



POLICIES AND PROCEDURES

OF THE

PERSONNEL BOARD

MARSHALL COUNTY

ALABAMA

REVISION 21
Revised: 08/21/2025

BOARD MEMBERS

CHARLES WHISENANT – CHAIRMAN

PENNI WINDSOR – VICE CHAIRMAN

TIM WHITE – SECRETARY

MICHAEL CLAY – MEMBER

TIM HOWARD – MEMBER

STAFF MEMBERS

CHRISTY PIERCE - PERSONNEL ADMINISTRATOR

TERRI BROWN – PERSONNEL SPECIALIST

MALLORY BROWN-NABORS – BOARD ATTORNEY

PERSONNEL BOARD OFFICE LOCATION

GUNTERSVILLE COURTHOUSE – THIRD FLOOR

ROOM A-342

PHONE: (256) 571-7720

FAX: (256) 571-7837

FOREWORD

The guidelines established in the following chapters of these policies and procedures implement those personnel practices required for the operation of an effective personnel system in Marshall County, Alabama. They are based upon the premise that within county government, the county personnel board, county elected officials and supervisors are collectively given the ultimate responsibility to make decisions that affect county operations.

The Marshall County Personnel Board bears the responsibility of developing, implementing and administering a county-wide personnel system. This responsibility includes developing and adopting personnel policies and procedures of the county by which personnel decisions may be made.

Under these guidelines, the personnel administrator, county elected officials and supervisors are given the responsibility to assure that the policies and procedures of the county are impartially and equitably administered throughout the organization.

In meeting their responsibilities in the provision of services to the general public, the elected officials and supervisors must make such decisions for their activities as who to hire, promote or demote; when to discipline and/or separate; what services to provide; what equipment to purchase, operate, or dispose of; which employees should be scheduled to work at what tasks and at what times; how their activities should be organized; and whether certain functions should be performed by outside contractors. In making these and other decisions they will try to consider the interests and concerns of their employees and the citizens they serve, but, ultimately, such decisions must be made according to their best judgment.

All personnel policies and procedures, as contained in this personnel system, are intended to be guidelines and not a contract between the county and its employees and should not be viewed as such. They are established to assist elected officials and supervisors in making day-to-day employee decisions. They are not considered to be all inclusive. These guidelines are intended to be instructive and not directive in most respects. Deviation from, or omission of, any particular procedure in the administration of these guidelines which results from oversight or inadvertence, and which, in fact, do not materially abrogate, defeat or frustrate the rights of an employee shall not serve as the basis for invalidating, reversing or modifying any personnel decisions relating to the employee.

These guidelines are effective with the date of their adoption by the county personnel board and will remain in effect until changed by the personnel board. The personnel board reserves the right to make changes in any personnel policy, rule, or procedure at any time when it is deemed necessary or desirable.

All proposed changes to these personnel policies and procedures will be posted in county offices and work areas at least ten (10) calendar days before they will be considered for adoption by the board. All changes will become effective upon their approval or at a date to be established at the time of approval.

This foreword is to be considered a preamble to this document and to state the intent and purpose of the board in adopting these policies and procedures. It is intended that this foreword be given the same effect as the policies and procedures that follow.

Questions concerning the Marshall County Personnel Board personnel policies and procedures should be directed to the personnel administrator.

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DRUG AND ALCOHOL PROVISIONS ADDENDUMPages 1 – 14

FAMILY AND MEDICAL LEAVE ACT – ADDENDUMPages 1 - 6

GRIEVANCE PROCEDURE – Appendix - A

GENERAL PROVISIONS

1.1 GENERAL PROVISIONS RELATED TO POLICIES AND PROCEDURES

1.1.1.Purpose. It is the purpose of these policies and procedures to establish guidelines for personnel actions which facilitate recruitment, selection and retention of qualified employees; enhance effective and efficient employee performance in providing services for the citizens of Marshall County; and enable county employees to derive satisfaction in their work.

1.1.2. Marshall County Personnel Board. The Marshall County Personnel Board has been established in accordance with the provisions of State Act No. 82-206, as amended by Act No. 93-549 and 00-569, and is empowered to govern the appointment, hiring, salaries, benefits, removal and official conduct of the employees of the county. The board is the approving authority for all personnel policies and procedures required to maintain the personnel system. The policies and procedures shall be subject to regular and periodic review by the board.

1.1.3 Scope of Policies and Procedures. The provisions of these personnel policies and procedures shall apply to all individuals employed by the county except as exempted by State Act No. 82-206 as amended by 93-549 and 00-569 and these policies and procedures. Excepted individuals are:

- (a) Elected officials;
- (b) Appointed members of boards, committees and commissions;
- (c) Volunteer personnel who receive no compensation from the county;
- (d) The county attorney and similar individuals employed in their professional capacity;
- (e) Persons whose employment is subject to the approval of the United States Government or the State of Alabama;
- (f) Contract employees and independent contractors; and
- (g) All employees of the county board of education.

1.1.4.Amendment or Supplementation. The personnel administrator is responsible for the development and submission to the personnel board of such amended and/or additional policies, procedures, rules, regulations and guidelines as may be necessary to implement and maintain an effective personnel system that complies with applicable federal and state laws and county resolutions. Such recommended policies, procedures, rules, regulations and/or guidelines will be approved by vote of the personnel board.

1.1.5. Administrative Guidelines. The provisions contained herein are not intended to be inclusive of all the guidelines that may be necessary at an operational level. Therefore, they may be supplemented by such administrative guidance as deemed by an appointing authority to be necessary for efficient and effective operations in his/her department. No such administrative guidance, however, will be in conflict with these basic policies and procedures.

1.1.6. Responsibility for Personnel Administration. The personnel board is responsible for ensuring compliance with the provisions of the established personnel system. The personnel board may delegate to the personnel administrator the day-to-day responsibility for administrative tasks required by these guidelines. Appointing authorities and supervisors are responsible for proper support and administration of the approved personnel system and for keeping employees under their direction cognizant of the requirements of these guidelines. Employees are responsible for acquainting themselves with all personnel policies and procedures, subsequent revisions and compliance with such guidelines.

1.1.7. Equal Employment Opportunity. Marshall County will provide equal employment opportunity to all individuals and will employ applicants on the basis of their job-related qualifications and performance potential without regard to age, sex, religion, race, color, national origin, political affiliation, or disability (except where age, sex, or disability constitute a bona fide occupational qualification). The board has established hiring and appointment procedures and processes to meet the requirements of State Act No. 82-206 and relevant federal laws.

1.1.8. Contract Disclaimer. Nothing contained herein will be construed as creating any contract of employment between the county and any individual or restricting the right of the county to:

- (a) Refuse or discontinue employment and/or prohibit the future service of any person when it is considered to be in the best interests of the county;
- (b) Decrease proportionately the compensation of all employees when required as an economy measure; or
- (c) Use independent contractors for performance of work or rendering of services.

Continuation of employment will be contingent upon an employee's job performance, the need for the position and/or the availability of funds for the position. Nothing contained herein shall be construed as preventing the removal of any employee, now or in the future, in the manner prescribed by these policies and procedures.

1.2 GENERAL PROVISIONS RELATED TO EMPLOYEES

1.2.1 Nepotism. The purpose of this policy is to minimize problems in supervision, safety, security, and morale and to enhance equal employment opportunity in the County workplace.

For purposes of this policy, a “close relative” is a spouse, child, stepchild, parent, grandchild, grandparent, brother, sister, niece, nephew, uncle, aunt, first cousin, half-brother, half-sister, or the spouse of any of the foregoing. All relationships shall include those arising from adoption. A dating relationship is defined as a relationship that may be reasonably expected to lead to the formation of a consensual “romantic” or sexual relationship. Supervisors are forbidden to date or pursue romantic or sexual relationships with employees whom they supervise directly or indirectly.

It is the established policy of the County that:

1. No person may be employed in the same department/office in which a close relative of such person is employed.
2. No person may be employed or assigned to a position where he or she directly or indirectly supervises or is supervised by a close relative or someone with whom a dating, romantic or sexual relationship is established.
3. An employee shall not work nor be placed in any position with access to sensitive, confidential, personal or departmental information regarding a relative or employee with whom a dating relationship is established.
4. Employment of non-full-time employees shall be governed by the principles stated in this policy.

If a close relative or dating relationship is established between employees after employment begins that fits a scenario described above, it is the responsibility and obligation of the employees involved in the relationship to disclose the existence of the relationship to the appropriate Department Head or elected official. The individuals concerned will be given the opportunity to decide who is to be transferred to another available position. If that decision is not made within thirty (30) calendar days, the Department Head will decide who is to be transferred or, if necessary, terminated from employment.

