administrator as appropriate.

7.18 Military Leave

Permanent employees who are members of the National Guard or Armed Forces Reserves will be allowed fifteen (15) work days of Military Leave with pay each calendar year, with a maximum of eight (8) hours per day. If more than fifteen (15) days of military duty is required during a calendar year, the employee shall be eligible to take accumulated Annual Leave or Leave Without Pay. Employees shall submit a copy of their orders to their Supervisors and the Human Resources Department when military obligations require them to be absent from County employment. Employees who are unable to provide their orders before taking Military Leave are required to submit them, via fax or mail, to their Supervisors and the Human Resources Department as soon as they are available.

While taking Military Leave, the employee's leave credits and other benefits shall continue to accrue. Permanent employees who are in the National Guard or Armed Forces Reserves have all job rights specified in the Veterans' Readjustment Assistance Act and the Uniformed Services Employment Reemployment Rights Act (USERRA). Employees who are called to extended active duty (in excess of 15 days in a calendar year) may continue to participate in the County's group health insurance plan to the same extent as prior to call-up, subject to periodic plan changes as might be imposed on other County employees. Employees who choose to continue under the County plan must inform the County of their desire to do so within 30 days following call-up.

7.19 Jury Duty/Civil Leave

A County employee called for jury duty in State or Federal court shall receive leave with pay for such duty during the required absence without charge to accumulated annual leave or sick leave. The employee, in addition to their regular compensation, may keep all fees and allowances paid by the courts to the employee for jury duty.

7.19.1 Witness

A County employee subpoenaed, as a witness in State or Federal court, in connection with their official duties shall receive regular compensation for such court appearance. All witness fees and travel allowances received by the employee must be submitted to the County upon receipt. Employees who are dismissed from court duties early in the day, or who report late to court in the morning, shall report to work as soon as possible, within reason. A County employee subpoenaed as a witness in State or Federal court for situations unrelated to their official duties shall not receive leave with pay for their absence. Any such absence for private matters shall be charged to accumulated annual leave or leave without pay. Witness fees and travel expenses for private court appearances are to be retained by the employee. While on jury duty, or when subpoenaed as a witness in connection with their official duties, benefits and leave shall accrue as though the employee were at work.

7.20 Voluntary Shared Leave

The purpose of voluntary shared leave is to provide economic relief for employees who are likely to suffer financial hardship as a result of a prolonged absence caused by serious medical conditions. Only regular status

full-time employees are eligible to donate and/or receive donated leave. To receive donated leave, the employee at the time of receipt, must have no more than 80 hours (10 days) of sick and annual leave combined. Employees can only donate annual leave.

The Voluntary Shared Leave Donation Policy shall apply to only serious medical conditions suffered by the employee or immediate family members as defined in the Definition of Terms. An employee wishing to donate leave to another employee must complete a Voluntary Shared Leave Donation of Leave Form with the employee's signature and forward to the County Manager for approval or disapproval.

To be eligible to donate annual leave to another employee, an employee must have in excess of eighty (80) hours of earned annual leave. A donating employee may not donate annual leave in excess of the amount that could be earned in one year. An employee may not reduce his or her annual leave balance below eighty (80) hours.

Any regular full time employee, who has completed their initial probationary period, may apply to the County Manager for donated leave by completing a Voluntary Shared Leave Application for Participation form. The County Manager shall approve or disapprove all requests for receipt of donated leave. A third person, department director, or family member may also make application acting on the employee's behalf.

All leave donations must be made to a designated employee that has been approved by the Human Resources Director or the County Manager. Leave may not be donated to a pool or bank.

All donations of leave, and the amount of hours donated, must be signed by the donating employee with the name of the employee to receive the donation of leave clearly visible and legible on the donation form. The donating employee may not receive compensation in any form for the donation of leave. Acceptance of compensation for donated leave may result in dismissal.

An employee may normally receive no more than 1,040 hours (130 workdays) of donated leave, either continuously or for the same condition on a recurring basis for up to 12 months. Holidays falling during the period of the use of donated leave will be paid as full time for regular full time employees. An employee receiving donated leave will continue to earn annual leave and accrue sick leave as long as they remain in pay status and using donated leave.

7.21 Leave for Parental Involvement in Schools

Employees shall be granted eight (8) hours of leave per school year to attend or otherwise be involved at their child's school in accordance with N.C.G.S. § 95-28.3. This includes any employee who is a parent, grandparent, guardian, or person standing in loco parentis of a school-aged child. Any leave under this section is subject to the following conditions:

The leave shall be at a mutually agreed upon time between the supervisor and the employee.

The employees must provide a request for Parental Involvement at least 48 hours before the time desired for the leave.

Supervisors shall require that the employee furnish written verification from the child's school that the employee was involved at that school during the time of the leave.

For the purpose of this section, "school" means any public school, private school, or non-public school that regularly provides a course of grade school instruction, preschool, or childcare facility.

These donated hours do not accumulate, and unused hours will not carry over from year to year. There is no entitlement for this additional benefit during employment or in the event the employee leaves employment with the County.

7.22 Conference Attendance

An employee may be permitted to attend professional conferences, workshops, or educational meetings or classes when directly related to the employees' field of work. Request to attend shall be submitted in writing to the supervisor for his/her approval and final approval by the department director prior to the date of the meeting. The County shall reimburse the employee for the approved fees of the conferences, provided the employee submits the proper receipts.

7.23 Employee Training

A leave of absence at full or partial pay during regular working hours may be granted by the County Manager or his designee to an employee to attend seminars, conferences, or job training programs designed to enhance the employee's ability to perform their job roles. The County may reimburse the employee provided the employee submits a receipt of course expenses and a notice of successful completion of the course. While attending employee training, the employee shall continue to earn leave credits and any other benefits to which County employees are entitled. This does not apply to an employee attending classes to obtain an Associates, Bachelors, Masters or Doctorate Degree or for personal enrichment even if it applies to the employee's field of work.

7.24 Leave Without Pay

A regular employee may be granted a leave of absence without pay for compelling personal reasons. The department director shall submit the recommendation for leave without pay for an employee for approval by the Human Resources Director. Leave without pay requested by the department director shall be submitted to the County Manager for approval. Final approval of all leaves without pay must come from the County Manager.

A request for leave without pay must be submitted in writing to the supervisor. The employee is obligated to return to duty within or at the end of the time determined by the department director or appointing authority. Upon returning from a leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted, or to one of like classification, seniority, and pay.

With proper documentation, extended medical leave without pay, not exceeding six months in any given year, may be granted upon written request in the event of a serious health condition of an employee or a member of the employee's immediate family.

This shall be subject to the following conditions:

- This leave cannot exceed six (6) months, including up to twelve (12) weeks of family medical leave with or without pay.
- All accrued sick leave must be used first and may not be advanced.
- After all accrued sick leave has been exhausted, all accrued annual leave must be exhausted before leave without pay will be approved.

Leave without pay for non-medical reasons may be granted upon written request to the supervisor subject to the following conditions:

- This leave cannot exceed 30 working days.
- All accrued annual leave must be exhausted before leave without pay will be approved.

Employees on leave without pay shall not earn leave of any kind.

7.24.1 Retention and Continuation of Benefits

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

7.24.2 Absence from Duty

An employee shall notify their supervisor, not later than one hour prior to the beginning of their duty assignment, of plans to be absent from duty for any reason. Failure to do so without good reason shall be grounds for disapproval of leave and for disciplinary action.

An employee who is absent from duty for three consecutive workdays without notifying their immediate supervisor shall be considered to have resigned from their position with Lincoln County, unless failure to notify can be shown to have been beyond the employee's control.

7.24.3 Returning to Work After Leave Without Pay

If an employee decides not to return to work from an approved leave without pay, they shall notify their supervisor immediately. The supervisor shall report this decision to the department director and the Human Resources Director. Failure to report for duty at the expiration of a leave of absence, unless an extension has been requested and approved, shall be considered a resignation.

7.25 Maternity Leave

An employee who has exhausted all FMLA leave, or who is ineligible for FMLA leave, may request to take a leave of absence from work for reasons caused by or contributed to by pregnancy, miscarriage, abortion, childbirth, or recovery there from, and for the adoption of a child under the age of five years. The employee shall apply in writing to his/her supervisor stating the nature of the condition, the anticipated dates and duration of the requested leave and the types of leave requested. The department director shall forward the request to the Human Resources Director for approval. The employee is obligated to return to duty by the end of the time determined appropriate. If the employee determines they will not return to work, they shall notify their supervisor immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested and approved shall be considered a resignation.

8.0 Pandemic Flu Policy

8.1 Purpose

Lincoln County promotes a safe and healthy environment for its employees. To this end, this policy was created to:

- Manage the intrusion of an epidemic or pandemic event in which county operations and employee health are threatened.
- Minimize exposure and absenteeism in the event that an influenza/pandemic event causes a threat to employees and/or their families.
- Provide guidance on how to address situations when an employee may be infected with a contagious disease as a result of an epidemic or pandemic event.

8.2 Declaration of Pandemic Flu Event

The County Manager, in conjunction with the Chair of the Board of Commissioners and the County Health Director, will declare the effective dates that the County is in a state of an influenza/pandemic event.

The following considerations will be given in the declaration; however, due to the unpredictability of emerging infectious disease, this is not all inclusive and will serve as a baseline for determining when such a declaration will be made:

- There is a super spreading event ongoing. A super spreading event (SSEV) is an event in which an infectious disease is a significant threat and being transmitted at a much higher rate than normal.
- The CDC, WHO, or NCDHHS has declared an epidemic or pandemic due to an emerging infectious disease (EID) and there is evidence of local infection or the likelihood of local infection is imminent.
- There is an ongoing outbreak within the local region (i.e. flu, SARS, etc.) that is extraordinary and demonstrates a high probability of impacting the county and its resources.

8.3 Expectations of All Employees

All employees shall be encouraged to get flu shots or other relevant vaccines. If available, the County will provide flu shots or another appropriate vaccine to employees and they will be able to receive the vaccine during working hours. If the vaccine(s) is not available to the County, employees shall be encouraged to see a physician to receive a vaccine.

Employees shall use hand sanitizer or soap and warm water to clean hands to help minimize cross contamination.

8.4 Employees Who Become Sick

All employees shall be encouraged to stay at home, and seek medical care if necessary, if they are experiencing any flu like symptoms or other related symptoms to an ongoing event. Related symptoms are defined as any combination of symptoms directly associated with an illness from a currently active emerging infectious disease or similar in which the person demonstrating related symptoms is likely infectious.

If an employee comes to work and appears to have related symptoms, the supervisor shall tell the employee that, unless they agree to go home, the County will need to take their temperature (each Department shall have a supply of thermometers) and monitor the employee.

- The supervisor shall monitor the employee while they take their own temperature.
- If the employee's temperature is 100.4 or above, they shall be sent home immediately.
- Employees who are sent home with related symptoms or those who have called in sick due to flu-like illness or related symptoms, must not return to work unless they are free of fever for 24 hours without the use of fever-reducing medication (i.e. Tylenol, aspirin, etc.).

If the employee's temperature is greater than 100.4 and the employee believes they do not have the flu or active EID, they shall still be sent home. In order to be allowed to return to work, the employee may bring a note from their personal doctor stating they do not have the flu or EID and are not contagious to other employees or clients.

As soon as the Supervisor/Director becomes aware that an employee has developed flu-like/EID symptoms, they shall limit anyone from using the employee's workspace until after the area has been disinfected.

The Supervisor shall contact the appropriate staff responsible for their work site to clean the surface with a commercial product that is both a detergent and disinfectant.

8.5 Leave for Sick Employees

If an employee is absent from work or sent home from work with flu-like/EID symptoms, the employee must use sick leave.

If an employee is absent from work due to the care of an immediate family member with flu-like/EID symptoms, the employee must use sick leave.

If an employee does not have sick leave time, the employee must use annual leave, holiday leave, or any accrued compensatory time.

If an employee does not have sick leave, annual leave, holiday leave, or accrued compensatory time, the County may approve an advance of sick leave up to a maximum of 40 hours.

Sick leave will be advanced for the sickness of an employee only for flu or flu-like/EID symptoms.

8.6 Request for Advance of Sick Leave

The employee must request and receive approval for the advance of sick leave from their department director, the director shall forward the request to the Human Resources Director, with final approval by the County Manager. The Supervisor/Department Director must record on the employee's timesheet:

- Approval of advanced sick leave time.
- Amount of advanced sick leave time.
- Reason for advancement of sick leave, flu or flu-like/EID symptoms.

8.7 Repayment of Advance Sick Leave

Advance sick leave time will be deducted from accrued sick leave, annual leave, holiday, or compensatory time until the advanced time has been repaid to the County.

Employees requesting advanced sick leave will be required to sign a written statement to repay the advanced sick leave.

If an employee leaves employment, all advanced sick leave time must be reimbursed to the County.

8.8 Family Medical Leave Act (FMLA)

If medical notes are received or if the employee has been hospitalized due to influenza or designated EID, the Supervisor/Department Director must forward the medical note along with an Employee Action Form to the Human Resources Office stating the dates the employee will be absent from work. Human Resources will then determine if the Family Medical Leave Act (FMLA) applies and will prepare the necessary documents to be sent to the employee.

8.9 Employee Assistance Program During a Pandemic Event

Employees experiencing problems shall be advised that Lincoln County offers an Employee Assistance Program (EAP). The EAP provides 24-hour confidential access to assistance and counseling for personal and workplace issues. EAP services remain available to staff and their family members to the extent practical and reasonable during an influenza outbreak or pandemic event. For more information, please contact the Human Resources Offices.

8.10 Workplace Preparedness Prior to the Pandemic Flu Event

All Department directors shall prepare and maintain a list of essential and non- essential positions. Back-up plans shall be prepared to carry out the duties of essential employees in the event that their work cannot be conducted due to staff shortages. Back up plans may include assistance from other counties/departments.

Information on proper hand washing/hygiene, illness prevention, and flu/EID symptoms shall be disseminated to employees via staff bulletin boards, newsletters etc.

All County departments shall have waterless antibacterial hand cleanser available in the offices.

Departments shall inventory essential operating supplies to be sure there will be adequate available shall vendors not be able to supply items during an influenza/pandemic event.

All County departments shall have a supply of disposable thermometers available to take the employees' temperatures. Emergency Medical Services (EMS) will provide disposable thermometers to each department at cost.

8.11 Workplace Actions during a Pandemic Flu Event

Department directors shall notify the Human Resources Director and the County Manager if they are experiencing significant staff shortages due to illness.

The County Manager may designate the suspension of specific services to the public or specific County operations if necessary due to staff shortages or to protect staff from infection. Unless all County operations are officially suspended, certain essential functions will still have to be maintained and all County staff that are not actively ill or infectious must report to work, or serve from a remote location, unless otherwise instructed. The County Manager may reassign staff as required in emergency situations.

The County Manager may designate essential employees to comprise the Pandemic Flu Events Team, who will be responsible for monitoring conditions for the purposes of communicating and implementing emergency plans to maintain the safety and security of Lincoln County employees and operations.

The County's overtime for non-exempt and informal leave for exempt employees (Lincoln County Personnel Policy - Overtime Policy) will remain in effect during an influenza/pandemic event, unless the County Manager and/or Board approve a modification to the policy for the emergency.