Employees in a dating relationship should refrain from public workplace displays of affection or excessive personal conversation. Close relatives, or employees in a dating relationship, working within the same department at the time this policy is adopted, will be grandfathered.

1.2.2 Secondary Employment. Employment with the county shall be considered by all full-time classified employees as their primary jobs. Such employees will not commit themselves to second jobs that may conflict with the county's demand on their availability for work or reflect unfavorably upon the county. If an employee engages in such work, his/her appointing authority may

direct the employee to terminate the second job. If the employee refuses, the appointing authority may terminate the employee. Secondary employment is defined as self-employment, contractual work or providing services to an employer other than the county which results in compensation, profits or commissions.

1.2.3. Residence. Residence within the county limits will not be required unless, in the judgment of the appointing authority, the job specifically requires that the incumbent live within the county jurisdiction. However, all employees are expected to be able to carry out the duties and responsibilities of their jobs. This may require that an employee live within a reasonable distance of his/her workstation to meet these responsibilities.

1.2.4. Attire. All employees are expected to dress appropriately for work. The appointing authority is responsible for setting an appropriate dress standard for his/her department. Such standards may include the wearing of uniforms when required. In setting this standard the appointing authority will consider the:

- (a) Nature of the work;
- (b) Safety considerations;
- (c) Nature of the employee's public contact;
- (d) Prevailing practices of other workers in similar jobs; and
- (e) Performance of department employees, including consideration of the type of image the department wishes to project.

The dress standards for women will be, to the extent that it is practical, comparable with that for men.

1.3 POLITICAL AND RELIGIOUS ACTIVITY PROVISIONS.

The following policies are adopted regarding political and religious activities.

1.3.1 Not to Affect Employment. No individual will be appointed, promoted, demoted, or dismissed from his/her position because of political or religious opinions or affiliations.

1.3.2 Improper Use of Influence. No individual connected with the county will use, or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to affect employment, promotion, increase in pay, or other advantages in employment for any individual for the purpose of influencing an individual's vote, political action, or any other consideration.

1.3.3. Participation Rights. No employee will be denied the right to participate in county, city, state, and federal political activities, except as limited by federal or state law. See section (11.9.3.)

1.4 ANTI-HARASSMENT POLICY AND REPORTING PROCEDURES

Marshall County strives to create and maintain a work environment in which people are treated with dignity, decency, and respect. The environment of the county should be characterized by mutual trust and the absence of intimidation, oppression, and exploitation. Marshall County maintains a zero-tolerance policy of unlawful discrimination or harassment of any kind. Through enforcement of this policy and by education of employees, Marshall County will seek to prevent, correct, and discipline behavior that violates this policy.

The purpose of this policy is to communicate to employees that Marshall County will not in any instance tolerate harassing behavior. All employees, regardless of their positions or department, are covered by and are expected to comply with this policy and take appropriate measures to ensure prohibited conduct does not occur. Employees found in violation of this policy will be subject to disciplinary action, up to and including termination.

Managers and supervisors who knowingly allow or tolerate discrimination, harassment, or retaliation, including the failure to immediately report such misconduct, are in violation of this policy and subject to disciplinary action, up to and including termination.

1.4.1 Prohibited Conduct Under This Policy. Marshall County, in compliance with all applicable federal, state, and local anti-discrimination and harassment laws and regulations, enforces this policy in accordance with the following definitions and guidelines:

1.4.2 Discrimination. It is a violation of Marshall County's policy to discriminate in the provision of employment opportunities, benefits, or privileges, to create discriminatory work conditions, or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, national origin, age, religion, disability status, sex, genetic information, pregnancy, or marital status. Discrimination is strictly prohibited by a variety of federal, state, and local laws, including Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1967, and the Americans with Disabilities Act of 1990. This policy is intended to comply with the prohibitions stated in these anti-discrimination laws. Discrimination in violation of this policy will be subject to disciplinary measures, up to and including termination.

1.4.3 Harassment. Marshall County prohibits harassment of any kind, and will take appropriate and immediate action in response to complaints or knowledge of violations of this policy. For purposes of this policy, harassment is unwelcome or offensive verbal or physical conduct designed to threaten, intimidate, or coerce an employee, co-worker, or any person working for or on behalf of Marshall County. Note that it is not the intent but the impact of the behavior on others and whether the behavior or pattern of behavior creates a hostile environment for those subjected to or witnessing it.

Harassment becomes unlawful when:

1. Enduring offensive conduct becomes a condition of continued employment, or
2. The conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

1. Verbal harassment includes comments that are offensive or unwelcome regarding a person's national origin, sex, race, color, religion, sexual orientation, age, body, disability, pregnancy or appearance, including epithets, slurs, and negative stereotyping.
2. Nonverbal harassment includes distribution, display, or discussion of any written or graphic material that ridicules, denigrates, insults, belittles, or shows hostility, aversion, or disrespect toward an individual or group because of national origin, sex, race, color, religion, age, pregnancy, appearance, disability, marital status, or other protected status.

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, an employee of another area, or someone who is not an employee of the employer, such as a client or customer.

1.4.4 Sexual Harassment. Sexual harassment is a form of unlawful employment discrimination under Title VII of the Civil Rights Act of 1964 and is prohibited under Marshall County's anti-harassment policy. According to the Equal Employment Opportunity Commission (EEOC), sexual harassment is defined as "**unwelcome** sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature ... when ... submission to or rejection of such conduct is used as the basis for employment decisions ... or such conduct has the purpose or effect of ... creating an intimidating, hostile, or offensive working environment."

Sexual harassment occurs when unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature:

1. Is made explicitly or implicitly a term or condition of employment
2. Is used as a basis for an employment decision
3. Interferes with an employee's work performance or creates an intimidating, hostile or otherwise offensive environment
4. Is unwanted, unwelcome, or inappropriate for the workplace Sexual harassment may take different forms. The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

1. Verbal sexual harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats, requests for any type of sexual favor (this includes repeated, unwelcome requests for dates), and verbal abuse or “kidding” that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome.

2. Nonverbal sexual harassment includes the distribution, display, or discussion of any written or graphic material, including calendars, posters, and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex, suggestive or insulting sounds, leering, staring, whistling, obscene gestures, content in letters, notes, facsimiles, e-mails, photos, text messages, tweets and internet postings, or other forms of communication that are sexual in nature and offensive.

3. Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, and forced sexual intercourse or assault.

Courteous, mutually respectful, pleasant, noncoercive interactions between employees that are appropriate in the workplace and acceptable to and welcomed by both parties are not considered to be harassment, including sexual harassment.

1.4.5 Confidentiality. All reports and investigations are treated confidentially to the extent possible, and information is disclosed strictly on a need-to know basis. The identity of the complainant is usually revealed to the parties involved during the investigation, and adequate steps will be taken to ensure that the complainant is protected from retaliation during and after the investigation. All information pertaining to a complaint or investigation under this policy will be maintained in secure files within the Personnel department.

1.4.6 Reporting Procedures. Every employee has the right to work in an environment free of harassment and discrimination. If you hear or see something that you believe to be illegal or unethical, Speak Up!

All reports of harassment are important and will be fairly, timely, and discreetly investigated. All aspects of the procedure will be treated confidentially to the extent possible. When the investigation is completed, you will be informed of the outcome of the investigation.

The County strongly urges the reporting of all incidents that employees perceive as being discriminatory, harassing, or retaliatory, regardless of the alleged harasser's identity or classification/position. Individuals who believe that they have experienced conduct that amounts to illegal discrimination, harassment, or retaliation or who have concerns about workplace conduct they have observed should:

- promptly report the incident to his/her immediate supervisor through the use of Marshall County Discrimination/Harassment Complaint Form;

in the event that the alleged harasser is the employee's supervisor, the employee should report the conduct to his/her next level supervisor;

- if the employee is uncomfortable reporting the complaint to any member of his/her supervisory chain of command, the employee should report the conduct to the Personnel Administrator;

In no event shall the employee's complaint of harassment or discrimination be filed with or appealed to the alleged harasser.

Reports should be submitted as soon as possible after an incident has occurred.

Employees who believe that he or she is being sexually harassed or discriminated against will be requested to make a signed, written statement of the allegations. Any supervisor who becomes aware of possible sexual or other unlawful harassment or discrimination must immediately advise their direct supervisor, so it can be investigated in a timely and confidential manner.

Any supervisor who fails to make notification when harassment is observed or who is aware of the possibility of harassment and fails to make notification may be subject to disciplinary action, up to and including termination of employment.

Such conduct does not have to be directed toward the reporting party. A victim of harassment does not have to be the person harassed but could be anyone affected by the offensive conduct. Following a report, the Department Head and Personnel Administrator will initiate an investigation to determine whether there is a reasonable basis for believing that the alleged violation of this policy occurred. If necessary, the complainant and the respondent will be separated during the course of the investigation, either through internal transfer or administrative leave.

Alternative Legal Remedies. Nothing in this policy may prevent the complainant or the respondent from pursuing formal legal remedies or resolution through local, state or federal agencies or the courts.

1.4.7 Workplace Bullying. Marshall County defines bullying as repeated mistreatment of one or more people by one or more perpetrators. The cumulative effect of the behavior is to threaten, undermine, constrain, humiliate or harm another person's reputation, self-esteem, self-confidence, or ability to perform their job.

It is abusive conduct that includes:

1. Threatening, humiliating, or intimidating behaviors
2. Work interference/sabotage that prevents work from getting done
3. Verbal abuse

Individuals who feel they have experienced bullying should report this to their direct supervisor or department head before the conduct becomes severe or pervasive. If the

bullying behavior continues after a complaint has been filed with the direct supervisor and/or department head, the employee may file a complaint with the Personnel Administrator. All employees are strongly encouraged to report bullying conduct they experience or witness as soon as possible to allow Marshall County to take appropriate action to prevent, correct, and discipline behavior that violates this policy.

Bullying vs. Supervision. It is important to distinguish between bullying behavior and appropriate workplace supervision. Reasonable supervisory actions, when carried out in an appropriate manner, include:

1. Coaching or providing constructive feedback
2. Monitoring or restricting access to sensitive information for legitimate business reasons
3. Scheduling ongoing meetings to address performance issues
4. Setting aggressive performance goals to help meet departmental goals
5. Counseling or disciplining an employee for misconduct
6. Investigating alleged misconduct

Differences of opinion, interpersonal conflicts, and occasional problems in working relations are an inevitable part of working life and do not necessarily constitute workplace bullying.

1.4.8 Retaliation. It is central to the values of Marshall County that any individuals who believe they may have been the target of prohibited discrimination, harassment or bullying, feel free to report their concerns without fear of retaliation or retribution. The County strictly prohibits retaliation against an employee or any other individual who opposes or reports in good faith any practices prohibited under this policy, including bringing a complaint of discrimination or harassment, assisting someone with such a complaint, attempting to stop such discrimination or harassment, or participating in any manner in an investigation or resolution of a complaint of discrimination or harassment. Any individuals who believe they have been subjected to or affected by retaliatory conduct for reporting a suspected violation of this policy or participating in an investigation should report the concern immediately to his/her direct supervisor, department head and/or Personnel Administrator. Filing groundless or malicious complaints is an abuse of this policy and will be treated as a violation. Any person who is found to have violated this aspect of the policy will be subject to discipline, up to and including termination of employment.

1.4.9 Training. The County shall provide harassment training to all new and current employees so that employees may better understand the board's philosophy, policies and applicable laws pertaining to workplace harassment.

1.5 DRUG AND ALCOHOL PROVISIONS

(Revised 05/19/2011 – See Drug and Alcohol Provisions Addendum)

The welfare and success of the County depends upon the physical and psychological health of its employees. The abuse of drugs and/or alcohol poses a serious threat to both the county and its employees. It is the responsibility of both the county and its employees to maintain a safe, healthy and efficient drug-free working environment.

All applicants and employees are subject to the provisions contained in the *Drug and Alcohol Provisions Policy Addendum*.

1.6 WORKPLACE VIOLENCE POLICY.

The board is concerned for the safety of employees and shall not tolerate harassment, intimidation, threat or assaults of employees both at and away from county property. Employees are encouraged to report all instances of threats, harassment, intimidation or actual assault directly to their immediate supervisor or appointing authority. Reports can also be made to the personnel administrator. The appointing authority shall take necessary actions to ensure the safety of employees reporting incidents, pending investigation of reported incidences, including temporary job reassignment, job modification or other actions as determined appropriate by the circumstances. The appointing authority or personnel administrator shall conduct an investigation of all reports/complaints and prepare a report. The appointing authority shall take disciplinary or other actions as determined appropriate by the outcome of the investigation and these policies and procedures.

1.7 DEFINITIONS.

The following words, terms, and phrases wherever used in these policies and procedures have the following meanings.

1.7.1. Merit Employee – a classified employee of the county that has successfully completed the required probationary period and acquired merit status. Merit employees are primarily distinguished from other employees in that discipline, and separation of merit employees is to be administered pursuant to certain disciplinary, and separation guidelines of these policies and procedures which are inapplicable to other employees.

1.7.2. Classified Employee – An employee of the county employed in a position projected to be ongoing at the time of establishment and funding. Appointment of classified employees is to be administered pursuant to certain guidelines within these policies and procedures. A full-time classified employee is normally scheduled to work forty (40) or more hours per work week. A part-time classified employee is scheduled to work no more than twenty-nine (29) hours per week.

1.7.3. County – Marshall County, Alabama.

1.7.4. Appointing Authority - a county elected official, the governing body, board or agency supervising the work of employees.

1.7.5. Disciplining Individual - an appointing authority or other individual designated by the appointing authority, charged with the responsibility and authority to administer discipline in his/her department pursuant to these guidelines.

1.7.6. Eligibility List - a list of applicants, who have been determined to be qualified pursuant to these guidelines for appointment to a vacant position.

1.7.7. Employee - a person, including law enforcement officers, that is not excepted by Section 3 of State Act. No. 82-206, who occupies a position in the county service and is paid from county-controlled funds (other than a temporary employee obtained through a temporary services company) or a person who is on authorized leave of absence, and whose position is being held for the individual pending his/her return.

1.7.8. Exempt Employee - an employee whose job duties are of such a nature that they are covered by exemptions from the overtime provisions of the Fair Labor Standards Act (FLSA).

1.7.9. Non-Exempt Employee - an employee whose job duties do not exempt the employee from the overtime provisions of the Fair Labor Standards Act (FLSA).

1.7.10. Part-Time Employee - an employee employed in a position in which the employee is scheduled to work no more than twenty-nine (29) hours per week.

1.7.11. Probationary Status - that employment status in which new or promoted classified employees serve until they have successfully completed the established probationary period and receive merit status. A probationary status employee may be terminated by his/her appointing authority without a hearing and without recourse at any time.

1.7.12. Promotion - the non-temporary appointment of a merit status classified employee to a vacancy in the classified service in a higher pay grade than the job to which the employee was assigned prior to the new assignment.

1.7.13. Merit Status - that employment status enjoyed by employees in the classified service who have successfully completed a probationary period of six (6) months.

1.7.14. Temporary Employee - an employee employed in a short-term situation of no more than one hundred twenty (120) days duration per calendar year. Typically, temporary employees perform special projects, fill authorized and funded temporary positions, substitute for or replace classified employees on approved leave, or fill a classified position until an eligibility list can be established for the position. Temporary employees are always considered to be in a probationary status.

1.7.15. Temporary Service - that category of service in which temporary employees are engaged.

1.7.16. Vacancy - a position that has been duly created and funded by the county commission, which is not occupied or is occupied by a temporary employee.

CHAPTER 2

RECORDS AND REPORTS

2.1 PERSONAL HISTORY RECORD (PHR).

The purpose of the employee Personal History Record (PHR) is to establish and maintain a central source of information that is required to support employee personnel actions. Information contained in a PHR will be closely controlled as to its release. The PHR will be established and maintained by the personnel administrator and will be the official source of information for responding to authorized requests for official information about present and former employees.

2.1.1. Content. The material that is authorized to be included in the PHR is restricted to those items for which authenticity has been confirmed through established procedures, e.g., official personnel forms, statements from the employee, supervisors, and statements provided by references named by the employee. The PHR will exclude material that is not appropriate for use in making judgments in personnel actions. Subject to the above restrictions, the PHR will include the information described in the following sections which, when filed in the PHR, will become a permanent part of the employee's record.

2.1.2. Qualifications Information. The PHR will contain information related to the employee's qualifications including:

- (a) Evidence of the employee's knowledge, skills, abilities, experience, training, and character;
- (b) Completed application form for county employment;
- (c) Supplementary qualification information provided by the employee or his/her supervisor;
- (d) Test results, if applicable;
- (e) Interview reports;
- (f) Reference reports;
- (g) Performance appraisals; and
- (h) Employee's job description.

2.1.3. Personal History Information. The PHR will contain other information including:

- (a) Personal information such as age, next of kin, address, etc. needed for processing required personnel actions;
- (b) Records of benefit enrollments; and

- (c) Medical examination results (should be maintained in a separate file).