9.0 Accommodation

9.1 Purpose

Lincoln County is committed to the fair and equal employment of people with disabilities. It is the policy of Lincoln County to accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship or a direct threat to the health or safety of the employee or others in the workplace.

Accommodations will be provided to qualified individuals with disabilities when such accommodations are directly related to performing the essential functions of a job, competing for a job, or to enjoy equal benefits and privileges of employment. This policy applies to all applicants and employees.

9.2 Definitions

Disability.

For purposes of determining eligibility for accommodation, a person with a disability is one who has a physical or mental impairment that materially or substantially limits one or more major life activity, has a record of such impairment, or is regarded as having an impairment.

Accommodation.

An accommodation is a modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to perform the essential functions of the job and/or enjoy an equal employment opportunity. Depending on circumstances, examples of accommodations may include but not be limited to: acquiring or modifying equipment or devices; modifying training materials; making facilities readily accessible; modifying work schedules; and re-assignment to a vacant position.

Undue Hardship

"Undue hardship" means significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of Lincoln County.

9.3 Requests for Accommodation

Requests for accommodation will be processed as quickly as reasonably practicable under the circumstances. Any individual requesting an accommodation is required to fully cooperate in the process, including providing relevant information and providing any required HIPAA consent in order for Lincoln County to contact and obtain information from the individual's health care provider, if applicable.

9.4 Employee Procedures

Employees shall submit accommodation requests to the Human Resources Department by informing the ADA Coordinator of the need for an accommodation, and providing any requested documentation of the individual's functional limitation to support the request. (All medical documentation will remain confidential.)

9.5 Reasonable Accommodation Process

When a qualified individual with a disability has requested an accommodation, the employer shall, in consultation with the individual:

Discuss the purpose and essential functions of the particular job involved. Completion of a job analysis questionnaire may be necessary.

Determine the precise job-related limitation.

Identify the potential accommodations and assess the effectiveness each would have in allowing the individual to perform the essential functions of the job.

Select and implement the accommodation that is the most appropriate for both the individual and the employer. While an individual's preference will be given consideration, the County is free to choose among equally effective accommodations.

The ADA Coordinator will work with the employees to obtain technical assistance as needed.

The ADA Coordinator will respond to the employee within five (5) working days of receipt of the request.

If there is no reasonable accommodation that would enable the employee to perform the essential job functions, the employee and the ADA Coordinator shall work together to determine whether reassignment may be an appropriate accommodation. The ADA Coordinator will provide a decision to the employee within 20 days.

10.0 Severe Weather and Emergency Conditions

10.1 Purpose

As a local government, Lincoln County is responsible for providing essential services even during periods of severe weather or emergency conditions. However, there are certain severe weather conditions or other emergency conditions that may necessitate closing, delay or extension of work periods beyond the employee's regular work schedule. Severe weather conditions may be due to weather events such as a hurricane, tornado, or other weather-related storm. Other emergency events may include natural disasters, industrial disasters, traffic/transport disasters, and/or terrorist activities that result in a risk to persons and/or property.

The County Manager or their designee shall be responsible for making a decision about the County office work schedule during severe weather conditions or other emergency events.

10.2 Announcements and Notifications

Following the decision to delay, close or extend work schedules, Department Directors will be notified of the adjusted work schedule by the County Manager, and said correspondence should be made by email, or the most reasonable means of correspondence available at the time. The County Manager shall also utilize any notification system used by the County for mass notifications to employees, and work to notify the public of the adjusted work schedule through posting on social media and the County's website.

If severe weather or emergency conditions develop during the day, employees will be notified of closings through normal supervisory channels.

10.3 Reporting for Work

All employees are responsible for ensuring they can be reached by the County at all times. For the purpose of severe weather or other emergency events, county operations are deemed either Essential or Non-Essential.

Essential County Operations employees are expected to report for work their regular schedule regardless of closing or delay for severe weather or other emergency events. Essential County Employees are designated as but not limited to:

1. Sheriff's Office and Jail – Deputies and Supervisors on shift, report as normal
2. Emergency Management – Report only when activated
3. Fire Marshall – Report only when activated
4. Emergency Medical Services – Personnel and Supervisors on shift, report as normal
5. Emergency Sheltering (Health and DSS) – Report only when activated
6. DSS – On call workers, report as normal, and backup on-call workers, report only when activated
7. Water and Wastewater Field Operations – Report as normally scheduled
8. Solid Waste – Report only when activated
9. Water Treatment Plant – Report as normally scheduled
10. Wastewater Treatment Plant – Report as normally scheduled
11. Facilities Management – Report only when activated
12. Planning and Inspections – Inspectors report only when activated
13. Animal Services – Shelter staff report as normally scheduled
14. Communications - Report as normally scheduled.

Non-Essential County Operations are County provided services that are not generally needed at the time of a severe weather or other emergency event. Employees not listed under Essential County Operations are considered Non-Essential Employees. Clerical staff of Essential Operations are considered Non-Essential Employees.

Non-Essential Employees are excused from reporting during an official closing, delay, or cancellation unless they are notified by an appropriate supervisor that they must report for work to support Essential County Operations in spite of the closing, delay, or cancellation of other activities. Such determinations and notifications are made on a situation-specific basis.

If the County is operating on a delayed opening schedule, all flexible scheduling is suspended unless specifically approved by the County Manager.

10.4 Adverse Weather at Night

If adverse weather occurs overnight, the County Manager or their designee shall make a decision about the adjusted office work schedule by 06:30 a.m. the following morning. Any notification shall be distributed as provided in Section 10.2 of this Policy.

10.5 Adverse Weather During Work Hours

The County Manager or their designee shall be responsible for making a decision about the County office work schedule as provided herein. Each Department shall develop and maintain an emergency call-back plan. Drafted plans shall be submitted to the Human Resources Director for approval prior to implementation.

Administrative Leave During Inclement Weather

If County offices are declared closed by the County Manager, all employees (full-time or part-time) who are scheduled to work on that day will be provided with Administrative Leave to ensure compensation for their regularly scheduled workweek. No employee shall be permitted to utilize Administrative Leave provided hereunder for the accrual of more than 40 hours in a regular workweek. Employees already scheduled for leave of any type on that day will not be permitted to opt for Administrative Leave instead of their already approved leave. Essential Employees who are required to work during a delay or closing will not receive Administrative Leave.

Offices Open

If County offices have not been declared delayed or closed as provided herein, all employees are required to make a good faith effort to report to work during times of adverse weather conditions or other emergency situation, without putting themselves at undue risk of injury. If an employee is not able to report to work, then the employee shall be required to utilize annual leave.

10.6 Compensation

Essential Non-Exempt Employees.

An essential non-exempt employee who is required to report to work during a period of severe weather or emergency conditions shall receive their base rate of pay for work performed and shall be subject to the Overtime Policy (Section 5.5).

Essential Exempt Employees.

The County Manager may authorize the award of Informal Leave (established under Section 5.5.2) for an Essential Exempt Employee who responds to a severe weather or other emergency event and works beyond the expected hours for the

position. The awarding of Informal Leave in such case is intended to be compensation for working extended periods above and beyond the employee's regular schedule. Further, in the event of a Disaster Declaration or State of Emergency, which is eligible for FEMA reimbursement, the County Manager may authorize overtime compensation for essential exempt employees at straight-time compensation.

Non-Essential Employees will not forfeit pay for regularly-scheduled work hours missed due to official closing, delay, or cancellation, nor will they be required to make up the work time or report such time as voluntary leave (sick or annual). The employee shall be entitled to use Administrative Leave, as described in Section 10.5, to make up for hours missed on the day of closure. However, the employee shall not be permitted to use Administrative Leave for any hours missed that would result in the accrual of more than 40 hours in a workweek.

Non-Exempt Employees Report to Work. A Non-Essential Exempt Employee who reports for work at the request of their Director or Supervisor, during a period of severe weather or emergency conditions shall receive their base rate of pay for work performed and shall be subject to the Overtime Policy (Section 5.5).

Exempt Employee Report to Work. The County Manager may authorize the award of Informal Leave (established under Section 5.5.2) for a Non-Essential Exempt Employee who responds to a severe weather or other emergency event at the request of their Department Director or the County Manager.

10.7 Extended Duty Pay for Exempt Employees

In an emergency situation, including but not limited to, when there is an extraordinary situation or event that (1) threatens the operations of the County, (2) requires increased health or safety related services, or (3) places the residents of Lincoln County at risk, the County Manager shall authorize a Department Director to offer exempt employees additional pay on a straight-time basis for work that requires additional hours beyond said exempt employee's regular work schedule. The additional work must be pre-scheduled and pre-authorized by the Department Director. The number of extended duty hours shall be limited to no more than twenty (20) hours per week, unless otherwise authorized by the County Manager. Exempt employees performing Extended Duty work must perform their normal duties or other duties qualifying as exempt under the FLSA. Exempt employees performing Extended Duty work shall not perform solely non-exempt duties as part of their primary duties, except as allowed by law. This section shall also apply when the Lincoln County Board of Commissioners declares a state of emergency in Lincoln County. The implementation of this Section shall not be contingent on any presidential declaration or federal funding.

10.7.1 Labor Policies

FEMA determines the eligibility of overtime, premium pay, and compensatory time costs based on the Applicant's pre-disaster written labor policy, provided the policy:

- Does not include a contingency clause that payment is subject to Federal funding;
- Is applied uniformly regardless of a Presidential declaration; and
- Has set non-discretionary criteria for when the Applicant activates various pay types.

11.0 Zero Tolerance Substance Abuse Policy

11.1 Purpose

Lincoln County (the "County") is committed to providing, within its means, a healthy and safe work environment in order to provide the best possible services to County residents, to maintain the public's confidence in its employees, and to protect the County from the economic losses that occur due to alcohol and drug abuse. The purpose of this policy is to make the County a safer and better place to work.

In an effort to prevent the effects of substance abuse in the transportation industry, the federal government has expanded its current drug and alcohol regulations for federal motor carriers as codified in 49 CFR 382 and 49 CFR 40 (as amended). To maintain a drug-free work force and to eliminate the safety risks, lost time and reduced productivity that results from the use and the influence of alcohol and/or drugs in the workplace the County has adopted this Substance Abuse Policy.

11.2 Applicability

This Substance Abuse Policy applies to the following individuals:

- (1) Applicants being considered for full or part time positions with Lincoln County;
- (2) All current employees of Lincoln County, including but not limited to:
 - a. Full-time employees being considered for, or currently performing *safety sensitive duties* as defined by the laws of the federal government, the State of North Carolina, and further defined herein.
 - b. Any employee who operates a commercial motor vehicle and is subject to the commercial driver's license requirements in 49 CFR 382.

Reasonable Suspicion Testing shall apply to all current full-time and part-time employees of Lincoln County.

This Substance Abuse Policy does not apply to any employee of the County which is covered under Section 12.0 of the Personnel Policy entitled Zero Tolerance Drug and Alcohol Testing Policy for Transportation Lincoln County.

11.3 Definitions

Accident. An occurrence associated with the operation of a county-owned vehicle even when not in service, if as a result:

- i. An individual dies;
- ii. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- iii. One or more vehicles incur disabling damage as the result of the occurrence and transported away from the scene by a tow truck or other vehicle.

Adulterated specimen. A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol. The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration. Expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device.

Aliquot. A fractional part of a specimen used for testing that is taken as a sample representing the whole specimen.

Canceled Test. A drug test that has been declared invalid by a Medical Review Officer. A canceled test is neither positive nor negative.

Confirmatory Drug Test. A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

Confirmatory Validity Test. A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Covered Employee. All employees of Lincoln County, as described above in Section 11.2.

Designated Employer Representative (DER). An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

Department of Transportation (DOT). Department of the federal government which includes the, Federal Transit Administration, Federal Railroad Administration, Federal Highway Administration, Federal Motor Carriers' Safety Administration, Research and Special Programs, and the Office of the Secretary of Transportation.

Dilute specimen. A urine specimen with Creatine and specific gravity values that are lower than expected for human urine.

Disabling damage. Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

Evidentiary Breath Testing Device (EBT). A Device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations. Approved devices are listed on the National Highway Traffic Safety Administration (NHTSA) conforming products list.

Initial Drug Test. (Screening Drug Test) The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test. The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid

Invalid Result. The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted results cannot be established for a specific drug or specimen validity test.

Laboratory. Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

Limit of Detection (LOD). The lowest concentration at which a measured can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

Limit of Quantitation. For quantitative assays, the lowest concentration at which the identity and concentration of the measured can be accurately established.

Medical Review Officer (MRO). A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

Negative Dilute. A drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

Negative result. The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Non-negative test result. A urine specimen that is reported as adulterated, substitute, invalid, or positive for drug/drug metabolites.

Oxidizing Adulterant. A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

Performing (a safety-sensitive function). A covered employee is considered to be performing a safety- sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive result. The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

Prohibited drug / Prohibited substances. Any substance identified as marijuana, cocaine, opiates, amphetamines, ecstasy, or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended. Also, included within this definition is any substance identified in Schedule I through Schedule V of 21 CFR 1308.

Reconfirmed. The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

Rejected for Testing. The result reported by an HHS- Certified laboratory when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Revenue Service Vehicles. All transit vehicles that are used for passenger transportation service or that require a CDL to operate. Include all ancillary vehicles used in support of the transit system.

Safety-sensitive functions. A position which involves duties that are of such a great risk of injury to others that even a momentary lapse of attention can have disastrous consequences.

Safety-sensitive Employees. A comprehensive list of all positions is provided in Section 11.21 of this Policy.

Split Specimen Collection. A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP). A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed marriage and family therapist or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted specimen. A urine specimen with creatinine and specific gravity values that are so diminished that they are not consistent with normal human urine.

Test Refusal: The following are considered a refusal to test if the Covered Employee:

- 1) Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer;
- 2) Fails to remain at the testing site until the testing process is complete;

- 3) Fails to provide a urine or breath specimen for any drug or alcohol test required by 49 CFR 382 or other agency regulations;
- 4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the Covered Employee's provision of a specimen;
- 5) Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- 6) Fails or declines to take a second test the employer or collector has directed the Covered Employee to take;
- 7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures;
- 8) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process);
- 9) If the MRO reports that there is a verified adulterated or substituted test result;
- 10) Failure or refusal to sign Step 2 of the alcohol testing form;
- 11) Failure to follow the observer's instructions during an observed collection including instructions to a Covered Employee to raise their clothing above the waist, lower clothing and underpants, or to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- 12) Possesses or wears a prosthetic or other device that could be used to interfere with the collection process; or
- 13) Admits to the collector or MRO that the Covered Employee adulterated or substituted the specimen.

11.4 Education and Training

Every Covered Employee shall receive a copy of this Substance Abuse Policy and will have access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended.

Training for Directors and Supervisors. All Directors and Supervisors shall undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. This training will be offered and coordinated through the Human Resources Department and shall include information regarding manifestations and behavioral cues that may indicate prohibited drug use.

Reasonable Suspicion Training. All Directors, Supervisors or County officials who are in a position to determine employee fitness for duty shall receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. Directors and Supervisors shall be required to undergo training at least once every 24 months. Under Lincoln County's own authority, supervisory personnel will also be trained on how to intervene constructively and how to effectively integrate an employee back into his/her work group following intervention and/or treatment.

11.5 Prohibited Substances

Prohibited substances, as defined herein, are prohibited at all times in the workplace unless a legal prescription has been written for the substance. This shall include the use of any prohibited substance, the misuse of a legally prescribed drug, or the use of illegally obtained prescription drugs. The medical use of marijuana, or the use of hemp related products, as which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy.

The Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all Covered Employees be tested for ecstasy, cocaine, and amphetamines.

Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may

be adversely affected must be reported to the Covered Employee's immediate supervisor and the employee shall be required to provide a written release from his/her doctor indicating that the employee can perform his/her safety-sensitive functions while using said legally prescribed drug. If it is determined by the Covered Employee's doctor that the Covered Employee cannot perform their safety sensitive position then the County will take reasonable efforts to re-assign the Covered Employee to a different position, if available at the time. If a different position is not available, then the Covered Employee will be required to take sick or annual leave until the Covered Employee is cleared to return to work in their position.

Alcohol: The consumption of any alcoholic beverage, and any other substance containing alcohol (including but not limited to: mouthwash, medication, food, or candy) where alcohol would be present in the body while performing safety-sensitive job functions is prohibited.

11.6 Prohibited Conduct

All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended; or if the covered employee has the presence of alcohol in their system causing an alcohol concentration of any amount.

All Covered Employees are prohibited from the consumption or use of prohibited substances and/or alcohol while on duty with Lincoln County, or while in a county-issued uniform. If any supervisor is aware that their employee is under the influence of alcohol or a prohibited substance and allows for them to remain on duty, that supervisor shall be subject to disciplinary action.

On Call Employees. All Covered Employees that serve in a position where they are expected to remain on-call for a certain period of time shall not consume or use any prohibited substance or alcohol. If said on-call employee has done so, then they must disclose that upon a request to report for duty. Following the disclosure, the employee will be relieved of his/her on-call responsibilities and subject to discipline.

Post-Accident Protocol. No Covered Employee shall consume alcohol until said employee has submitted to any post-accident drug or alcohol testing as required by this Personnel Policy.

11.7 Drug Free Workplace Statement

As required by §8103 of the Drug-free Workplace Act of 1988, all Lincoln County employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of prohibited substances in the workplace, including all Lincoln County buildings, vehicles and properties. Any employee arrested for said violation must notify their immediate supervisor and the County Manager within 24 hours of arrest. The failure of any Covered Employee to properly notify Lincoln County, shall result in further disciplinary action.

11.8 Testing Requirements

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR Part 40 as amended. All Covered Employees shall be subject to testing prior to performing safety-sensitive duty for the following reasons: (1) reasonable suspicion, (2) following an accident, or (3) at random as provided in Sections 11.11 through 11.14 of this Policy.

Testing for Prohibited Substances and/or Alcohol: A test may be performed on a Covered Employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions.

Any Covered Employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section 11.17 of this policy.

11.9 Testing Procedures for Prohibited Substances / Prohibited Drugs

This section shall apply to all testing for prohibited substances or prohibited drugs described in this Substance Abuse Policy.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistently with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

The drugs that will be tested for shall include, but are not limited to: ecstasy, marijuana, cocaine, opiates, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at an HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

The test results from the HHS certified laboratory will be reported to a Medical Review Officer. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to the Human Resources Director. If a legitimate explanation is found, the MRO will report the test result as negative to the DAPM and no further action will be taken.

If the test is invalid without a medical explanation, a re-test will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.

Any Covered Employee who questions the results of a required test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split sample that was provided by the Covered Employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the Covered Employee. Lincoln County will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, however Lincoln County will seek reimbursement for the split sample test from the Covered Employee.

If the analysis of the split specimen fails to confirm the presence of the prohibited substances detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled. If the split specimen is not available to analyze the MRO will direct Lincoln County to re-test the employee under direct observation.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so,

requested by the employee through the Medical Review Officer. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year.

Observed Collections. Consistent with 49 CFR part 40, as amended, collection under direct observation with no advance notice will occur if:

- The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Lincoln County that there was not an adequate medical explanation for the result;
- The MRO reports to Lincoln County that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to you as negative dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).
- The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- The temperature on the original specimen was out of range;
- Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
- All follow-up-tests; or
- All return-to-duty tests.

Urine collections that are required to be directly observed will be conducted by a person of the same gender as the donor as required by 49 CFR Part 40.67.

11.10 Alcohol Testing Procedures

This section shall apply to all testing for alcohol described in this Substance Abuse Policy.

Tests for breath alcohol concentration shall be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHSTA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted at least fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the Covered Employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section 11.17 of this policy. Even though an employee who has a confirmed alcohol concentration of 0.01 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to possible disciplinary action. The employee shall be required to use annual leave for any duration of the work day that they are removed from duty, and shall not be allowed to flex any of that time during the then-current pay period. An alcohol concentration of less than 0.01 will be considered a negative test.

Lincoln County affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

11.11 Pre-Employment Testing

All applicants being considered for employment for Lincoln County, including safety-sensitive and non-safety-sensitive positions, shall undergo urine drug testing prior to employment. All offers of employment for covered positions shall be conditional upon the applicant passing a drug test. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded.

Failure of a pre-employment drug test will disqualify an applicant for employment for a period of one year. At the discretion of the County Manager, the applicant may be required to provide the County with proof of having successfully completed a referral, evaluation or treatment plan. The cost for any such assessment or any subsequent treatment shall be the sole responsibility of the applicant.

If a pre-employment test is canceled for any reason, then the applicant shall be required to take and pass all pre-employment testing.

Applicants for, or Transfers to, Safety-Sensitive Positions.

Any applicant for a Safety-Sensitive Position shall provide written consent to the County that the County may request the following information from any of the applicant's previous employers that are DOT-regulated.

The County, by and through its HR Department, is required to request the following information from DOT-regulated employers who have employed the applicant during any period during which two (2) years before the date of the applicant's application (or employee's transfer to a safety-sensitive position):

- (1) Alcohol tests with a result of 0.04 or higher alcohol concentration;
- (2) Verified positive drug tests;
- (3) Refusals to be tested (including verified adulterated or substituted drug test results);
- (4) Other violations of DOT agency drug and alcohol testing regulations; and
- (5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee.

11.12 Reasonable Suspicion Testing

All Covered Employees shall be subject to a reasonable suspicion drug and/or alcohol test when the employee's supervisor has reasonable suspicion to believe that the Covered Employee has used a prohibited drug or engaged in alcohol misuse, or a combination thereof. A reasonable suspicion alcohol test may be performed any time the covered employee is on duty.

Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably conclude that an employee may be adversely affected or impaired in their work performance due to possible prohibited substance abuse or alcohol misuse.

Procedure for Reasonable Suspicion Testing.

1. The Covered Employee's supervisor, or someone with supervisory authority over the Covered Employee, shall be responsible for transporting the Covered Employee to the testing site. However, supervisors shall avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending the results of any testing and possible disciplinary action described in Section 11.17 of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section 11.17 of this policy.

A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the Human Resources Department and shall be attached to the forms reporting the test results.

2. When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the Covered Employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the Covered Employee shall be referred to the SAP for an assessment. Lincoln County shall allow the Covered Employee to take sick leave for time needed to obtain an assessment from a SAP. Testing in this circumstance would be performed under the direct authority of Lincoln County. Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections 11.12 through 11.14 of this policy or the associated consequences as specified in Sections 11.17.

Any Covered Employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section 11.17 of this policy.

11.13 Post-Accident Testing

County Equipment. All Covered Employees shall be required to undergo testing for alcohol or prohibited substances and prohibited drugs if the Covered Employee, while on duty, is in an accident involving county-owned equipment if the Covered Employee, another employee of Lincoln County, or a member of the general public is severely injured.

County Vehicles. All Covered Employees shall be required to undergo testing for alcohol or prohibited substances and prohibited drugs if the Covered Employee, while on duty, is in a motor-vehicle accident while operating a county vehicle, and one of the following occurs:

- An individual dies;
- The Covered Employee is issued a citation under state or local law for a moving violation arising from the accident;
- One or more vehicles incurs disabling damage; or
- Results in injuries to individuals requiring immediate transportation to a medical treatment facility.

The above shall not apply if the Covered Employee can be completely discounted as a contributing factor to the accident by documentation provided by the responding law enforcement agency.

Timeliness of Testing. As soon as it is practicable following an Accident, as defined in this policy, the supervisor investigating the accident will notify the employee operating the vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination of fault of their employee, in consultation with the Human Resources Department, using the best information available at the time of the decision. The appropriate supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as

practicable, but no longer than eight (8) hours following the accident for alcohol, and thirty-two (32) hours for prohibited drugs. The supervisor shall be responsible for transporting the employee to the testing site, or making sure that the employee is transported to the site by someone with supervisory capacity. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, then any attempts to conduct the test must cease and the reasons for the failure to test must be documented. ***Any covered employee involved in an accident must refrain from alcohol use until he/she undergoes a post-accident alcohol test.***

A Covered Employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that Lincoln County is unable to perform an drug and alcohol testing, as required under this policy, (i.e., employee is unconscious, employee is detained by law enforcement agency, etc.) then Lincoln County may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the testing required hereunder. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

11.14 Random Testing (CDL Drivers and Safety Sensitive Employees Only)

This section shall only apply to those Covered Employees who are considered safety-sensitive employees, or who hold a CDL for the operation of commercial vehicles.

- All employees shall be subject to random and unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees.
- The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- The number of employees randomly selected for alcohol testing and/or prohibited drug testing during the calendar year shall be not less than the percentage rates established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations.
- Each employee shall be in a pool from which the random selection is made. Each employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- Those employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of employees that are included solely under Lincoln County authority.
- Random tests can be conducted at any time during an employee's shift.

Employees are required to proceed immediately to the collection site upon notification of their random selection. Each selected employee shall be transported by their immediate supervisor, or someone in a supervisory capacity if the immediate supervisor is not available. If the selected employee is a department director, then the County Manager shall

either transport the director, or designate another employee who is not a subordinate of the selected department director, to the testing site.

11.15 Return to Duty Testing

Any Covered Employee who was subject to testing under this policy and either tested positive for the presence of alcohol, a prohibited substance or a prohibited drug, shall be required to undergo testing under this provision.

- If the Covered Employee tested positive for prohibited substances or prohibited drugs and was temporarily relieved of their duty based on said positive test, then the Covered Employee shall be required to test for the presence of prohibited substances or prohibited drugs, with a negative result, prior to returning to duty.
- If the Covered Employee tested for alcohol, it was determined that alcohol was present, and the employee was temporarily relieved of their duty based on said test, then the Covered Employee shall be required to test for the presence of alcohol, with a negative result, prior to returning to duty.
- If the Covered Employee was evaluated and treated by the SAP, then the County shall follow the recommendations of the SAP in regards to when the Covered Employee shall return to duty and shall undergo any testing required under this provision. The SAP should take into consideration public safety when making their recommendation.

Return following Extended Leave by Safety Sensitive Employees. If a Covered Employee is on extended leave for a period of 90 consecutive days or more, regardless of reason, and the Covered Employee is considered to be in a safety-sensitive position, the employee shall be required to undergo testing for prohibited substances and prohibited drugs prior to returning to duty.

11.16 Follow-Up Testing

Additional follow-up testing shall be conducted following a Covered Employee's return-to-duty for a period of one to five years, with at least six tests performed during the first year. The duration and frequency of the follow-up testing above the minimum requirements shall be based on the recommendation of the Substance Abuse Professional.

11.17 Results of Testing

11.17.1. Negative Dilute Result

Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

11.17.2. Refusal to Test

A Covered Employee's refusal to submit to testing for alcohol or a prohibited substance (including follow up testing, random testing, etc.) shall be considered a positive test result and an act of insubordination and shall result in termination. A *test refusal* is defined in Section 11.3 of this Policy.

11.17.3. Verified Positive Test Result for All Testing Under this Policy

Following the receipt of a verified positive test for either alcohol or a prohibited substance, the following process shall commence:

- After receiving notice of a verified positive drug test result, a confirmed alcohol test result, or a test refusal, the HR Director shall contact the employee's supervisor to have the employee cease work and remove them from duty until further notice.
- Following the immediate removal from duty, the employee shall be referred to a Substance Abuse Professional for an assessment. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse. *The services of the SAP shall be paid for by the employee receiving said services.*

The reason for the testing shall determine the next step in the process.

1. If the Covered Employee was required to test pursuant to Section 11.13 (Post-Accident Testing), and received a verified positive, then the Covered Employee shall be terminated from employment pursuant to Section 11.18.1 of this Policy.
2. If the Covered Employee was required to test pursuant to Section 11.12 (Reasonable Suspicion Testing), and received a verified positive, then the Covered Employee shall be terminated from employment pursuant to Section 11.18.1 of this Policy.
3. If the Covered Employee was required to test pursuant to Section 11.14 (Random Testing), and received a verified positive, then the Covered Employee shall be required to meet the requirements under Section 11.15 of this Policy. The Covered Employee may be subject to discipline pursuant to Section 11.18.1 of this Policy.
4. Following the Covered Employee's return to work, the Covered Employee shall be subject to the follow-up testing requirements of Section 11.16 of this Policy.

The Failure or refusal to submit to required follow-up testing shall be considered insubordination and shall result in termination.

If the follow-up testing results in a positive result for either alcohol or prohibited substances, the employee shall result in termination.

11.18 Discipline, Grievance and Appeal

11.18.1. Discipline

A verified positive post-accident or reasonable suspicion test for either alcohol or prohibited substance shall result in immediate termination.

A verified positive random test for either alcohol or prohibited substance shall result in immediate removal from duty. The employee shall be subject to discipline, up to and including termination.

In the case of a self-referral or a management referral for a Covered Employee, the following disciplinary action shall apply:

- There shall be a mandatory referral to a Substance Abuse Professional for assessment, and formulation of a treatment plan;
- Prior to returning to duty, the Covered Employee shall undergo all requirements of this policy;
- If a verified positive result is received on any follow-up testing or return-to-duty testing, then the employee shall be subject to discipline.

A self-referral or management referral to the SAP that was *not precipitated* by a positive test result shall not be considered a positive test result in relation to this policy.

Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to this policy.

11.18.2 Grievance and Appeal

Any Covered Employee is provided with the opportunity to appeal a disciplinary decision pursuant to Section 17.4.8 of this Policy.

An appeal of any decision made by a MRO regarding a verified positive result shall not be subject to appeal pursuant to 49 CFR 40.149(c)

11.19 Proper Application of the Policy

Lincoln County is dedicated to assuring fair and equitable application of this Substance Abuse Policy. Therefore, all supervisors are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor who knowingly disregards the requirements of this policy, or who is found to be deliberately misusing this policy shall be subject to disciplinary action, up to and including termination.