2.1.4. Other Information. The PHR will contain other information pertinent to the employee's employment including, but not limited to the following:

- (a) Personnel action forms and correspondence pertaining to appointment, status change, leaves of absence, separation, and reappointment;
- (b) Letters of commendation; and/or
- (c) Records of disciplinary actions.

2.1.5. Confidentiality. The personnel administrator will ensure that the PHR for all employees is maintained in a strictly confidential manner. Access to the PHR's will be in accordance with the following guidelines:

- (a) An employee may have access to his/her own PHR upon written request to the personnel administrator;
- (b) An appointing authority may have access to the PHR's of those employees assigned to his/her department;
- (c) The county's attorney will have access to the PHR's of any employee where needed in the representation of the county; and
- (d) Other individuals may have access to the PHR of an employee when needed for official reasons as approved by the board.

2.1.6. Record of Access. The personnel administrator will maintain a record of all individuals who have accessed an employee's PHR.

2.1.7. Inactive PHR's. An employee's PHR will be maintained in an inactive status for five (5) years after he/she leaves the county's employment.

2.2 CENTRAL RECORDS.

The personnel administrator will also establish and maintain other administrative records that are necessary for the proper implementation of the county's personnel system.

2.3 FORMS AND SUPPLIES.

The personnel administrator will establish and provide such forms, blanks, and other record-keeping materials necessary for the preparation and maintenance of required personnel records and reports.

CHAPTER 3

CATEGORIES OF SERVICE AND EMPLOYMENT STATUS

3.1 CATEGORIES OF SERVICE.

Every job that exists now or in the future within the county service will be assigned to one (1) of the categories of service identified in this chapter. Such assignments will be approved by the personnel board.

3.2 CLASSIFIED SERVICE.

The classified service will include those ongoing full-time and part-time positions, as authorized and funded by the county commission, based upon requests from the appointing authorities. Classified full-time employees are normally scheduled to work at least forty (40) or more hours each workweek and classified part-time employees are scheduled to work no more than twenty-nine (29) hours in a work week.

3.2.1. Positions Included. It is intended to include within the classified service all positions in which the incumbents are paid out of county commission controlled funds, regardless of the source of the revenues making up such funds, which have not been accepted by these policies and procedures, and have not been assigned to another category of service.

3.2.2. Benefits. Full-time classified employees will be eligible to participate in all county provided benefits, retirement, annual and sick leave, and holiday pay. Full-time classified employees shall also participate in group hospitalization and life insurance. Part-time employees will not be able to participate in any county benefits.

3.3 TEMPORARY SERVICE.

The temporary service will include those individuals who have been employed to: perform special or emergency functions and authorized and funded temporary work, or replace classified employees on approved leave, or fill vacancies until an eligibility list can be established and a classified employee selected.

3.3.1. Length of Employment. Temporary service employment will not exceed one hundred twenty (120) consecutive days in duration per calendar year. Individuals hired for the temporary service may work either a full or part-time workday. Because of their short-term status, temporary employees are always considered to be in a probationary status.

3.3.2. Continuous Service Provision. Temporary service employment will not count as continuous years of service, if a temporary individual is appointed to a position in the classified service.

3.3.3. Transfer Provisions. Temporary individuals may not be transferred directly to the classified service. However, they may apply for vacancies in accordance with the staffing guidelines of these policies and procedures. Temporary individuals seeking employment will not be given preferential consideration over any other applicants for a vacancy in the classified service.

3.3.4. Benefits. Temporary individuals will not be eligible to participate in any county provided employee benefits.

3.4 EMPLOYMENT STATUS.

Each individual employed in a position in the classified service will be placed in an employment status in accordance with the following provisions.

3.4.1. Probationary Status. Initially, each individual hired as a classified service employee will be placed in a probationary status until the employee has successfully completed the established six (6) month probationary period. A probationary status employee may be separated by his/her appointing authority without a hearing and without recourse under these guidelines at any time.

3.4.2. Merit Status. Merit status will be afforded every classified employee who successfully completes the board's established six (6) month probationary period and is approved for merit status by his/her appointing authority. An employee who acquires merit status may, subject to the provisions of these policies and procedures, remain in his/her position so long as there is a need for the position, the position is funded, the employee's performance is acceptable, and the employee's conduct meets established standards.

3.4.3. Status of Present Employees. Each employee who is serving in a position that is assigned to the classified service at the time of adoption of these policies and procedures and who has completed the board's requirements to be designated a merit status employee in accordance with these policies and procedures is designated as a merit status classified employee. All other employees who are presently serving in the classified service at the time of adoption of these policies and procedures are designated as probationary status classified employees, until they complete the probationary period and are approved by their appointing authority as merit status employees.

3.5 PROBATIONARY PERIOD.

The probationary period is considered an integral part of the training and evaluation process for each new employee and will be utilized by the employee's appointing authority to closely observe the employee's work, to obtain the most effective adjustment of the employee, and to separate any new employee who is considered to be unacceptable for continued employment.

3.5.1. Duration. The board's probationary period is established as six (6) months.

3.5.2. Evaluation. The appointing authority will evaluate the performance of all probationary status employees at least during their first, third and sixth month of service. A copy of all evaluations will be furnished the personnel administrator for inclusion in the employee's personnel file.

3.5.3. Termination. During the probationary period the appointing authority may terminate the employment of a probationary employee at the appointing authority's discretion. The appointing authority will notify the probationary employee in writing of his/her termination. A copy of the termination notice will be provided the personnel board for review and for inclusion in the individual's personnel file.

3.5.4. Procedure for Attainment of Merit Status. During the last ten (10) days of an employee's probationary period, the appointing authority will complete a written evaluation of the employee's work. The evaluation will include a statement that the employee's service has been satisfactory and that the employee is being retained as a merit status classified employee. If the employee receives an unacceptable evaluation, the evaluation will include a statement that the individual is not being retained. Normally, a terminated probationary status employee will be given up to one (1) calendar week's notice. However, when determined by the appointing authority to be necessary, the employee may be given a shorter notice. All employees who are approved for and designated as merit status classified employees will be notified in writing by their appointing authority of their completion of the probationary period and designation as merit status employees. A copy of the appointing authority's letter, along with a copy of the employee's final performance evaluation, will be furnished to the board for review and for inclusion in the employee's personnel file.

3.5.5. Appeals. Probationary status employees will not be eligible to file appeals from any separation or disciplinary action taken against them or to file grievances as provided by the board's grievance procedure unless such grievance is based upon their claim that they have been discriminated against because of race, color, religion, sex, age, disability, or national origin.

CHAPTER 4

STAFFING

4.1 GENERAL PROVISIONS.

4.1.1. Board Notification. All vacant positions will be filled in accordance with these guidelines. Staffing actions will be initiated only for vacant positions that have been authorized and funded by the county commission. Whenever a vacancy occurs in the classified service, the appointing authority shall notify the board, in writing, the day the appointing authority is made aware of an impending vacancy because of an employee resignation or other occurrence, but not more than seven (7) days from the date the vacancy occurs. The notification shall contain:

- (a) The position that shall be or is vacant.
- (b) The date it became or will become vacant.
- (c) The name of the last person holding such position.
- (d) The reason for the vacancy.
- (e) Whether the position shall be refilled, and if so, when desired.
- (f) Request for certification of names of the ranking lay-offs or the names of ranking applicants from the appropriate eligibility list.
- (g) Request for approval of a temporary appointment to the open position, if desired.

4.1.1.1. Vacancies in Classified Service. Vacant positions in the classified service will be filled by the appointing authority through the appointment of qualified applicants in accordance with the guidelines contained herein and with the approval of the personnel board.

4.1.1.2. Vacancies in Temporary Service. The appointing authority will fill vacancies in the temporary service with individuals who meet the job-related qualifications for such positions in accordance with the guidelines contained herein and the approval of the personnel board.

4.1.1.3. Budgeted Full-Time Position Priority. No part-time positions are to be filled by an appointing authority until all budgeted full-time positions have been filled for that department or office.

4.1.2. Character and Ability. All applicants for employment with the county must be of good moral character and be able to perform the essential functions of the position for which they have applied.

4.1.3. Fraud on Application. Any person who has fraudulently secured an appointment will be removed in accordance with these policies and procedures and will not thereafter be eligible for consideration for any position covered by the board's personnel system.