11.20 Disclosure of Information

- All testing records, related to the implementation of this Substance Abuse Policy, shall be maintained by the Lincoln County Human Resources Manager and, except as provided below or by law, the results of any test shall not be disclosed without express written consent of the tested employee.
- The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP referrals and follow-up testing plans.
- Records of a verified positive test result shall be released to the Human Resources Director, the Covered Employee's immediate Supervisor and the Department Director on a need-to-know basis.
- Records may be released to a subsequent employer only upon receipt of a written request from the employee.
- Records of an employee's tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the test. The records will be released to the decision maker in the preceding. The information shall only be released with binding stipulation from the decision maker will make it available only to parties in the preceding, and the record shall otherwise remain sealed. Records will be released to the National Transportation Safety Board during an accident investigation.
- Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding, and the record shall otherwise remain sealed.
- Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Lincoln County or the employee.
- If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of federal law, then necessary legal steps to contest the issuance of the order will be taken.

11.21 Safety Sensitive Employees

The Lincoln County Human Resources Department shall be responsible for preparing and maintaining a complete list of all positions that are considered Safety-Sensitive and positions that require that the employee obtains and maintains a CDL license.

Those complete lists may be found here: [Safety-Sensitive and CDL Positions](#)

Any position that is considered safety sensitive shall be described as such in the job listing / description maintained by Human Resources and shall also be in any offer letter for the position. However, the failure to do so shall not alleviate any responsibility or requirements of the employee, as set forth herein.

12.0 Zero Tolerance Drug and Alcohol Testing Policy Transportation Lincoln County

Adopted as of January 22, 2024

12.1 Purpose

Transportation Lincoln County provides public transit and paratransit services for the residents of Lincoln County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, Transportation Lincoln County declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.

Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. Covered employees shall abide by the terms of this policy statement as a condition of employment. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates drug and alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of specimens for drug and alcohol testing.

Any provisions set forth in this policy that are included under the sole authority of Transportation Lincoln County and are not provided under the authority of the above-named Federal regulations are underlined. Tests conducted under the sole authority of Transportation Lincoln County will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

12.2 Applicability

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties. See Attachment A for a list of employees and the authority under which they are included.

A safety-sensitive function is operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, persons controlling the dispatch or movement of revenue service vehicles and any transit employee who operates a non-revenue service vehicle that requires a Commercial Driver's License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL or receive remuneration for service in excess of actual expense.

12.3 Definitions

Accident: An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- An individual dies;
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,

- One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Adulterated specimen: A specimen that has been altered, as evidence by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration: Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

Aliquot: A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

Alternate specimen: An authorized specimen, other than the type of specimen previously collected or attempted to be collected.

Canceled Test: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

Collection Site: A place selected by the employer where employees present themselves for the purpose of providing a specimen for a drug test.

Confirmatory Drug Test: A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify a specific drug or drug metabolite.

Confirmatory Validity Test: A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Covered Employee Under FTA Authority: An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

Cutoff: The analytical value (e.g., drug or drug metabolite concentration) used as the decision point to determine a result (e.g., negative, positive, adulterated, invalid, or substituted) or the need for further testing.

Designated Employer Representative (DER): An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

DOT, The Department, DOT Agency: These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

Dilute specimen: A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling damage: Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Employee: Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under 49 CFR Part 40, the term employee has the same meaning as the term "donor" as found on CCF and related guidance materials produced by the Department of Health and Human Services.

Evidential Breath Testing Device (EBT): A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

Initial Drug Test: The first test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test: The first test used to determine if a specimen is adulterated, diluted, substituted, or invalid.

Invalid Result: The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Laboratory: Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of HHS; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under 49 CFR Part 40.

Limit of Detection (LOD): The lowest concentration at which the analyte (e.g., drug or drug metabolite) can be identified.

Limit of Quantification (LOQ): For quantitative assays, the lowest concentration at which the identity and concentration of the analyte (e.g., drug or drug metabolite) can be accurately established.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

Negative Dilute: A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

Negative result: The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

Non-negative specimen: A specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), or invalid.

Oral Fluid Specimen: A specimen that is collected from an employee's oral cavity and is a combination of physiological fluids produced primarily by the salivary glands. An oral fluid specimen is considered to be a direct observation collection for all purposes of 49 CFR Part 40, as amended.

Oxidizing Adulterant: A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

Performing (a safety-sensitive function): A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive result: The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

Primary specimen: In drug testing, the specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of specimen validity testing. The primary specimen is the portion of the donor's subdivided specimen designated as the primary ("A") specimen by the collector to distinguish it from the split ("B") specimen, as defined in 49 CFR Part 40, as amended.

Prohibited drug: Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine as specified in 49 CFR Part 40, as amended.

Reconfirmed: The result reported for a split (Bottle B) specimen when the second HHS-certified laboratory corroborates the original result reported for the primary (Bottle A) specimen.

Rejected for Testing: The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Revenue Service Vehicles: All transit vehicles that are used for passenger transportation service.

Safety-sensitive functions: Employee duties identified as:

- The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.
- The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- Maintaining a revenue service vehicle or equipment used in revenue service.
- Controlling dispatch or movement of a revenue service vehicle and
- Carrying a firearm for security purposes.

Specimen: Fluid, breath, or other material collected from an employee at the collection site for the purpose of a drug or alcohol test.

Specimen Bottle: The bottle that, after being sealed and labeled according to the procedures in 49 CFR Part 40, is used to hold a primary ("A") or split ("B") specimen during the transportation to the laboratory. In the context of oral fluid testing, it may be referred to as a "vial," "tube," or "bottle."

Split Specimen: In drug testing, the specimen that is sent to a first laboratory and stored with its original seal intact, and which is transported to a second laboratory for retesting at the employee's request following MRO verification of the primary specimen as positive, adulterated or substituted.

Split specimen collection: A collection in which the single specimen collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted specimen: An employee's specimen not consistent with a normal human specimen, as determined by HHS (e.g., a urine specimen, with creatinine and specific gravity values that are so diminished, or so divergent that they are not consistent with normal human urine).

Test Refusal: The following are considered a refusal to test if the employee:

- Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
- Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- In the case of a directly-observed or monitored urine collection in a drug test, fail to permit monitoring or observation of your provision of a specimen.
- Fail to provide a sufficient quantity of specimen without a valid medical explanation.
- Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
- Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
- Fail to cooperate with any part of the testing process.
- Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine collection .
- Possess or wear a prosthetic or other device used to tamper with the collection process.
- Admit to the adulteration or substitution of a specimen to the collector or MRO.
- Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- Fail to remain readily available following an accident.
- As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

Undiluted (neat) oral fluid: An oral fluid specimen to which no other solid or liquid has been added. For example: A collection device that uses a diluent (or other component, process, or method that modifies the volume of the testable specimen) must collect at least 1 mL of undiluted (neat) oral fluid.

Urine specimen: Urine collected from an employee at the collection site for the purpose of a drug test.

Vehicle: A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

Verified negative test: A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use at or above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

Verified positive test: A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use at or above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity testing: The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the specimen, if the specimen was diluted, or if the specimen was altered.

12.4 Education and Training

Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

12.5 Prohibited Substances

Prohibited substances addressed by this policy include the following:

1. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1308.11 through 1308.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. It is important to note that the use of marijuana in any circumstances remains completely prohibited for any safety-sensitive employee subject to drug testing under USDOT regulations. The use of marijuana in any circumstance (including under state recreational and/or medical marijuana laws) by a safety-sensitive employee is a violation of this policy and a violation of the USDOT regulation 49 CFR Part 40, as amended.
2. Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.
3. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a Transportation Lincoln County supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.
4. Alcohol: The use of beverages containing alcohol (including mouthwash, medication, food, candy) or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited.

12.6 Prohibited Conduct

- Illegal use of the drugs listed in this policy and as defined in 49 CFR Part 40, as amended is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty if they have used a prohibited drug as defined in 49 CFR Part 40, as amended.
 - Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.
 - The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol
 - Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.
 - An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:
 1. The employee's alcohol concentration measures less than 0.02; or
 2. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.
- A. No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- B. No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- C. Transportation Lincoln County under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.
- D. Consistent with the Drug-free Workplace Act of 1988, all Transportation Lincoln County employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

12.7 Drug Statute Conviction

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the Transportation Lincoln County management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in this policy.

12.8 Testing Requirements

1. Drug testing and alcohol testing will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in this policy, and return to duty/follow-up.
2. A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function.
Under Transportation Lincoln County authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.

All covered employees will be subject to drug testing and alcohol testing as a condition of ongoing employment with Transportation Lincoln County. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in this policy.

12.9 Drug Testing Procedures

1. Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
2. The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine and/or oral fluid specimen will be collected as described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary specimen. For those specimens that are not negative, a confirmatory test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the confirmatory test are at or above the minimum thresholds established in 49 CFR Part 40, as amended.
3. The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to Transportation Lincoln County. If a legitimate explanation is found, the MRO will report the test result as negative.
4. If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
5. Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice

of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Transportation Lincoln County will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however Transportation Lincoln County will seek reimbursement for the split sample test from the employee.

6. If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.
7. Observed collections

Consistent with 49 CFR Part 40, as amended, collection under direct observation with no advance notice will occur if:

1. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Transportation Lincoln County that there was not an adequate medical explanation for the result;
2. The MRO reports to Transportation Lincoln County that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
3. The laboratory reported to the MRO that the urine specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the urine specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).
4. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
5. The temperature on the original urine specimen was out of range (See §40.65(b)(5));
6. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with (See §40.65(c)(1)).
7. All follow-up-tests; or
8. All return-to-duty tests

Urine collections that are required to be directly observed will be conducted by a person of the same gender as the donor as required by 49 CFR Part 40.67.

12.10 Alcohol Testing Procedures

- I. Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR

Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

- II. A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- III. Transportation Lincoln County affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- IV. The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

12.11 Pre-Employment Testing

All applicants for covered transit positions shall undergo drug testing prior to performance of a safety-sensitive function.

- All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
- An employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.
- If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded, and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
- When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with this policy.
- If a pre-employment test is canceled, Transportation Lincoln County will require the applicant to take and pass another pre-employment drug test.
- In instances where a FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
- Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

- Applicants are required (even if ultimately not hired) to provide Transportation Lincoln County with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. Transportation Lincoln County is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide Transportation Lincoln County proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

12.12 Reasonable Suspicion Testing

- A. All Transportation Lincoln County FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under Transportation Lincoln County's authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.
- B. Transportation Lincoln County shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in this policy.
- C. A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the Transportation Lincoln County.
- D. When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for Transportation Lincoln County assessment and treatment consistent with this policy. Transportation Lincoln County shall place the employee on administrative leave in accordance with the provisions set forth under this policy. Testing in this circumstance would be performed under the direct authority of the Transportation Lincoln County. Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in this policy or the associated consequences.

12.13 Post-Accident Testing

1. **FATAL ACCIDENTS** – A covered employee will be required to undergo drug and alcohol testing if they are involved in an accident with a transit vehicle, whether or not the vehicle is in revenue service at the time of the accident

that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.

2. NON-FATAL ACCIDENTS – A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:

- A. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
- B. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that Transportation Lincoln County is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), Transportation Lincoln County may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

12.14 Random Testing

1. All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Individuals who may be covered under company authority will be selected from a pool of non-DOT-covered individuals.

2. The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
3. The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>.
4. Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
5. Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under Transportation Lincoln County authority.
6. Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under Transportation Lincoln County's authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
7. Employees are required to proceed immediately to the collection site upon notification of their random selection.

12.15 Return-To-Duty Testing

Transportation Lincoln County will terminate the employment of any employee that tests positive or refuses a test as specified in this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety. The SAP will determine whether the employee returning to duty will require a return-to-duty drug test, alcohol test, or both.

12.16 Follow-Up Testing

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

12.17 Result of Drug/Alcohol Test

1. Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be immediately removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAP) for assessment, and will be terminated.
2. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
3. Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. A test refusal is defined as any of the following circumstances:
 - Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
 - Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
 - Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
 - In the case of a directly-observed or monitored urine collection in a drug test, fail to permit monitoring or observation of your provision of a specimen.
 - Fail to provide a sufficient quantity of specimen without a valid medical explanation.
 - Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
 - Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
 - Fail to cooperate with any part of the testing process.
 - Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly observed urine collection.
 - Possess or wear a prosthetic or other device used to tamper with the collection process.
 - Admit to the adulteration or substitution of a specimen to the collector or MRO.
 - Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
 - Fail to remain readily available following an accident.
 - As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
4. An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder of the workday whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NONDOT alcohol test with a result of less than 0.02 BAC.

5. In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
 - Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return-to-work agreement;
 - Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from Transportation Lincoln County _employment.

Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in this policy; however, all follow-up testing performed as part of a return-to-work agreement required under this policy is under the sole authority of Transportation Lincoln County and will be performed using non-DOT testing forms.

Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. **All tests conducted as part of the return-to-work agreement will be conducted under company authority and will be performed using non-DOT testing forms.**

A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in this policy.

Periodic unannounced follow-up drug/alcohol testing conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in this policy.

A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with Transportation Lincoln County.

A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.

6. Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

12.18 Grievance And Appeal

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

12.19 Proper Application of The Policy

Transportation Lincoln County is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

12.20 Information Disclosure

1. Drug/alcohol testing records shall be maintained by the Transportation Lincoln County Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.

2. The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
3. Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need-to-know basis.
4. Records will be released to a subsequent employer only upon receipt of a written request from the employee.
5. Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
6. Records will be released to the National Transportation Safety Board during an accident investigation.
7. Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
8. Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
9. Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Transportation Lincoln County or the employee.
10. If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken
11. In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the *Lincoln County Board of Commissioners* on January 22, 2024.

Signature

Date

Chairman, Board of Commissioners

Title

12.21 Attachment A

| Job Title | Job Duties | Testing Authority |
|------------------------------|---------------------------------|--------------------------|
| 1. Driver | Drives Bus | FTA/DOT |
| 2. Transportation Dispatcher | Supervises calls for TLC | FTA/DOT |
| 3. Transportation Supervisor | Supervises Drivers and Dispatch | FTA/DOT |
| 4. Transportation Manager | Manages Transportation | FTA/DOT |

12.22 Attachment B

Contacts

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

Transportation Lincoln County Drug and Alcohol Program Manager

Name: Andrew Bryant

Title: Director of Development Services

Address: 115 West Main Street, Lincolnton, NC 28092

Telephone Number: 704-666-6969

Medical Review Officer

Name: Dr. James Connolly, Nationwide Testing Association

Title: MAO - Medical Review Officer

Address: P.O. Box 508 Mooresville, NC 28115

Telephone Number: 704-660-8600

Substance Abuse Professional

Name: Changing Lives Matter, LLC

Address: 2591 E. Main Street, Lincolnton, NC 28092

Telephone Number: 1-704-240-8097

Name: McLaughlin Young Employee Services, Inc.

Address: PO Box 12025, Charlotte, NC 28220

Telephone Number: 1-704-529-1428

www.mygroup.com

HHS Certified Laboratory Primary Specimen

Name: Laboratory Corporation of America

Address: 1904 Alexander Drive, Research Triangle Park, NC 27709

Telephone Number: 800-341-1150

HHS Certified Laboratory Split Specimen

Name: Laboratory Corporation of America

Address: 1904 Alexander Drive, Research Triangle Park, NC 27709

Telephone Number: 800-341-1150

13.0 Internet and Email Use Policy

13.1 General Principles

Lincoln County information systems are intended for performing County business, regardless of whether a particular information system is located internally or remotely, as in a cloud or similar type of off-site data storage, or whether data is transmitted, stored or received on mobile or fixed devices.

Examples of applicable information systems and resources may include, but is not limited to:

- Desktop PCs and Workstations
- Servers and network communications equipment
- Mobile devices such as laptops and tablets
- County issued cell phones, smartphones, and other voice and data devices
- County provided desktop telephones, projectors, and teleconferencing equipment
- Accessible enterprise resources such as email, instant messaging, internet, and other productivity software
- Remote access technologies that enable secure communications between County owned and personal devices for instances of telework or other purposes
- Other enterprise technologies acquired and approved for enabling electronic access to County resources and data
- Acquired information technology services, systems, and/or application hosted in a non-County environment, also known as “cloud” or “software as a service”

Internet-based Information technology resources and applications used to conduct business on behalf of the County or otherwise engage, collaborate, and/or communicate with the public, partners, or other employees. This may include but is not limited to social media, streaming media, media sharing, online storage, and other non-County internet-based tools.

13.2 Acceptable Use – County Ownership

Information systems and resources are explicitly owned by Lincoln County Government, which includes all property rights in any content or other matter created, received, transmitted, stored on, or deleted from, any County information system. Also, any County information stored on a user’s personal device shall also be considered County property and may be viewed, accessed, retrieved, copied or disseminated by the County at any time.

13.3 User Privacy

Users of any County information system shall not have any expectation of privacy in any message, file, image, or data created, sent, retrieved, or received by their use of these systems. All users are advised not to store personal information on County information systems, and if they do so then are doing so at the user’s own risk.

All user activity on any County information system and County-approved devices is subject to monitoring, logging, auditing, review, dissemination and archiving by Lincoln County IT. County department heads and County administration have the right to monitor any and all aspects of the County's information systems, including any chat group, material downloaded or uploaded, and any email sent or received. This monitoring may occur at any time without notice and without the user's awareness or permission.

Any information on the County information systems and mobile communication or fixed devices may be subject to mandatory disclosure under Chapter 132 of the North Carolina General Statutes. Such information also may be subject to public disclosure or review by County officials. By using any County information system, the user agrees to surrender any data contained in such information system whether the data is owned by the County or alleged to be owned by anyone other than the County.

Personally owned mobile communication devices which have been approved for access to County information or technology resources may be subject to review by IT, and/or may be released to law enforcement in the event of an information-system or data security breach, or other investigation.

13.4 Confidential Information

Users shall comply with all laws, regulations, and County policies and procedures prohibiting or limiting the disclosure of confidential information, including but not limited to County client personal information. Confidential information transmitted on County information systems shall be sent only to those recipients who are authorized to receive such confidential information. Users shall take all steps necessary to protect the privacy of confidential information maintained by the County from unauthorized access.

13.5 Incidental Personal Use

Personal use of any County information system is use that is not related to the purpose for which the County has granted user authorized access. In general, incidental personal use of the County's information systems, such as Internet access and email, is permitted, unless the agency in which the user works restricts all incidental personal use of information systems.

Personal use of information systems is prohibited when it:

- Interferes with the user's productivity or work performance, or with the productivity or work performance of other users.
- Adversely affects the efficient operation of the information system or the County; or
- Is illegal or violates County policy or procedure.

Storage of personal data shall be kept to a minimum. Any such storage which is determined to interfere with the efficient operation of the County's information systems shall be removed at the instruction of IT.

13.6 Prohibited Use

Certain activities are prohibited when using County information systems, applications, data and resources, whether on County-owned or personally owned devices, except when County management has determined such activities are necessary for the performance of a user's official duties. These prohibited activities include, but are not limited to, the following:

- Accessing, downloading, transmitting, printing, or storing information with sexually explicit content.
- Downloading or transmitting fraudulent, threatening, obscene, intimidating, defamatory, violent, harassing, or discriminatory messages or images.
- Accessing or downloading gambling sites.
- Pursuing personal profit or gain or engaging in outside employment or personal business, unauthorized fundraising or political activities.
- Engaging in any prohibited activity described in any other County policy, regulation or guidance related to the use of County information systems.
- Unauthorized downloading, printing, or transmitting of information protected by federal or state copyright laws.
- Misusing or misapplying County information system privileges.
- Using software in violation of County vendor licensing agreements

13.6.1. Prohibition Against Pornography on County Networks and Devices

Pursuant to N.C.G.S. §143-805, the County shall not permit the viewing of pornography by an employee, elected official or appointee of the County, on a device owned, leased, maintained or otherwise controlled by the County, or on a network of the County. Pursuant to N.C.G.S. §143-805(g)(4), "pornography" shall be defined as any material depicting sexual activity.

This shall not apply to an official or employee that is engaged in any of the following activities in the course of that official's or employee's official duties, including, but not limited to:

1. Investigating or prosecuting crimes, offering or participating in law enforcement training, or performing actions related to other law enforcement purposes;
2. Identifying potential security or cybersecurity threats;
3. Protecting human life;
4. Establishing, testing, and maintaining firewalls, protocols and otherwise implementing this section;
5. Participating in judicial or quasi-judicial proceedings;
6. Performing or storing information relating to an individual's personal health in a medical capacity; or

7. Reviewing or investigating matters relating to adult protective services or child protective services.

Any employee, elected official, or appointee of the County determined to be in violation of this specific section shall be subject to disciplinary action under this Personnel Policy, which may include up to involuntary dismissal. Those elected officials or appointees who are not subject to this Personnel Policy may receive disciplinary action pursuant to the terms an employment contract (if applicable) for violation of this policy, or said violation may result in restricted or terminated access to County networks or devices. The specific disciplinary action or result of a violation is subject to the severity of the violation.

13.7 Information System Security

Users shall respect the confidentiality, security, and integrity of any County information system, be familiar with County information-system security policies and procedures, and report any security weaknesses or breaches in County information systems to IT. Any attempt to circumvent the controls established by the County shall result in disciplinary action.

The following precautions shall be taken by employees with access to the County's information system and devices:

- Users shall respect security controls for County information systems and not attempt to or circumvent those controls.
- Users shall not access or attempt to access any County information system without authorization from IT to do so.
- Users shall refrain from activities that intentionally or inadvertently disrupt, impair, or undermine the performance of County information systems. These activities include, but are not limited to, the following:
 - Intentionally causing physical or logical damage to a County owned information system or resource
 - Downloading computer viruses or malware or otherwise introducing malicious code into a County information system
 - Using Internet-based proxy servers or anonymizers, or any other tool, device or action that makes Internet activity untraceable, to bypass Web-filtering security mechanisms established on County information systems;
 - Downloading, installing, or running security programs or utilities that reveal weaknesses in the security of a County information system, including but not limited to password cracking programs, network reconnaissance and discovery applications, key loggers, packet sniffers, network mapping tools, and port scanners, without prior approval from the CIO in writing; or
 - Consuming excessive bandwidth through actions including but not limited to placing a program in an endless loop, printing excessive amounts of paper, and sending chain letters and unsolicited mass emails. All content downloaded from the Internet, including but not limited to non-standard shareware, free software, peer-to-peer software, and information-sharing software, is subject to prior approval from IT.
 - Users shall take reasonable steps to prevent the disclosure of their usernames, passwords, security tokens, or other similar information to unauthorized users.

- Users shall not use cloud or Internet-based hosting services to store or share County data unless specifically approved by the CIO in writing and acquired through terms that include the requirement for compliance with IT security standards in an approved contract. Users shall take all steps necessary to complete logoff or other termination procedures when finished using any County information system, which includes logging off from their systems at the end of the day, or when not at their workstation.
- Users of County-approved mobile devices shall ensure that precautions are taken to prevent theft or loss.
- Users shall not connect personally owned, or other non-County owned, equipment or devices to the County network infrastructure in any manner without proper approval.

13.7.1 Remote Access to the County Information System

Remote access to County information systems shall only be permissible through IT provided and supported remote access software applications, protocols, and delivery mechanisms. Any User required to use a remote access system shall be required to sign a Remote Access Agreement prior to set up of the system by IT.

13.8 Email and Chat Messaging Systems

All emails and chat messages sent on the County network should be related to the business of the County. It is acknowledged that some employees may use these systems for personal conversations with other employees during the workday, but those communications should remain limited. Prior to opening any email or chat, the User shall make reasonable efforts to validate the authenticity of messages received prior to opening any attachments or clicking on links.

13.9 Internet and Intranet

The County provides general access to the Internet from County networks and devices, and when said access is provided employee/users are identified as connecting from Lincoln County. Content and use of internet shall comply with the standards set forth herein.

The County's IT Department has implemented technologies that governs access to the Internet from Lincoln County network(s) and devices to protect the County's technology systems and data from exposures to malicious code, excessive bandwidth uses, and to block content and internet sites deemed to present in its use significant risk, inappropriate or illegal. County users shall not try to circumvent the implemented web filters or otherwise tunnel through authorized sites to gain access to unauthorized sites.

13.10 County Social Media

The County uses specific social media platforms to deliver public information, communications engagement, perform customer service, and conduct transactions, and communicate official business with constituents, the media and the public in general. Agencies may work with the Public Affairs Officer, in consultation with the County Manager, to establish an official Lincoln County social media presence which requires an authorized user/administrator and/or moderator. The use of social media for County purposes shall be subject to the Lincoln County Social Media Acceptable Use Policy, which is incorporated herein by reference.

13.11 Personal Social Media

This Policy shall not seek to regulate County employees establishing and using personal social media accounts and other similar communications (e.g., personal Internet sites; blogs) for personal purposes outside of the workplace and using non-County equipment, resources, and information systems. All County employees are subject to the Lincoln County Social Media Acceptable Use Policy, which is incorporated herein by reference.

13.12 County Mobile Communication Devices

Mobile communication devices approved by IT to access County information systems shall only use County-approved remote access applications or methods and shall be compliant with established IT standards and this Policy.

Upon separation from the County, or for any other reason deemed necessary by IT to protect the County, any user's access to any County information system and all County mobile communications devices shall be terminated, and the user shall immediately return to IT all County-owned mobile communications devices issued to him or her.

14.0 Travel Policy

14.1 Travel Expense and Reimbursement

County employees and officials traveling away from the County on official business will be reimbursed for mileage, lodging, meals, parking fees, tolls, registration fees, and other expenses as established by the Board of County Commissioners. Any department directors or employees of a department seeking out of state travel must first obtain approval from the County Manager before said out of state travel will be permitted. A request is to be submitted in writing to the County Manager stating the number of employees traveling and the estimated cost of the trip, and if a County vehicle will be used for the travel.

Employees and officials traveling on a reimbursable basis for the County will keep an accurate record of their expenses. Reimbursement will not be paid without a written travel claim signed by the employee and approved by the department director. Receipts for the cost of hotels, meals, and related travel expenses must be attached to the written claim, unless per diem is claimed.

14.2 Out of County Travel

14.2.1 Requests and Authorization

The requesting party will submit the Form T-100 to their Supervisor. The requesting party must provide a reasonable estimate of the cost of travel. The authorizing party will review the request to determine the necessity for travel and to ensure sufficient funds remain in the departmental travel account to cover anticipated travel costs.

14.2.2 Advances

Following approval, the authorizing party shall submit the request for a travel advance to the Finance Department on Form T-100 no later than ten days prior to travel.

Advances will not be authorized for amounts less than the sum of a full day meal per diem. Travel advances will be issued by the Finance Department no sooner than three (3) working business days prior to the travel date, except in situations where an earlier issuance will result in cost savings to the County (the reservation of airline tickets, for example), or otherwise approved by the County Finance Director.

Travel advances must be reconciled by the requesting party, approved by the authorizing party, and submitted to the Finance Department for settlement no later than ten working days following the date of return. To reconcile travel advances, the requesting party must complete the original Form T-100. In the event the authorized cost of travel exceeds the amount of the advance, the County will issue reimbursement to the requesting party. If the authorized cost of travel is less than the amount of the advance, the requesting party shall reimburse the difference to the County when they submit the completed Form T-100. If travel advances are not reconciled within ten working days following the completion of travel, the amount of the travel advance may be deducted from the employee's pay.

14.3 In-County Travel

Employees will be reimbursed for the use of their personal vehicles on County business within Lincoln County at the prevailing mileage reimbursement rate. Documentation of the purpose of travel and actual miles traveled, supported by odometer readings, must be provided on Form T-100. Employees who receive an Administrative Auto Allowance are not eligible for additional in-county mileage reimbursement. Requesting parties are not eligible to receive reimbursement for lodging or meal expenses incurred while traveling in Lincoln County.

14.4 Out-of-State Travel

The County Manager is the authorizing party for all out of state travel.

15.0 Use of County Vehicles

15.1 Purpose

Any employee operating a County owned or leased vehicle or a privately owned vehicle (POV) on official County business, must possess a valid driver's license for the vehicle type from the State of North Carolina, must use or wear any necessary devices or equipment (such as eyeglasses, contact lenses, or hearing aids) to meet any restrictions in such driver's license and must carry liability insurance of at least the minimum amounts required by North Carolina law. If the employee is operating a POV on official County business, the employee must maintain insurance of at least the minimum amounts prescribed by law. The employee must report immediately to his/her supervisor any accident or collision regardless of the estimated amount of damage and regardless of the vehicle, county owned or POV. The employee must report immediately and relinquish driving privileges if the employee has lost insurance or lost their license, become restricted, had license revoked or suspended, or otherwise become uninsurable.

Use of a County owned vehicle is neither a right nor a privilege, but a trust conferred to facilitate the necessary performance of duties. County owned vehicles shall be assigned and used only in the performance of official duties and not for any personal use, except as provided by directives from the County Manager. Employees who are placed on any disciplinary or administrative suspension or leave for any period of time shall immediately return all county vehicles in their possession to their work site or other location directed by the County Manager.

The transport of unauthorized individuals not employed by the County in County owned or leased vehicles,, is prohibited unless specifically approved by the department director or the County Manager. Except in instances of hazardous weather conditions or when employees reside in the same residence, County owned vehicles are not to be used to transport other employees to or from their places of work without specific justification and approval. However, nothing in this rule shall be construed to limit the use of County owned vehicles in County sponsored car pools when authorized.

All employees who are in a safety sensitive position that are authorized and approved to operate County owned or leased vehicles will be required to complete a driving check request form authorizing the County to conduct a driving background check when the employee's annual review is conducted. Employees must maintain a good driving record as long as they are employed. The department director shall forward the authorization form to the Human Resources Director. Employee must notify immediately their supervisor and Personnel upon receiving a driving citation. Failure to do so may result in disciplinary action.

Employees who are placed on any disciplinary or administrative suspension or leave for a period of time longer than three work days shall immediately return to their immediate supervisor all other County owned property in their possession, including, but not limited to, communications equipment, tools, computers, firearms, and other items of personal property assigned to them for the performance of their duties.

No County employee who resides outside Lincoln County, whether on a temporary or permanent basis, may use any county-owned vehicle to commute to or from his assigned workplace in Lincoln County.