4.1.4. Laid-Off, Current Employee and New Applicant Consideration.

When a vacancy occurs in the classified service, qualified employees that have been laid off due to a reduction in force will receive first consideration for jobs in or below their pay grade. The personnel administrator shall revise the names on the lay-off list and contact the qualified individual and inform him or her of the vacancy. If there are no qualified individuals on the lay-off list, or if all qualified individuals cannot be located or decline the position, current eligible employees may apply for the vacancy. The personnel administrator shall post the vacancy as described in Section 4.2.3. Once the allotted time period for receipt of applications has expired, the appointing authority shall interview the top three applicants, if three are available, prepare interview forms provided by the Board and make a selection to fill full and part-time positions. If none of the top three applicants is satisfactory, then if over ten and not more than twenty-five total applicants are eligible, the appointing authority may request and consider the next top three applicants in the same manner. If none of the second top three applicants is satisfactory, then if over twenty-five applicants are eligible, the appointing authority may request and consider the next top three applicants in the same manner. If more than one set of applicants is requested by and submitted to the appointing authority, the previously considered set(s) of three are no longer eligible for hire and the new hire must be selected from the set of three currently submitted for consideration. If a set of applicants being submitted to the appointing authority contains applicants with tied scores, all applicants with that score will be submitted for consideration. During a period of suspension of an employee, or pending any final action on proceedings to review the suspension, demotion or dismissal of an employee, the vacancy created may be filled by the appointing authority only by temporary appointment.

4.2 FILLING VACANCIES.

4.2.1. Job Descriptions and Pay Grade Assignments. When a vacancy in the classified service occurs, the personnel administrator will ensure that the approved job description on hand is current and that the job has been assigned to a pay grade in the board's classification plan. If a current approved job description is not on hand and/or the job has not been assigned to a pay grade in the classification plan, the personnel administrator will, in coordination with the appointing authority, initiate

action to have a job description written and the job assigned to a pay grade in the classification plan in accordance with Chapter 12 of these policies and procedures. If an appointing authority wishes to add a position in his/her department that was not approved by the county commission during budget preparation, the appointing authority shall submit his/her request to have the position approved and funded by the commission. Such request will include a current job description and recommended pay assignment. The recommended pay grade assignment will be made in accordance with Chapter 12 of these policies and procedures.

4.2.2. Temporary Positions. When there is a need to fill a temporary service vacancy that has been approved by the county commission, the appointing authority may fill the position through a temporary service agency or through the employment of a temporary employee. Openings for temporary employment may or may not be advertised. The appointing authority shall advise the board as to his or her requirements.

4.2.3. Advertisement. Classified jobs shall be posted internally for no less than seven (7) calendar days to allow eligible employees an opportunity to apply for them and shall be posted at locations readily available to all county employees. The county reserves the right to select a qualified individual for a vacancy and is not required to select a current employee if no current employee is considered sufficiently qualified. Jobs that are not filled internally shall be open to the general public, and will normally be advertised through an appropriate media, to ensure adequate advertisement in the recruiting area and shall be open for receipt of applications for no less than seven (7) calendar days from the date of the notice and/or the first publication.

4.2.4. Content of Advertisement. All advertisements will provide a description of the job, necessary qualifications, pay grade, pay range, deadline for applying, date and time of any qualifying examination and where applications may be picked up and returned. All advertisements will contain the statement: "Marshall County is an Equal Opportunity Employer."

4.2.5. Application Forms. Applications for all job opportunities, will be made on forms provided by the board and submitted to the personnel administrator.

4.2.6. Acceptance of Applications. All applications will be submitted in accordance with the job opportunity announcement. The board will not accept applications, unless the board is actively seeking applications in response to employment opportunity advertisements.

4.3 ELIGIBILITY LISTS.

The personnel board shall establish eligibility lists of qualified applicants, to ensure qualified individuals are available to fill vacancies. Normally, such list will be prepared when a vacancy occurs; however, the personnel board may establish an eligibility list, in advance, for positions that have a high turnover. No list shall be valid for more than two years.

4.3.1. Criteria for Testing and Ranking. Criteria for testing or examinations to be used in determining the job-related qualifications and subsequent ranking of an applicant on an eligibility list will be established by the personnel board, in coordination with the appropriate appointing authority.

4.3.2. Refusal to Examine or Place on List Permitted. The board may refuse to examine, or after examination, place on an eligibility list the name of anyone who is found to lack any of the established job-related requirements for the job for which the individual is applying, or any individual who has been convicted of any crime involving moral turpitude or any infamous or disgraceful conduct, or anyone who has been dismissed from employment for delinquency or misconduct, or anyone who has intentionally made a false statement of any material fact or attempted to practice any deception or fraud in application or examination.

4.3.3. Content and Ranking. When an eligibility list is established it will contain the names of all applicants who have submitted applications in response to the recruiting announcement, who have been determined to be qualified, except as provided for in paragraph 4.2.2 above. The order of the rankings will be based upon each applicant's possession of the job related qualifications, experience, and other factors specified, or inherent, in the job. If examinations are required, tests will be scheduled, completed and scored prior to the ranking of applicants. No consideration will be given to age, sex, national origin, religion, color, race, political affiliation, or disability (except where age, sex, or disability constitutes a bona fide occupational qualification). Reasonable accommodations for disabled applicants, who are otherwise qualified, will be made when practical. The personnel administrator shall complete and submit the eligibility list to the board for certification.

4.4 SELECTION OF INDIVIDUALS FOR THE CLASSIFIED SERVICE.

4.4.1. Referral of Names. The top three applicants on the eligibility list for the vacancy will be referred to the appointing authority for his/her consideration in filling the vacancy. If none of the top three applicants is satisfactory, additional applicants will be referred according to the procedure outlined in Section 4.1.4.

4.4.2. Interviews. The appointing authority, or the appointing authority's designated representative, will hold interviews with the qualified individuals whose names have been referred by the personnel administrator. An interview form, provided by the personnel administrator, will be completed for each interview held with an applicant. The appointing authority shall select one of the applicants currently submitted for consideration.

4.4.3. References Checked. Appropriate inquiries of former employers and other references, when required, will be made by the appointing authority, or the appointing authority's designated representative. If agreeable to an applicant, inquiries may also be made to the applicant's present employer.

4.4.4. Applicant Selected. After all interviews have been completed, the appointing authority will make the selection. The personnel administrator will notify any applicant who is interviewed and not selected in writing. All selections will be tentative, subject to a medical determination that the individual is able to perform the essential duties required in the position. The selection will also be subject to favorable background investigation, a driving record check, and/or a determination that the individual can be bonded, when required.

4.5 SELECTION FOR TEMPORARY SERVICE.

Selections to fill positions in the temporary service will be made by the appointing authority, or the appointing authority's designated representative. Interviews may be held with applicants, if determined by the appointing authority to be necessary.

4.6 EMPLOYMENT OFFERS AND ORIENTATION.

Employment offers to individuals who have been selected for classified service positions will be made in writing by the personnel administrator. No individual (including temporary employees) may consider that an offer of any type has been made to the individual unless the individual has been so notified.

4.6.1. Notification of Offer. The written notification will inform the applicant that the offer is contingent upon:

- (a) A report of an acceptable medical examination;

- (b) The individual successfully undergoing a background investigation, when required;
- (c) The individual successfully demonstrating through a driving record check that he/she will be accepted by the county's insurance carrier under preferred rates, when driving is required because of job duties;
- (d) The individual successfully being issued a bond when required because of the job duties;
- (e) The individual successfully meeting any standards or certifications as required by law and/or the county; and
- (f) The individual successfully meeting any other job-related requirements established at the time of the offer.

4.6.2. Starting Work. Upon approval of the appointing authority, the individual may be allowed to start work prior to meeting the requirements listed in paragraph 4.6.1. However, the individual will be informed in the written notification that continuation of employment will be contingent upon his/her meeting such requirements in a reasonable time period. If the individual does not satisfy such requirements within the time period established, he/she may be separated. New employees are required to report to the personnel administrator for an orientation session on their first day of work, after reporting to their supervisor, but prior to beginning any assigned duties.

4.6.3. Medical Exam. Notwithstanding the provisions of paragraph 4.6.2 above, the selected individual will complete the required medical exam prior to starting work. The personnel administrator will schedule, at the county's expense, a medical examination for the individual with a county designated physician.

4.6.4. Starting Pay. The starting pay for a new or currently employed individual will be established in accordance with the approved classification and pay plans and the guidelines established in Chapter 12 of these policies and procedures.

4.6.5. Exceptions to these Guidelines. In those situations where a merit status classified employee's:

- (a) Position is being abolished and he/she would otherwise be laid off; or
- (b) Performance, as demonstrated through performance evaluations and/or reports, indicates he/she is not qualified to render satisfactory service in the current position;

The appointing authority may, at his/her discretion, reassign an employee to any available position of equal or lower pay grade that exists in his/her

department. If a position is available in another department, the personnel administrator shall determine if the employee is qualified and shall forward the information to the appointing authority with the opening. The receiving appointing authority may decline the reassignment.