Such an employee must leave any assigned vehicle at his assigned workplace at the end of any work shift and commute using other means of transportation. The County Manager may make an exception to this rule for valid business reasons.**15.2**

15.2 Personal Use

Pursuant to N.C.G.S. §14-247, "It shall be unlawful for any officer, agent, or employee of the State of North Carolina, or of any county or of any institution or agency of the State, to use for any private purpose whatsoever any motor

vehicle of any type or description whatsoever belonging to the State, or to any county, or to any institution or agency of the State."

15.3 Commercial Driver's License (CDL)

Employees who are required to obtain a CDL as part of their job will be allowed the opportunity to test for the CDL twice. Employees who are unable to obtain the CDL on their second test shall be considered unable to perform their essential job duties and shall be subject to discharge. Such persons will be eligible for re-hire for subsequent job openings only after they have obtained a CDL.

15.4 Smoking and Tobacco Use

Pursuant to Section 30.03 of the Lincoln County Code of Ordinances, the use of Tobacco and Tobacco Products is prohibited in all County Buildings, County Vehicles, the Health Department Campus, and the Department of Social Services Campus. The use of Tobacco and Tobacco Products is also prohibited within a 50-foot perimeter of all entrances to County Buildings. This applies to all employees and the general public, and the failure to abide by this Ordinance by any employee Lincoln County shall result in disciplinary action.

16.0 Unlawful Workplace Harassment Policy

16.1. Policy and Purpose

Lincoln County strives to provide a work environment where all employees are able to work in an environment free from discrimination or any other harassing conduct. No county employee shall engage in conduct that falls within the definition of unlawful workplace harassment, which includes sexual harassment, retaliation or workplace violence. No employment decisions shall be made on the basis of race, religion, color, national origin, ethnicity, sex, pregnancy, gender identity or expression, sexual orientation, age, political affiliation, veteran status, genetic information or disability.

The purpose of this Unlawful Workplace Harassment Policy is to establish that Lincoln County prohibits all forms of unlawful workplace harassment or retaliation based on opposition to unlawful workplace harassment of County employees or applicants.

This Unlawful Workplace Harassment Policy applies to full-time and part-time employees, elected officials, permanent and temporary employees, employees covered or exempted from personnel rules or regulations, and employees working under contract for the County.

16.2. Types of Harassment

The following types of harassment are referred to herein collectively as "Harassment."

16.2.1. Unlawful Workplace Harassment

Unlawful Workplace Harassment is unsolicited and unwelcome speech or conduct based upon race, sex, religion, national origin, ethnicity, pregnancy, gender identity or expression, sexual orientation, military leave, age, color, genetic information or disability where (1) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive; or (2) enduring the offensive conduct becomes a condition of continued employment.

Unlawful Workplace Harassment may also include epithets, slurs, negative stereotyping, or threatening, intimidating, or hostile acts; written or graphic material, including but not limited to, photographs, electronic images, screen savers, drawings, cartoons, e-mail messages and attachments, and body art (tattoos) that, if offensive, indicates hostility or aversion toward an individual or group.

16.2.2. Sexual Harassment

Sexual Harassment is harassment on the basis of sex, and includes

- (1) unwelcomed verbal behavior such as comments, suggestions, jokes or derogatory remarks based upon sex;
- (2) physical behavior such as inappropriate or offensive touching, or visual harassment such as posting sexually suggestive or derogatory pictures, cartoons or drawings, even at one's work station;
- (3) unwanted sexual advances
- (4) pressure for sexual favors and/or
- (5) basing employment decisions (such as an employee's performance evaluations, work assignments, or advancement) upon the employee's acquiescence to sexually harassing behavior in the workplace.

Claims of Sexual Harassment may arise out of a consensual or romantic relationship between employees. Therefore, the County discourages any consensual or romantic relationships between employees of the County. If employees are in a direct or indirect supervisory-subordinate relationship, then a romantic relationship is not permissible, and if one does exist, said relationship shall be disclosed to the department director or County

Manager immediately. Upon such disclosure, the County will attempt to reassign one of the employees to mitigate a potential conflict of interest. Failure to report the existence of said relationship may result in disciplinary action.

16.1.3. Retaliation

Retaliation is any adverse action taken against an individual for filing a discrimination claim (or charge), testifying or participating in an investigation, proceeding or lawsuit related to discriminatory employment practices based on race, religion, color, national origin, sex, pregnancy, gender identity or expression, sexual orientation, age, political affiliation, veteran status, genetic information or disability because of opposition to employment practices in violation of this Policy.

Internal interference, coercion, restraint or reprisal against any person complaining of alleged harassment is strictly prohibited.

16.1.4. Workplace Violence

Workplace Violence includes, but is not limited to, intimidation, threats, physical attack, domestic violence or property damage, and includes acts of violence committed by County employees, clients, customers, relatives, acquaintances, or strangers against County employees in the workplace. Workplace Violence also includes the use, possess, or threaten to use, an unauthorized weapon; or the misuse of authority vested to any employee of Lincoln County in a way that is considered threatening to another.

The County will establish preventive security measures, alternative work schedules, and provide supportive assistance including the Employee Assistance Program. At the discretion of the department director, in consultation with the County Manager, victims of workplace violence may be granted leave time for medical appointments, court appearances, or counseling appointments related thereto.

The County also retains the right to consider the personal conduct of an employee while off-duty, when said conduct may have a potential adverse impact on that County employee's, or another employee's, ability to perform their assigned duties and responsibilities.

16.2 Complaint Process

Any complaint regarding Unlawful Workplace Harassment, Sexual Harassment, Retaliation or Workplace Violence shall be made within thirty (30) days of the alleged conduct being complained about. The failure to timely file a complaint as provided herein may result in immediate dismissal of the complaint. The following process shall apply to all complaints for Harassment by employees of Lincoln County:

Step One. Informal Request to Stop.

If the complaining employee feels reasonably comfortable, the employee shall make an effort to discuss with the person who is purported to be harassing them. If the complaining employee does not feel reasonably comfortable confronting said individual alone, they may request that the Human Resources Department assist in an informal discussion to address the complaint and determine if the harassing behavior is intentional. An informal discussion hereunder shall not initiate any requirement for an investigation.

If the harassing behavior continues, or if the behavior is so egregiously harassing that an informal request would be unsuccessful or unreasonable, then the complaining employee shall proceed to Step Two.

Step Two. Complaint to Immediate Supervisor, Department Director or County Manager.

The complaining employee shall report any incident of Harassment to their immediate supervisor. If the immediate supervisor is the individual being accused, then the complaint shall be made to the department director. If a department director is the individual being accused, then the complaint shall be made to the County Manager.

The individual receiving the complaint shall immediately notify the Human Resources Director, and shall work directly with the Human Resources Department to investigate all complaints of Harassment. If the Human Resources Director is the individual being accused, an investigation shall be conducted by the County Manager or their designee.

All complaints shall be investigated promptly, impartially and discreetly. If a question arises as to whether or not there may be potential bias in an investigation, the County Manager may approve the retainer of a third-party attorney or consultant to handle the investigation.

Alternate Step Two. Complaint to the Board of Commissioners.

If the individual being complained about is the County Manager, the County Attorney, the Clerk to the Board, or the Tax Administrator, then the complaint shall be made directly to the Chairperson of the Board of Commissioners (the "Chair"). The Chair shall, at its next regularly scheduled meeting, discuss the complaint with the entire Board in a closed session. Upon discussion, the Board of Commissioners shall determine whether or not an investigation is necessary by a majority vote. Upon a majority vote of the Board, the Chair shall retain an outside attorney or consultant to handle the investigation.

Step Three. Findings of Investigation.

The individual tasked with conducting the investigation in Step Two or Alternate Step Two shall conduct an investigation promptly, impartially and discreetly.

Following the conclusion of an investigation, the investigator shall be responsible for reviewing all investigative information, in consultation with the Human Resources Department, and provide findings to the complaining employee. If the investigator was an outside attorney or consultant, then the responsible person (determined in Step Two) shall be responsible for providing the findings to the complaining employee. The findings shall be provided within five (5) business days of the conclusion of the investigation.

If the investigation falls under Alternate Step Two, the Chair shall be responsible for notifying the individual being investigated, and shall also be responsible for notifying the members of the Board of Commissioners of the findings.

Step Four. Disciplinary Process.

If it is determined that Harassment did occur, then the individual found to have been harassing the complaining individual shall be provided a written statement with those findings, and the individual shall be subject to disciplinary action under this Personnel Policy.

If it is determined that no Harassment occurred, then the individual accused shall be provided a written statement of those findings.

Step Five. Appeal.

There shall be no right to appeal the findings made under Step Three. However, any employee subject to disciplinary action under Step Four shall have the appeal rights granted to them in Section 18.0 of this Personnel Policy.

16.3 Cooperation and Confidentiality.

16.3.1. Cooperation.

Employees shall be required to cooperate in every investigation of Harassment which includes, but is not limited to: providing evidence, regardless of whether said evidence is favorable or unfavorable to the person accused, and fully and truthfully answering questions during the course of an investigation. If an employee is found to have withheld information or to have lied during an investigation, the employee shall be subject to disciplinary action. No employee has the right to refuse cooperation with any investigation under this Policy. Refusal to cooperate shall be subject to disciplinary action.

16.3.2 Confidentiality

All employees shall maintain confidentiality regarding any complaint or investigation regarding Harassment and shall not discuss the allegation or details of the investigation with other employees or any other persons (except for a spouse or attorney). Any complaint or investigation under this Policy, and any information related thereto, shall be confidential and protected pursuant to N.C.G.S. §153A-98. Failure of an employee to abide by the confidentiality requirements hereunder shall result in disciplinary action.

16.4 False Allegations of Harassment

Any employee who makes allegations of Harassment that are deemed to be completely false shall be subject to disciplinary action, up to and including termination.

16.5 Duty to Report

All employees of Lincoln County are encouraged to report any Harassment that is witnessed by them. Further, all employees are required to report any complaints of Harassment made to them by another employee or a member of the public. If the employee is unsure of whether or not the complaint they have received is Harassment, they should immediately consult with the Human Resources Department to determine if further action is necessary.

17.0 Separation, Disciplinary Action, Reinstatement

17.1 Types of Separation

The separation of employees from Lincoln County shall be classified as either voluntary or involuntary. Employees are considered to be separated voluntarily by: (1) resignation or (2) retirement. Employees are considered to be separated involuntarily by: (1) reduction in force, (2) dismissal, (3) failure to return once leave is exhausted, (4) failure to meet minimum qualifications of employee's position, or (5) death.

17.1.1 Resignation

Employees who are voluntarily separated by resignation may either resign in "Good Standing" or "Not in Good Standing."

Resignation in "Good Standing" occurs when an employee submits a letter of resignation to their immediate supervisor with notice as required in Section 17.1.1.1 of this Policy. All Employees that submit their resignation with required notice are expected to be present and working on-site throughout the notice period. If unapproved absences occur during the notice period, the notice may be considered inadequate. A Director may, at their discretion and when in the best interest of county operations, accept the resignation as adequate but shorten the notice period, up to the designated notice period to "effective immediately." The Director will provide the Employee with this notification in writing.

An employee who resigns in "Good Standing" may, but is not required to, be considered for future employment with the County. Resignation "Not in Good Standing" occurs when:

An employee fails to submit a letter of resignation with adequate notice as described herein.

An employee fails to report to work the next working day following a leave of absence without pay.

An employee is absent from work three consecutive working days without authorized leave (subject to the terms of this policy),

An employee resigns to avoid impending disciplinary action, excepting when a resignation is considered appropriate.

An employee who resigns "Not in Good Standing" shall be ineligible for future employment with the County.

17.1.1.1 Notice Requirement at Resignation

Notice Requirement for Employees. An Employee who voluntarily resigns their employment with the County shall submit a written notification to their immediate supervisor at least two (2) weeks prior to their intended date of separation. If, at the discretion of the Department head, less than two weeks' notice shall not adversely affect the Department then the two-week notice requirement may be waived, and less notice may be approved.

Notice Requirement for Directors, Managers and Licensed Professionals. Any employee who is a Department Director (including Assistant Director and/or Deputy Director), Manager, or Licensed Professional (i.e. attorney, nurse practitioner, etc.) shall submit a written notification to their immediate supervisor at least four (4) weeks prior to their intended date of separation. This four-week notice requirement may only be waived by approval of the County Manager.

Failure to Provide Adequate Notice. Any Employee that fails to provide the notice required hereunder shall not be eligible for the payment of any accrued leave under Section 7.8 of this Personnel Policy.

17.1.2 Retirement

An employee shall be eligible for retirement from Lincoln County upon meeting all requirements set forth by the Local Government Employment Retirement System, and any retirement plan set forth by the Board of Commissioners.

Benefits. The benefits provided under any retirement plans set forth by the Board of Commissioners shall only be available to an employee who voluntarily retires from Lincoln County. Those benefits shall not be available to an employee who is involuntarily separated from the County even if said employee meets the requirements under LGERS.

17.1.3 Reduction in Force

A Reduction in Force is the involuntary separation of an employee due to lack of work for the employee, lack of funds for the position, or the elimination of the employee's position due to reorganization within the government.

If a Reduction in Force occurs, the following procedures shall apply:

- 1) Identification of Employees. The Director of the department being affected by a Reduction in Force shall work directly with the HR Department to determine the employees and positions (filled or vacant) that may be subject to said Reduction in Force.
- 2) Review of All Open Positions. The HR Department shall also determine any positions within the County that are vacant and are classified similarly as those positions identified as being affected by the Reduction in Force.
- 3) Final Determination of Positions Affected by Reduction in Force. The HR Director, the Department Director and the County Manager shall jointly make a final determination of the positions(s) affected by the Reduction in Force after consideration of the following: (i) the organizational needs after the proposed reduction, (ii) review of each affected employee(s) performance, and (iii) the seniority of the affected employee(s).
- 4) Offer of Transfer to Other Position. If the HR Department has identified vacant, temporary or probationary positions that are classified similarly to the positions being eliminated, then the HR Department shall work with any employee being separated to determine if a transfer is of interest to said employee. This shall not preclude any requirement that the employee meet the minimum qualifications for the new position.

Any employee who is separated under a Reduction in Force shall be eligible to receive the payment of all earned accrued leave under Section 7.8 of this Policy.

17.2 Inability to Meet the Minimum Job Requirements

An employee may be involuntarily separated from the County when the employee is no longer able to meet the minimum qualifications of the position. The employee's inability to meet the minimum qualifications may

include, but is not limited to: (i) inability to maintain any required certifications or licenses, (ii) unable to meet additional regulatory guidelines related to the position, (iii) or the inability to perform the essential functions of the position due to a physical or mental disability even with reasonable accommodations provided. Inability Based on Disability. If it is determined that an employee is unable to meet the minimum job qualifications for their positions, based on the employee's disability, then the employee's Department Director shall work with the HR Department to determine if any reasonable accommodations are available, or if there are any alternative vacant positions within the County that the employee could transfer to.

17.3 Discipline and Dismissal

General Policy. Employees of Lincoln County are expected to meet performance standards and conduct themselves in an appropriate manner. This Disciplinary Action Policy is intended to provide tools for addressing the conduct and performance of employees in a reasonable, consistent and effective manner.

Covered Employees. This Disciplinary Action Policy shall apply to all non-probationary employees of Lincoln County that are covered by this Personnel Policy with the following exceptions: (1) All disciplinary action involving an employee of DSS, or the Health Department shall be conducted subject to the requirements of the Office of State Human Resources; (2) Employees who are subject to an employment contract; and (3) employees of the Sheriff's Office and (4) employees of the Register of Deeds.

17.3.1 Just Cause for Disciplinary Action

Any employee, regardless of occupation, position or profession, may be warned, demoted, suspended and/or dismissed by the appropriate authority, in accordance with this Disciplinary Action Policy. Such actions may only be taken against employees with permanent status when just cause is present. The degree and type of action taken shall be based upon the sound and considered judgment of appropriate authority. When just cause exists, the only disciplinary actions provided for under this Disciplinary Action Policy are as follows:

- (1) Written Warning;
- (2) Disciplinary Suspension without pay;
- (3) Involuntary Demotion; and
- (4) Dismissal.

There are two (2) bases for the just cause discipline or dismissal of County employees:

- (1) Unacceptable Personal Conduct, and
- (2) Unsatisfactory Job Performance, including Grossly Inefficient Job Performance

Either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct constitutes just cause for discipline or dismissal. The categories are not mutually exclusive, as certain actions by employees may fall into both categories, depending upon the facts of each case. No disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly.

17.3.1.1 Unacceptable Personal Conduct

Unacceptable Personal Conduct means:

1. Conduct, on or off the job, that is related to the employee's job duties and responsibilities for which no

- reasonable person should expect to receive prior warning;
2. Conduct that constitutes a violation of State or Federal law;
 3. Conviction of a felony that is detrimental to or impacts the employee's service to their department or the County;
 4. The willful violation of known or written work rules;
 5. Conduct unbecoming an employee that is detrimental to the County's service;
 6. The abuse of client(s), patient(s), student(s), or a person(s) over whom the employee has charge or to whom the employee has a responsibility, including the custody of an animal owned by or in the custody of the County;
 7. Falsification of an employment application or other employment documentation, which may include, but is not limited to: time entry reports, leave reports or requests, and/or injury reports;
 8. Failure to obtain or maintain any license, registration, or certification required by the duties of the employee's position;
 9. Absence from work after all authorized leave credits and benefits have been exhausted; or
 10. Insubordination, which is the willful failure or refusal to carry out a reasonable order from an authorized supervisor.

17.3.1.2 Unsatisfactory Job Performance and Grossly Inefficient Job Performance

Unsatisfactory Job Performance is work-related performance that fails to meet job requirements as specified in the job description, an employee's work plan, or as directed by the management of the department, or the County.

Grossly Inefficient Job Performance is a when the employee fails to perform job requirements as specified in the job description, an employee's work plan, or as directed by the management of the department or the County **which also results in:** (1) Death or serious harm or the creation of the potential for death or serious harm to a client(s), an employee(s), member of the public or to a person(s) over whom the employee has responsibility; **or** (2) the loss of or damage to the department or County property or funds that results in a serious impact on the department or the County.

17.3.2 Types of Disciplinary Action

When *just cause* exists, any County employee, regardless of occupation, position or profession may be warned, demoted, suspended or dismissed by the appropriate authority. The degree and type of action taken shall be based upon the sound and considered judgment of the employee's manager, director or the County Manager (depending on position) in accordance with this Policy, and after consultation with the Human Resource department. The County Attorney's Office shall be consulted, as needed.

17.3.2.1 Written Warning

A supervisor shall be required to monitor the performance of work assignments and assure that employees do not engage in unacceptable personal conduct. All types of performance-related job inadequacies may constitute unsatisfactory job performance. When a supervisor determines that disciplinary action is appropriate for unsatisfactory job performance, a written warning is the first type of disciplinary action that an employee shall receive. The supervisor may elect to issue a written warning for

grossly inefficient job performance or unacceptable personal conduct.

A Written Warning issued hereunder shall:

- (1) Inform the employee that this is a written warning, and not some other non-disciplinary process such as counseling;
- (2) Inform the employee of the specific issues that are the basis for the warning;
- (3) Inform the employee what specific corrections, if applicable, must be made to address these specific issues;
- (4) Inform the employee the time frame allowed for making the required corrections; Standard: 60 days shall be the time frame allowed for correcting unsatisfactory job performance. However, immediate correction shall be required for grossly inefficient job performance or unacceptable personal conduct.
- (5) Inform the employee of the consequences for failing to make the required corrections under the written warning.

17.3.2.2 Disciplinary Suspension Without Pay

An employee may be suspended without pay for disciplinary purposes for unsatisfactory job performance after the receipt of at least one prior disciplinary action or without any prior warning for causes relating to any form of unacceptable personal conduct or grossly inefficient job performance.

The length of a disciplinary suspension without pay for an employee must be for at least one full workday but not more than two full workweeks. Prior to placing any employee on disciplinary suspension without pay, the department director shall conduct a pre-disciplinary conference with the employee in accordance with the procedural requirements contained in this Disciplinary Action Policy.

Notice of Suspension. An employee who has been suspended without pay must be furnished with a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension and the employee's rights to appeal.

Procedural Requirement. Prior to a suspension without pay, the procedural requirements contained in this Disciplinary Action Policy shall be followed.

17.3.2.3 Involuntary Demotion

A department director has the discretion to retain an employee in a lesser capacity when the employee's performance or conduct is sufficient to satisfy grounds for dismissal, but the employee shows promise of acceptable performance or conduct in a lesser position. Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct as follows:

- (1) Unsatisfactory job performance. An employee may be demoted for unsatisfactory job performance after the employee has received at least one prior disciplinary action.
- (2) Grossly inefficient job performance. An employee may be demoted for grossly inefficient job performance without any prior disciplinary action.
- (3) Unacceptable personal conduct. An employee may be demoted for unacceptable personal conduct without any prior disciplinary action.

Notice of Demotion. An employee who is demoted must receive written notice of the specific reasons for

the demotion, as well as notice of any applicable appeal rights.

Decrease in Salary. An employee who is demoted shall receive a decrease in salary to a lower salary grade as determined by the department director, subject to review and approval by the HR Director and the County Manager. In no event shall an employee's salary rate be reduced to less than the minimum salary rate for the applicable pay grade.

Procedural Requirements. Prior to demotion, the procedural requirements contained in this Disciplinary Action Policy shall be followed.

17.3.2.4 Dismissal

Dismissal may be a result of unsatisfactory job performance, grossly inefficient job performance or unacceptable personal conduct.

- (1) **Unsatisfactory Job Performance.** An employee may be dismissed for disciplinary purposes for unsatisfactory job performance after the receipt of at least two (2) prior disciplinary actions. Successive disciplinary actions need not all concern the same type of unsatisfactory performance. Disciplinary actions related to personal conduct may be included in the successive system for performance-related dismissal.
- (2) **Unacceptable Personal Conduct or Grossly Inefficient Job Performance.** An employee may be dismissed without any prior disciplinary action. **Procedural Requirements.** Prior to a dismissal, the procedural requirements contained in this Disciplinary Action Policy shall be followed.

17.3.3 Procedural Requirements

Department directors, managers, and/or supervisors shall consult with the HR Director, or their designee, regarding matters where suspension without pay, demotion or dismissal, are being considered. The following procedural requirements must be followed when taking disciplinary action under this Disciplinary Action Policy:

Written Warning.

To issue a written warning to an employee, a supervisor must issue the employee a written notice clearly stating it is a written warning detailing the specific issues, the expectations going forward, establishing time frames, if applicable, and other matters referenced in Section 17.3.2.1 of this Disciplinary Action Policy, which also includes notice of any applicable appeal rights.

Prior to Suspension Without Pay, Involuntary Demotion or Dismissal, the following steps shall be followed:

The Department director has the discretion to appoint a designee to act on their behalf during the procedural process. The designee must have the authority to decide what, if any, disciplinary action shall be imposed against an employee.

STEP ONE – Pre-Disciplinary Conference.

Any Department director, or their designee, shall schedule a Pre-Disciplinary Conference with the employee prior to any suspension without pay, involuntary demotion or dismissal.

(1) Purpose. The purpose of the Pre-Disciplinary Conference is to review the recommendations for discipline with the affected employee and to listen to, and consider, any information presented by the employee in order to ensure that a decision is sound and not based on misinformation and mistake.

(2) Notice. Advance written notice of the Pre-Disciplinary Conference must be provided to the employee at least twenty-four (24) hours in advance of the conference.

(3) Permitted Attendees. Attendance permitted at the conference shall include the employee, the department head or designee, and a representative from Human Resources as an unbiased witness and consultant. No attorneys who represent the employee or the County shall be permitted in the conference.

(4) Process of Conference. During the conference, the department director, or their designee, shall review written notice of the recommendation for disciplinary action, including specific reasons for the proposed discipline and a summary of the information supporting that recommendation. The employee shall have an opportunity to respond to the proposed action and to offer information or arguments in support of the employee's position. Every effort shall be made to ensure that the employee has a full opportunity during the conference to set forth any available information in opposition to the recommendation for discipline prior to the end of the conference. However, this opportunity does not include the option for the employee to present witnesses.

(5) Return of County Equipment. The employee shall be required to return any County-owned equipment to the department director, or their designee, at the Pre-Disciplinary Conference.

STEP TWO – Post-Conference Review and Consideration.

Following the Pre-Disciplinary Conference, the department director, or their designee, shall review and consider the response of the employee and reach a decision on the proposed recommendation.

Timing. No decision shall be communicated to the employee prior to the beginning of the business day following the conclusion of the conference, but a decision shall be communicated within 5 business days of the Conference.

STEP THREE – Final Decision and Notice.

Involuntary Demotion or Suspension Without Pay.

If the department director, or their designee, make the decision to demote or suspend the employee without pay, then written notification of the decision containing the specific reasons for the action, and the employee's appeal rights shall be issued to the employee in person or by certified mail, return receipt requested, to the last known address of the employee.

Dismissal for Any Reason.

If the department director, or their designee, make the decision to dismiss the employee, then written notification of the dismissal shall be provided to the employee. The notification shall contain the specific reasons for the dismissal, the effective date of the dismissal and the employee's rights to appeal. The notification shall be issued to the employee in person or by certified mail, return receipt requested, to the last known address of the employee. The employee may be eligible for a name clearing hearing pursuant to Section 17.3.4. of this policy, and if so, notice of that right shall be included in the written notice.

The effective date of the dismissal shall be determined by the department director but shall not be earlier than the date of the dismissal letter nor more than fourteen (14) days after the notice of dismissal.

No Action Taken.

If the department director, or their designee, makes the decision that no additional action is necessary in regard to the employee, then a follow-up conference shall be held upon that decision being made. Further, written notice that no additional action will be taken shall be provided to the employee at that meeting.

STEP FOUR – Right to Appeal Decision.

Any employee who has been dismissed, suspended without pay or demoted shall be entitled to appeal the any decision made under STEP THREE pursuant to Section 18.0 of this Personnel Policy.

17.3.4 Right to Name-Clearing Hearing Following Dismissal

A Name-Clearing Hearing shall be provided to employees who are dismissed from their employment with the County, only if all of the following requirements are met:

- (1) The employee is dismissed from their employment with the County;
- (2) The reasons for the dismissal are described in the notice of dismissal; and
- (3) The reasons for the dismissal may be considered to place a stigma on the employee's reputation which may interfere with the employee's ability to gain future employment.

Notice of the employee's right to a Name Clear Hearing should be included in the notice of dismissal, if all the above requirements are met.

17.3.5 Inactive Disciplinary Action

Any disciplinary action is deemed inactive for the purpose of the Disciplinary Action Policy in the event that:

- (1) The department director, or their designee, makes a finding that the reason for the disciplinary action has been resolved or corrected, and said finding is placed in the employee's personnel file; or
- (2) Eighteen (18) months have passed since the warning or disciplinary action, the employee does not have another active warning or disciplinary action which occurred within the last eighteen (18) months and the agency has not, prior to the expiration of the eighteen-month period, issued the employee written notice, including reasons, of the extension of the period.

Any disciplinary action that is considered inactive shall not be destroyed and shall remain in the employee's personnel file indefinitely.

17.4 Administrative Investigation Leave with Pay

Administrative Investigation Leave with Pay ("Admin-I Leave") is used for the temporary removal of an employee from work status. Placement on Admin-I Leave does not constitute a disciplinary action as defined in this policy and is therefore not an action that may be appealed. An employee placed on Admin-I Leave shall be paid their normal salary/hourly rate for each day on leave. It is permissible to place an employee in Admin-I Leave only under the following circumstances:

- (1) Investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action;
- (2) Provide time within which to schedule and conduct a pre-disciplinary conference; or
- (3) Avoid disruption of the work place or to protect the safety of persons or property.

Notice.

The employee's direct supervisor, manager or department director shall notify the employee in writing of the reasons that the employee has been placed on Admin-I Leave not later than the 2nd business day after the Admin-I Leave has started.

Time.

Admin-I Leave shall not exceed 30 calendar days. If necessary, Admin-I Leave may be extended if additional time is needed to conclude the ongoing investigation. Any extension of Admin-I Leave must be approved by the County Manager. The employee must be provided written notice of any extension of Admin-I Leave which shall include the length of the extension and the specific reasons for that extension.

End of Leave.

At the conclusion of Admin-I Leave period, the department director (or their designee) must either (1) take appropriate disciplinary action on the basis of the findings of the investigation or (2) return the employee to active work status.

17.5 Separation Procedure

17.5.1 Exit Interview

If an employee is voluntarily separating from employment with the County, the employee should be requested to conduct an exit interview with the HR Department prior to separation. If the employee is an employee of the HR Department, then the employee's exit interview shall be conducted by the County Manager, or their designee.

17.5.2 Return of County Property

Any County property in the employee's possession shall be returned to the County prior to any form of separation. This shall include, but is not limited to: ID badge, keys, access cards, uniforms, cell phones, computer equipment, county procurement cards, etc.

17.6 Reinstatement

An employee who resigns in good standing, or who is separated due to a reduction in force, may be reinstated with the approval of the department director, the County Manager, or in the case of competitive service employees, in accordance with Personnel Policies for Local Government employees subject to the State Personnel Act.

An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service, or with a reserve component of the Armed Forces will be granted reinstatement rights provided under Federal law.

An employee who is reinstated shall be credited with previous service time and previously accrued unused sick leave subject to adequate documentation at the sole discretion of the County Manager.

17.7 Transfer of Eligible Service Time

Any new, or returning, employee of Lincoln County may receive credit for years of service if said employee has previously been employed by a North Carolina state, city, county or other governmental agency that accrues service time within the North Carolina Retirement System. All service time transferred shall be used for the purposes of determining the annual leave accrual rate, and total years of service for Lincoln County.

Any request for transfer of eligible service time under this Section shall be made to the HR Department within sixty (60) days of employment, or re-employment with Lincoln County. Upon receipt of said request, the HR Department shall certify the amount of service time to be transferred by confirmation from the North Carolina Retirement System and the employee's previous eligible employer(s). An employee shall not be eligible to transfer any service time accrued at a previous governmental agency, if the employee has withdrawn funds for that service time from the North Carolina Retirement System. A determination of eligibility under this Section shall be made by the HR Director, or their designee, and shall be approved by the County Manager.