4.6.6. Effective Date. If an employee is selected for a vacant position, the appointing authority will coordinate the effective date of the reassignment with the employee's current appointing authority and the personnel administrator. The personnel administrator will ensure that all records are updated, as required.

4.6.7. Department Orientation by Appointing Authority. The appointing authority, or a designated supervisor shall provide department orientation for a new employee. The supervisor shall discuss work relationships, work habits and safety issues and policies. The appointing authority or designated supervisor shall introduce new employees to all employees within the department and explain the interaction the new employee shall have with other department employees and their functions. The appointing authority or designated supervisor shall assist the new employee to familiarize themselves with the physical premises, pointing out the location of time clocks, restrooms, switches and any possible hazards and other pertinent features of the work environment.

4.6.8. Job Orientation by Appointing Authority. The appointing authority or designated supervisor shall explain job duties and how the job contributes to the overall mission of the department. Any training requirements and timetables will also be explained.

4.6.9. New Employee Orientation by Personnel Administrator. The purpose of the new employee orientation is to ensure all new employees have the opportunity to gain a better understanding of county benefits, policies and procedures. During orientation, all necessary forms will be completed and general county procedures explained. At the end of an orientation session, each new employee will:

- (a) Be properly enrolled in the payroll system;
- (b) Have properly completed the tax forms;
- (c) Have been informed about benefit privileges and responsibilities; and
- (d) Have been provided an overview of the county and general operating philosophies and guidelines.

CHAPTER 5

EMPLOYEE REASSIGNMENTS

5.1 GENERAL PROVISIONS.

Vacant classified service positions will be advertised in-house to allow existing county employees an opportunity to apply for them.

5.1.1. Equal Opportunity. All employees will be considered for reassignment without regard to race, color, religion, sex, age, national origin, or disability. All selections will be based solely upon an applicant's qualifications, prior performance, efficiency, longevity, ability to perform the essential functions of the position, and/or the needs of the county.

5.1.2. Consideration to Type of Assignment. Intradepartmental promotions will receive first consideration, followed by interdepartmental promotion, transfers and voluntary demotions.

5.1.3. Records Updated. The personnel administrator will ensure that all employee reassignments meet the intent of these guidelines and that the appropriate personnel records are updated as required.

5.1.4. Exceptions to these Guidelines. In those situations where a merit status classified employee's:

- (a) Position is being abolished and he/she would otherwise be laid off; or
- (b) Performance, as demonstrated through performance evaluations and/or reports, indicates he/she is not qualified to render satisfactory service in the current position;

The appointing authority may, at his/her discretion, reassign an employee to any available position of equal or lower pay grade that exists in his/her department, as an exception to the guidelines below. Such reassignments will be made in accordance with Chapter 7 of these policies and procedures.

5.2 GENERAL GUIDELINES.

5.2.1. Posting. Upon determination that a vacancy exists in an authorized and funded position, the personnel administrator will, in coordination with the appointing authority prepare and post a vacancy notice in work areas that are readily accessible to eligible employees.

5.2.2. Applications. Interested eligible employees may apply for any posted vacancy for which they are qualified. Such application will be made in accordance with the instructions specified in the vacancy notice. All applications will be delivered to the personnel administrator prior to the closing date and time listed in the vacancy notice.

5.2.3. Review of Applications. After the closing date for receipt of applications, the personnel administrator, shall screen applications and provide the qualified applications, along with other relevant employee information and records, to the personnel board.

5.2.4. Referral of Employees. The applications of qualified employees for a vacancy will be referred to an appointing authority.

5.2.5. Selection. Employee consideration for all vacancies will be in accordance with paragraph 4.1.4.

5.2.6. Effective Date. If an employee is selected for a vacant position, the appointing authority will coordinate the effective date of the reassignment with the employee's current appointing authority and the personnel administrator. The personnel administrator will ensure that all records are updated, as required.

5.2.7. Written Notification. The selected employee will be notified in writing of his/her selection for the vacancy. Such notification will be in accordance with paragraph 4.61.

5.2.8. Determination of Pay Level. When an employee is selected to fill a vacancy, the employee's pay level will be established in accordance with the following criteria:

5.2.8.1. Transfer. If the employee is assigned to a position in the same pay grade as the current position, the reassignment will be considered a transfer and the employee's pay will remain the same in the new position as it was before reassignment.

5.2.8.2. Promotion. When an employee is promoted to a new job, his/her pay level will be established at least at the minimum pay level for the new classification pay grade of his/her new job, provided, however, that the employee's new pay level will be at least four (4) percent above the pay received prior to the promotion.

5.2.8.3 Demotion. When an employee is demoted to a new job, his/her pay level will be established at the same step within the new pay grade for his/her new job that he/she was in for the pay grade for his/her prior job. Under no circumstances will a demoted employee's pay exceed the maximum level of pay or be less than the minimum rate for the pay grade of his/her new job. The Personnel Board will approve the actual amount of wage decrease.

5.2.9. Probationary Period. Any classified employee who is transferred, promoted or demoted to another classified service position will serve a probationary period of six (6) months in the employee's new position. During the probationary period the employee's performance will be evaluated by the employee's appointing authority or the appointing authorities designated representative, in accordance with the provisions of Chapter 6 of these policies and procedures. If the employee's performance during the probationary period is documented to be inadequate, the employee may be separated or reassigned to another position in the same or lower pay grade in the classified service, if one is available and the reassignment is approved by the appointing authority in whose department the position exists. However, an employee who has been assigned to a lower level position because the employee's performance was not acceptable in the employee's previous position, and whose performance is still unacceptable in the employee's new position, will not be considered for reassignment, but, will be separated.

5.2.9.1. Pay Level Upon Reassignment During Probationary Period. If an employee is reassigned to a position of equal or lower pay grade because the employee's performance has been unacceptable during the employee's probationary period, the employee's pay will be adjusted in accordance with paragraph 5.2.8 above. However, the employee will be entitled to any pay adjustments that would have been received, if he/she had not been reassigned.

5.2.9.2. Notice of Separation. If the individual is to be separated due to unacceptable performance during the probationary period, the employee may be given up to seven (7) calendar days' notice prior to separation. However, if the appointing authority considers that it is in the best interest of the county, the appointing authority may give the employee less notice.

5.3 TEMPORARY ASSIGNMENTS.

Any employee may, at the discretion of his/her appointing authority, be placed on temporary assignment in another position for such purposes as training, accomplishing special projects, filling temporary vacancies, or other similar reasons.

5.3.1. Duration. Normally, an employee may be temporarily assigned to another job by the employee's appointing authority for no more than ninety (90) continuously scheduled calendar days. However, the appointing

authority, with approval of the personnel board, may extend the assignment for up to an additional thirty (30) continuously scheduled calendar days beyond the initial period.

5.3.2. Pay. If the employee is temporarily assigned to a position that is of equal or lower pay grade to his/her regular position, the employee's pay will not change. If the employee is placed in a position in a higher pay grade level than that of the employee's regular position, the employee's pay will not change during the first twenty (20) working days of the temporary assignment. If the assignment exceeds twenty (20) continuously scheduled work days the employee's pay will be adjusted to at least the entry level pay of the pay grade of the employee's temporary job assignment for the remainder of such assignment or five percent above his or her current pay rate, which ever is greater. Upon completion of the temporary assignment, the employee's pay will revert back to his/her regular pay.

CHAPTER 6

EMPLOYEE PERFORMANCE APPRAISAL

6.1 GENERAL PROVISIONS.

The job performance of all employees, except temporary employees, shall be evaluated periodically in accordance with guidelines approved by the personnel board. Such guidelines will be reduced to writing and annexed to these policies and procedures as the Marshall County Performance Appraisal System. The appraisal system will be job-related and will provide supervisors and employees documented information concerning an employee's performance level in the employee's job.

6.1.1. Purposes. Performance appraisal results will be used for the following purposes:

- (a) To determine if an employee is meeting performance standards,
- (b) To determine an employee's qualifications for promotion,
- (c) To determine training and development assistance an employee needs,
- (d) To determine layoffs when Reductions in Force (RIFs) are required, and
- (e) To determine eligibility of new and reassigned probationary employees for designation as merit status in the classified service.

6.2 PROCEDURES.

Performance appraisals will be performed in accordance with the following procedures.

6.2.1. Merit Status Classified Employees. The appointing authority, or an individual designated by the appointing authority, will evaluate merit status classified employees. Normally, such employees will be evaluated annually; however, if an employee's evaluation indicates that performance is less than satisfactory, additional appraisals will be scheduled and conducted until performance is acceptable.

6.2.2. Probationary Status Classified Employees. The appointing authority, or an individual designated by the appointing authority, will evaluate probationary status classified service employees assigned to his/her department. Normally, such evaluations will be conducted at the end of the first, third and sixth month of the employee's probationary period. However, if the employee's performance is less than satisfactory and the appointing authority is considering either reassigning the employee to another position of equal or lower pay grade or separating

the employee, a special evaluation will be made to support the appointing authority's decision.

6.2.3. Appraisal Guidelines. All evaluations will be conducted in accordance with the guidelines established in the Marshall County Performance Appraisal System.

6.2.4. Evaluator Training. The board will establish, in coordination with the appointing authorities, training activities as necessary to ensure that employee evaluators are capable of conducting acceptable evaluations.

6.3 REPORTS.

All evaluations will be discussed with the employees involved. The employee and the individual performing the evaluations will sign the appraisal form. A copy of the completed appraisal report will be provided to the personnel administrator and filed in the employee's personnel file. Appraisal reports will be considered confidential employee information and will be safeguarded in accordance with the guidelines of these policies and procedures.

CHAPTER 7

DEMOTIONS

7.1 GENERAL PROVISIONS.

As an exception to Chapter 5 of these policies and procedures, any merit status employee in the classified service may be demoted to a position of a lower pay grade in the same category of service for which he/she is qualified for one of the following reasons.

7.1.1. Position Abolished. An employee may be assigned to a position in a lower pay grade, if the employee's position is being abolished and he/she would otherwise be laid off.

7.1.2. Unsatisfactory Service. An employee may be assigned to a position in a lower pay grade, if the employee's performance has not demonstrated the ability to render satisfactory service in his/her position as determined by a performance appraisal conducted in accordance with the Marshall County Performance Appraisal System and these policies and procedures.

7.2 ADMINISTRATIVE ACTION.

A demotion made in accordance with the guidelines of this chapter will be considered an administrative action rather than a disciplinary action. Such demotions may only be made when there is a position available to which the employee may be demoted and the appointing authority in whose department the vacancy exists agrees to the assignment of the employee to the vacancy. Absence of the availability of such vacancy, the employee will be separated under the separation guidelines contained in Chapter 8 of these policies and procedures. An employee who is serving in a probationary status as a result of a reassignment in accordance with the guidelines of Chapter 5 will be processed in accordance with the provisions of that chapter.

7.2.1. Reasons Submitted for Approval. For any demotion that is to be made in accordance with this chapter, the personnel administrator will ensure that the proposed action is supported by the facts and circumstances.

7.2.2. Unsatisfactory Performance Demotion. If the demotion is due to the employee's performance not demonstrating the ability to render satisfactory service, the same procedure outlined for dismissal of employees in section 8.7 based on unsatisfactory performance will be followed.

7.3 PROCEDURES.

When an appointing authority determines that he/she wishes to demote an employee, the following procedures will be followed.

7.3.1. Coordination. The appointing authority will coordinate the proposed demotion with the personnel administrator to determine if there is a vacancy available for which the employee may be qualified. If a vacancy does exist but it is outside the appointing authority's department, the personnel administrator will submit a written request to the appointing authority in whose department the vacancy exists. The request will provide the employee's name and the circumstances involved with the demotion. The appointing authority in whose department the vacancy exists may interview the employee before providing an answer to the personnel administrator. If the employee is acceptable to the appointing authority he/she will notify the personnel administrator of the approval of the employee for the vacancy. If a vacancy does not exist or the employee is not acceptable to the appointing authority in whose department the vacancy exists, the employee will be separated.

7.3.2. Notification. Written notification will be provided a demoted employee of the demotion. Such notice will state the reason(s) and the effective date of the demotion and will be provided to the employee at least seven (7) calendar days prior to the effective date of the demotion. The appointing authority will sign the notification. A copy of the notification will be provided to the personnel board for approval and the personnel administrator for filing in the employee's personnel file.

7.3.3. Pay. When an employee is demoted to a new job, his/her pay level will be established at the same step within the new pay grade for his/her new job that he/she was in for the pay grade for his/her prior job. Under no circumstances will a demoted employee's pay exceed the maximum level of pay or be less than the minimum rate for the pay grade of his/her new job. The Personnel Board will approve the actual amount of wage decrease

7.3.4. Appeal. An employee may appeal the demotion. Such appeal will be made under the same procedures and standards provided for a dismissal based on unsatisfactory performance, in accordance with section 8.7.

CHAPTER 8

SEPARATIONS

8.1 GENERAL PROVISIONS.

8.1.1. Types of Separations. All separations of individuals from employment will be designated as one of the following types:

- (a) Resignation;
- (b) Reduction-in-force (RIF);
- (c) Disability;
- (d) Death;
- (e) Retirement; or
- (f) Dismissal.

8.1.2. Processing Separations. At the time of separation, or prior to payment of any final compensation, all records, assets, and other items of county property in the employee's custody will be returned to county control. Certification to this effect, will be made by the employee and the employee's appointing authority before any final payment is made to the employee. A copy of such certification will be provided the personnel administrator and filed in the employee's personnel records. Any indebtedness owed the county will be withheld from the employee's final compensation, unless waived by the commission. At separation each individual will be informed of any rights and/or benefits for which he/she may be eligible, after separation.

8.1.3. Exit Interviews. Employees leaving county service shall be required to attend an exit interview with the personnel administrator. The appointing authority shall schedule the exit interview during the last full day of employment with the county. The purpose of the exit interview is to allow the employee to discuss his or her reason for leaving, offer suggestions for improving county operations and processes, return county property and receive information regarding pay and benefits including retirement funds.

8.2 RESIGNATION.

Any employee may voluntarily resign by submitting written notification to his/her appointing authority of the reason(s) and the effective date for his/her resignation. A copy of the resignation will be provided the personnel administrator for inclusion in the individual's file.

8.2.1. Notice. Classified employees should submit their notifications as far in advance as possible; notice should be given at least fourteen (14) calendar days prior to the effective date of the resignation. Classified employees with management and/or supervisory duties shall submit their

notifications at least thirty (30) calendar days prior to the effective date of his/her resignation.

8.2.2. Failure to Give Notice. Failure to comply with the notification requirement of paragraph 8.2.1 will be cause for denying the individual future employment with the county.

8.2.3. Withdrawal. An employee may withdraw his/her resignation up to the effective date of the resignation, if approved by the appointing authority. If the individual's request for withdrawal of the resignation is denied, the employee will be separated on the effective date of the resignation. If the employee's request to withdraw his/her resignation is approved, the employee will suffer no loss of service, benefits, entitlements, and/or pay.

8.2.4. Unauthorized Absence as Resignation. Any unauthorized or unjustified absence from work for a period of three (3) consecutive working days may be considered as a voluntary resignation by the individual's appointing authority.

8.3 REDUCTION IN FORCE (RIF).

An employee may be separated by being laid off through a RIF action. RIF actions may be approved as part of a general cost reduction program or when a particular position is no longer needed. The commission shall inform the board when a RIF action will be required.

8.3.1. Guidelines. In a general RIF the board will, in coordination with the county commission and other appointing authorities, establish guidelines to be used in identifying those positions to be eliminated and the individuals to be laid off.

8.3.2. Priority of Service Category and Status. Typically, employees assigned to a job that has been identified to be included in the RIF will be separated based upon their service category and employment status, as detailed below. However, the county commission and appointing authorities, with approval of the personnel board, will determine the actual order that will be followed and may choose to alter the priority criteria described in these guidelines:

- (a) Temporary service employees;
- (b) Probationary status employees in the classified service;
- (c) Part-time merit classified service employees;
- (d) Full-time merit classified service.

8.3.3. Priority Within Service Category and Status. Employees within a particular service category and employment status will be separated based upon:

- (a) Their performance level, as indicated by written evaluations;
- (b) Their length of service in the particular service category; and
- (c) The needs of the county.

8.3.4. Consideration for Reassignment. When a merit status classified service employee is scheduled to be laid off, he/she may be considered for reassignment in the employee's department to any vacant position of equal or lower grade in the classified service for which he/she is qualified. If a vacancy exists in another department, the employee's name will be referred by the personnel administrator to the appointing authority of that department for consideration.

8.3.5. Notification of Effective Date. Employees in the merit service will be notified in writing of their layoff at least seven (7) calendar days prior to the effective date of their layoff. Part-time and temporary service employees will be given as much written notice as possible. The appointing authority will prepare all RIF notices. A copy of the RIF notice will be provided the personnel administrator for inclusion in the employee's personnel file.