Eligibility for Health Coverage at Retirement. An employee who has transferred eligible service time shall only be eligible for the Health Coverage at Retirement under Section 6.1.2. of this Policy if the employee is employed by Lincoln County for at least 5 years immediately prior to retirement.

18.0 Grievance and Appeal Procedures

18.1 Purpose

The purpose of this grievance procedure is to provide an adequate and fair means for hearing matters of concern to County employees relating to any disciplinary action, reduction in force, suspension, or dismissal. This procedure exists to ensure employees the opportunity to be heard without fear of reprisal or retaliation, and to be heard fairly and promptly. Any voluntary demotion or administrative leave cannot be grieved in accordance with the remedies and issues utilized in the process described in this Policy.

Grievances which are not received within the time allowed as prescribed in this Section shall be dismissed.

18.2 Coverage

This procedure applies to all regular employees of Lincoln County that are not specifically excluded herein.

This grievance procedure shall not apply to employees of the Lincoln County Sheriff's Office or the Office of the Register of Deeds. This procedure shall also not apply to any employee that is under probationary status, with the exception of those individuals covered under Section 18.5.

Any regular employee of the Lincoln County Health Department or the Lincoln County Department of Social Services should follow the grievance procedures as set forth by the Office of State Human Resources. Those employees may also follow the procedures set forth herein, however the County Manager has limited authority in relation to said employees.

18.3 Policy

Every covered regular employee shall have the right to present a grievance in accordance with these procedures, free from interference, coercion, restraint, discrimination, penalty, or reprisal.

18.4 Procedure for Filing Grievance.

Step One.

Determine the appropriate party to file a grievance with.

If the covered employee is grieveing a decision made by a supervisor, that is not a department director, the grievance must be filed with the department director.

If the covered employee is grieveing a decision made by a department director, or the covered employee is alleging discrimination as described in Section 18.5, then the grievance must be filed with the County Manager.

If the covered employee is grieveing a decision made by the County Manager, then no grievance rights exist.

Step Two.

File a grievance within ten (10) days.

The covered employee must file a grievance, in writing, with the appropriate party (as determined in Step One above) within ten (10) days of the date of when the adverse action occurred. The grievance should contain the following:

- 1) The decision, action, or policy with which the employee disagrees.
- 2) The basis of the action perceived as wrong or unfair.
- 3) The employee's proposed resolution.

If the covered employee, or individual, is alleging discrimination as described in Section 18.5, then said grievance must be filed within thirty (30) days of the alleged act.

Step Three.

Hold a grievance conference within five (5) business days.

The department director, or County Manager (as determined above), shall meet with the covered employee within five (5) business days of receipt of the grievance and attempt to resolve the grievance. No other employees, individuals or attorneys shall be permitted to attend the grievance conference.

Step Four.

Issue determination within ten (10) business days.

The department director, or County Manager (as determined above), shall make every possible effort to achieve an equitable solution to the problem at the meeting, but may also take additional necessary time to investigate the issue, if additional information is needed.

The department director, or County Manager, shall conduct any additional investigation in an expeditious manner and shall issue a determination on the grievance within ten (10) business days of the grievance conference. If additional time is needed, then consent is required to be obtained from the grieving employee. The determination shall be in writing and shall be provided to the covered employee by email (read receipt requested), certified mail (return receipt requested), or in person.

Step Five.

Appeal of determination under Step Four, when applicable.

If the County Manager has issued a determination under Step Four then the County Manager's decision is final and no additional appeal rights exist.

If a department director has issued a determination under Step Four then said determination may be appealed to the County Manager.

An appeal of the determination made by a department director shall be submitted to the County Manager within five (5) business days of the employee's receipt of the determination in Step Four.

Step Six.

Appeal conference with County Manager, when applicable.

The County Manager shall meet with the covered employee within ten (10) business days of the receipt of the appeal provided in Step Five. No other employees, individuals or attorneys shall be permitted to attend the appeal conference.

Step Seven.

County Manager's decision on appeal, when applicable.

Following the appeal conference, the County Manager may consult with the department director, the Human Resources Director, and/or the County Attorney regarding the appeal. The County Manager shall issue a written decision within ten (10) business days of the appeal conference.

The County Manager's decision is final, and no additional appeal rights exist.

18.5 Discrimination Appeal Procedure

Any applicant for employment with Lincoln County, or a current employee of Lincoln County, who may have reason to believe that employment, promotion, training, or transfer was denied them, or that demotion, layoff, or termination of employment was forced upon them due to age, race, sex, color, national origin, marital status, religion, creed, political affiliation, or disability (except where specific requirements constitute a bona fide occupational qualification necessary to proper and efficient administration), or any action prohibited under federal regulations 31 CFR 55.55(D) of the Rehabilitation Act of 1973, as amended, shall have the right to appeal directly to the County Manager using the grievance procedure outlined in Section 18.4 of this Policy.

19.0 Personnel Records

19.1 Maintenance

The County Manager and/or the Human Resources Director shall maintain personnel records as are necessary for proper administration. Only information that is necessary and relevant to accomplishing legitimate personnel administration objectives shall be maintained in employee personnel records. All medical records and other records indicating medical conditions, including workers' compensation records, health care provider certifications, and correspondence from health care providers shall be maintained in separate secured files.

19.2 Public Information

The following information with respect to each County employee is a matter of public record:

- Name.
- Age.
- Date of original employment or appointment to the county service.
- The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the county has the written contract or a record of the oral contract in its possession
- Current position.
- Title.
- Current salary.
- Date and amount of each increase or decrease in salary with that county.
- Date and type of each promotion, demotion, transfer, suspension, separation or other change in position classification with that county.
- Date and general description of the reasons for each promotion with that county.
- Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the county. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the county setting forth the specific acts or omissions that are the basis of the dismissal.
- The office to which the employee is currently assigned.
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19.3 Access

As authorized by N.C.G.S. §153A-98, any person may have access to information listed in Section 2 of this Section and may include inspection, examination, or copying of such information subject only to such rules and regulations as are necessary for the safekeeping of public records as the Board of County Commissioners may adopt. Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief. Access to the records shall be restricted to normal business hours. Under no circumstances is any information relating to an employee's medical status to be placed in the employee's personnel file. All medical information shall be maintained separately and confidentially as required by the ADA/FMLA, and all applicable laws.

19.4 Confidentiality

All information contained in a County employee's personnel file, other than the information listed in Section 2 of this Section, shall be maintained as confidential in accordance with the requirement of N.C.G.S. §153A-98 and shall be open to public inspection only in the following instances:

- The employee or his duly authorized agent may examine all portions of the employee's personnel file, except (1) letters of reference solicited before employment, and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.
- A licensed physician designated in writing by the employee may examine the employee's medical record.
- A County employee having supervisory authority over another employee may examine all material in the employee's personnel file.
- By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- An official of any agency of the State or Federal government, or any political subdivision of the state, may inspect any portion of a personnel file when such information is deemed by the corresponding appointing authority or County Manager to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability.
- Each individual requesting access to confidential information shall be required to submit satisfactory proof of identity. A record shall be made of each disclosure and placed in the employee's file (except of disclosures to the employee and the supervisor).
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19.5 Objecting to Material in File - Employee Remedies

An employee who objects to material in their personnel file may place in the file a statement relating to the material the employee considers being inaccurate or misleading.

19.6 Legal Penalty for Permitting Access to Personnel Records

N.C.G.S. §153A-98 provides that any public official or employee who knowingly and willfully permits any person to have access to confidential information in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed \$500.00.

19.7 Destruction of Records

No public official may destroy, sell, loan, or otherwise dispose of any public records, except in accordance with N.C.G.S. §121-5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates, or destroys it will be guilty of a misdemeanor and upon conviction will be fined not less than \$10.00 nor more than \$500.00 as provided in N.C.G.S. §132-3.

19.8 Employee Medical Records

Pursuant to HIPAA, employees may designate a third party, such as a family member or licensed physician, to examine the employee's medical record. Such authorization is often needed to review medical records involving issues arising out of Workers Compensation Claims, the Americans with Disabilities Act, or Family Medical Leave issues.

19.9 Collection and Use of Social Security Numbers

Section 2A of Chapter 75 of the North Carolina General Statutes prohibits government agencies from collecting a Social Security Number (SSN) from an individual unless the collection of the SSN is authorized by law or is imperative for the performance of the agency's duties.

Lincoln County collects SSN's for the following purposes:

- (1) enrolling employees in employer- sponsored and voluntary benefits;
- (2) payroll related documents;
- (3) required state and federal documents;
- (4) North Carolina Industrial Commission forms (Workers Compensation);
- (5) accounts payable for the issuance of 1099's;
- (6) collection of unpaid bills including debt set-off;
- (7) emergency services billing and related State reports;
- (8) eligibility for Veterans benefits;
- (8) employment-related drug testing;
- (9) Medicaid/Medicare eligibility;
- (10) vital records recorded in the office of the Register of Deeds.

20.0 Implementation of Personnel Policies

20.1 Conflicting Policies and Resolution Repealed

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

20.2 Severance

If any provision of this Policy or any rules, regulations, or order there under or the application of such provision to any person or circumstance is held invalid, the remainder of this Policy and the application of such remaining provisions of this Policy of such rules, regulations or orders to persons or circumstances other than those held invalid, shall not be affected thereby. This Policy adopted and effective by the Board of County Commissioners, Lincoln County, State of North Carolina, this 1st day of September, 2005.

This Policy is adopted and effective by the Board of County Commissioners, Lincoln County, State of North Carolina, this 19th day of July, 2021.

DEFINITION OF TERMS

(Listed alphabetically)

Accommodation- An accommodation is a modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to perform the essential functions of the job and/or enjoy an equal employment opportunity. Depending on circumstances, examples of accommodations may include but not be limited to: acquiring or modifying equipment or devices; modifying training materials; making facilities readily accessible; modifying work schedules; and re-assignment to a vacant position.

Adverse Action - A punitive disciplinary action taken against an employee such as an involuntary demotion, reduction in pay, transfer, suspension without pay, reduction in force, or dismissal.

Anniversary Date - An employee's original date of uninterrupted employment with the County in a permanent, budgeted position.

Applicant – One who applies for a vacant position and by completing and submitting an application for employment regardless of current employment status (e.g. a current County employee becomes an applicant when an application for another position is submitted).

Appointing Authority - Any County board or official with the legal authority to make employment and termination decisions.

Board of Commissioners - The local government unit charged with the legislative affairs of the County.

Class - A position or group of positions, having similar duties and responsibilities requiring similar qualifications which can be properly designated by one single group indicative of the nature of work performed and similar salaries.

Competitive Service Employee - An employee of the departments of: 1) Social Services, 2) Public Health, 3) Mental Health, Developmental Disabilities, and Substance Abuse Services, or 4) the Office of Emergency Management receiving federal grant-in-aid funds and subject to the State Personnel Act.

Cost-of-Living Increase - An adjustment in employee salaries that may be authorized by the Board of County Commissioners, normally effective July 1 of each year.

County Manager – The County Manager is the highest level of supervision and highest administrative official of County government and is appointed by the Board of Commissioners.

Demotion - The reassignment of an employee to a position or classification with a lower salary range/grade.

Discrimination- Prejudicial conduct by an individual against another person because of sex, age, race, color, creed, religion, national origin, disability, military leave or political affiliation.

FLSA (Fair Labor Standards Act) – The Federal Fair Labor Standards Act, which addresses exempt and nonexempt status of employees and rules of compensatory time, and/or overtime for extra hours worked by nonexempt employees.

Full-Time Permanent Status: The appointment of a full-time employee who has successfully completed their probationary period. As the term implies, a permanent appointment is of indefinite duration, depending upon: termination for just cause, funding for the position, or a Reduction in Force. A permanent employee is one who has completed probation and been granted permanent status.

General County Employee - A County employee not subject to the State Personnel Act.

Grade – The numerical value assigned to a pay range.

Grievance - Any matter of concern or dissatisfaction expressed by an employee, allegedly arising from working conditions.

Harassment - Any unwelcome comment or treatment made because of race, sex, creed, religion, national origin, age, color, or disability that creates a hostile work environment or circumstance. This term includes sexual harassment.

Hiring Rate - The salary paid an employee when first hired into County service, normally the first step of the salary range.

Hostile Work Environment- Conduct resulting from Workplace Harassment or Discrimination that botha reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Absent Workplace Harassment or Discrimination, mere disputes between two co- workers or a superior and subordinate does not constitute a Hostile WorkEnvironment.

Immediate Family- Immediate family is considered a County employee's spouse, mother, father, guardian, child, sister, brother, grandparent, grandchild, and all combinations of half, step, in-law and adopted relationships.

Maximum Salary Rate: The maximum salary of a position authorized by the Pay Plan for an employee within an assigned salary grade.

Part-Time Retirement Status: The appointment of an employee to a position which, on a continuing schedule, requires the employee to work less than thirty hours per week or 1,508 hours per year. PTR contributes into the retirement system with no other county benefits or service time occurred.

Part-time Status: The appointment of an employee to a position which, on a continuing schedule, requires the employee to work less than twenty hours per week or 988 hours per year with no county benefits.

Pay Plan - A schedule of pay ranges arranged by sequential rates including the minimum, intermediate and maximum steps for each class assigned to a salary range.

Performance Evaluation System -An annual review of an employee's performance.

Permanent Status – An employee who shall attain permanent status when the employee has worked the required probationary period.

Position - A collection of duties and responsibilities requiring the full or part time employment of one person.

Position Classification Plan - A plan approved by the Board of County Commissioners that

assigns classes (positions) to the appropriate pay grade.

Probationary Status- An individual hired for an established budgeted position who has not completed the specified probationary period.

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

Reallocation - Reassigning the salary grade for all positions within a particular job classification from one grade to another grade, either higher or lower.

Reclassification – A change in a position from one class to another based on changes in the complexity and responsibility of and the skill required to perform the essential functions of the position.

Reduction in Force – The abolishment of or reduction of all or some portion of a position based on needs of the organization, work load, and availability of funding.

Regular Full Time Employee - An employee hired for an established budgeted position who has satisfactorily completed a probationary period and has been approved for permanent status by their department director and/or County Manager, with a regular work schedule of forty (40) hours or more per week, and is designated by the Board of Commissioners as full-time.

Retaliation- A negative action taken against an employee because the employee filed a harassment or discrimination complaint.

Salary Grade – All positions that is sufficiently comparable to warrant one range of pay rates.

Salary Plan - The salary range assigned to each salary grade.

Salary Plan Revision - The uniform raising or lowering of the salary ranges within the salary plan

Salary Range - The salary assigned to each grade of the salary plan, including trainee, minimum, and maximum annual salaries.

Salary Schedule - A listing, by grade and step, of all minimum, intermediate, and maximum approved salary ranges authorized by the Board of County Commissioners for various positions.

Serious Health Condition (FMLA) – an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

Temporary Employee - An individual appointed to serve in a part time, non-budgeted, time- limited position without benefits in which funds are budgeted as a whole but positions are not individually budgeted. Not to be confused with regular part time.

Trainee - An employee who does not meet minimum education or experience requirements for a position but can within a specified period meet the minimum requirements.

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