8.3.6. Recall Rights. Merit status classified service employees who are laid off will be placed on a reemployment eligibility list in the order of their separation. Such individuals will have recall rights to positions of the same category and grade or lower grade for which they qualify for two (2) years from the effective date of their lay off. The personnel administrator is responsible for maintaining the reemployment eligibility list and for notifying persons on the list of vacancies for which they qualify. Any person who is re-appointed to a classified service position from the reemployment eligibility list will be given credit for previous service and if eligible, any unused sick leave previously earned and not used. The employee will be paid at the same rate of pay received prior to the RIF, along with any across-the-board adjustments which were made to the pay plan, if he/she is hired into a position in the same grade as his/her former position. If the position is in a lower grade it will be treated as a demotion.

8.4 DISABILITY.

Any employee may be separated, when he/she cannot perform the essential functions of his/her job because of extended physical or mental impairment and a reasonable accommodation is not possible. Reasonable accommodation may include job restructuring or reassignment. Normally, such separation will be taken after the expiration of any leave without pay granted the employee in

accordance with Chapter 11 of these policies and procedures, if the employee is not able to perform assigned duties.

8.4.1. Medical Evidence. In all disability separations the separation will be supported by medical evidence provided by a physician. The board may require an opinion by a physician of its choice, if deemed necessary.

8.4.2. Exhaustion of Leave. Normally, except in the case of an employee with a work-related impairment who is receiving workers' compensation benefits, a disability separation will become effective only after an employee's accrued leaves with pay have been exhausted and the expiration of any leave without pay granted the employee is accordance with Chapter 11 below.

8.4.3. Retirement Option. An employee who is eligible for retirement will be entitled to retire and receive retirement benefits in accordance with the county's retirement program.

8.5 DEATH.

Separation is effective as of the date of death. All compensation due the employee as of that date will be paid to the estate of the employee, except for such sums that must be paid by law. Any indebtedness owed to the county will be withheld from the individual's final compensation, unless waived by the commission.

8.6 RETIREMENT.

Whenever an employee meets the eligibility requirements set forth in the county's retirement program, he/she may elect to retire and receive benefits earned under the provisions of the retirement program. An employee who wishes to retire should notify his/her appointing authority in writing at least sixty (60) days prior to the requested effective date.

8.7 DISMISSAL.

Any employee may be dismissed for:

- (a) Unacceptable job performance;
- (b) Failure to qualify for licensure, insurance, or certification required for continued employment;
- (c) Violation of county rules; and/or
- (d) The good of the county.

8.7.1. Procedure for Dismissal for Unacceptable Job Performance.

When the dismissal of a merit status classified service employee is for unacceptable job performance, the following procedures will apply.

8.7.1.1. Counseling Session. The employee will be counseled by his/her appointing authority, or the appointing authority's designated representative, concerning unacceptable performance. The counseling session will include the action(s) that the employee must take to improve performance and the length of time the employee has to improve. The employee will also be warned that if performance does not improve he/she will be dismissed. A written record of each counseling session will be prepared by the counseling individual and will be signed by both the counseling individual and the employee. A copy of the written record will be provided the employee and a copy will be provided the personnel administrator for inclusion in the employee's personnel file. The appointing authority, or the designated representative, will also conduct such performance appraisals as required by the board's performance appraisal system to document the employee's performance level.

8.7.1.2. Monitoring. The employee's performance will be monitored during the established period to determine if the employee is improving as required. Written feedback will be provided the employee. A copy will also be provided the personnel administrator for inclusion in the employee's personnel file.

8.7.1.3. Dismissal Actions. If the employee's performance continues to be unacceptable after the period established for the employee to demonstrate acceptable performance and the appointing authority determines that the employee should be dismissed, the appointing authority will notify the employee in writing of his/her intention to separate the employee for unacceptable job performance and that the employee has a right to submit a written request within three (3) working days to the appointing authority for an opportunity to present his/her response and any other pertinent information in an informal hearing. If the appointing authority decides, after holding the hearing, to continue with the dismissal, he/she will notify the employee in writing of the dismissal. A copy of the dismissal will be furnished to the personnel administrator.

8.7.1.4. Appeal. Upon dismissal pursuant to these guidelines, the employee shall be informed by his/her appointing authority of his/her right to file a written request within ten (10) calendar days of the date of dismissal with the personnel administrator for a hearing before the personnel board.

8.7.2. Procedure for Dismissal for Failure to Qualify for Licensure, Insurance or Certification Required for Continued Employment.

When a merit status classified employee fails to maintain qualifications for licensure, insurance, or certification required for continued employment, he/she may be dismissed in accordance with the following procedures.

8.7.2.1. Reasons for Dismissal. An appointing authority may dismiss any employee in his/her department in the following situations:

- (a) When information has been obtained and verified by the appointing authority that the driving privileges of an employee who is required to drive to do his/her job have been suspended or revoked, or restricted in such a manner that the employee is rendered incapable of performing his/her job without violating such restrictions;
- (b) When information has been obtained and verified by the appointing authority that the employee is considered by the county's insurance carrier to be an unacceptable, or high risk for insurance and if allowed to operate a vehicle on the county's behalf, either would not be covered with liability coverage, would cause a cancellation of the county's policy, would cause an increase in the county's insurance premium, or would prevent the county from receiving a preferred rate for which it would otherwise qualify;
- (c) When information has been obtained and verified by the appointing authority that the employee is unacceptable for employee honesty or fidelity bonds required for the position occupied by the employee; or
- (d) When information has been obtained and verified by the appointing authority that the employee has lost, has been unable to acquire, or has failed to maintain certifications required by the county for the position occupied by the employee.

8.7.2.2. Dismissal Actions. Upon determining that the employee should be separated due to one or more of the reasons listed in paragraph 8.7.2.1 above, the appointing authority will notify the employee in writing of his/her intention to separate the employee and that the employee has a right to request in writing within three (3) working days of receipt of the notification an informal meeting with the appointing authority to present the employee's response and any other pertinent information. If the appointing authority decides, after holding the meeting, to continue with the dismissal, the appointing authority will notify the employee in writing of the dismissal. A copy of the initial notification and the dismissal action will be provided the personnel administrator.

8.7.2.3. Appeal. Upon dismissal pursuant to these guidelines, the appointing authority shall notify the individual of his/her right to file, within ten (10) calendar days of the date of notification of the dismissal, a written request with the personnel administrator for a hearing before the personnel board.

8.7.3. Procedure for Dismissal for Disciplinary Reasons and/or the Good of the County. Dismissal for disciplinary reasons (violation(s) of board rules and/or the good of the county) is to be distinguished from administrative dismissal for unacceptable job performance and for failure to maintain qualification required for licensure, insurance, or certifications as discussed above in paragraphs 8.7.1 and 8.7.2. When a merit status classified service employee is to be dismissed for violation(s) of board standards and rules or for the good of the county, the guidelines established in Chapter 9 of these policies and procedures will be followed.

CHAPTER 9

DISCIPLINARY PROCEDURES

9.1 GENERAL PROVISIONS FOR DISCIPLINARY ACTION

Employees of the county are expected to maintain high standards of cooperation, efficiency, and economy in their work. Each employee is expected to display conduct both on and off the job in such a manner as to reflect credit on both the employee and the county. The maintenance of high standards of honesty, integrity and conduct is essential to assure the proper performance of county business, while maintaining the confidence of its citizens.

9.1.1. Reasons Taken. Employees will be disciplined only for violations of established board rules and regulations and/or for the good of the county. Disciplinary action will be fairly, promptly, and consistently applied to the maximum extent possible.

9.1.2. By Whom Taken. Normally, disciplinary actions will be administered by an employee's appointing authority. However, if the appointing authority fails to take disciplinary action for an obvious violation of board rules, the board may take action, so long as such action is consistent with the intent of these policies and procedures.

9.1.3. Counseling Sessions. When practical, counseling sessions will be used to correct an employee's conduct before disciplinary action is required. A written report will not be required for a routine counseling session, but, if one is prepared the employee will be provided a copy and a copy will be provided the personnel administrator for inclusion in the employee's personnel file.

9.2 TYPES OF DISCIPLINE

All employees covered by State Act No. 82-206 are subject to disciplinary action as described herein for unacceptable conduct that falls under the intent of this section. Normally, disciplinary action will be taken only against merit status classified employees, since probationary and temporary employees serve at the pleasure of their appointing authority. However, nothing should be interpreted herein to prevent the disciplining of any employee, if circumstances warrant.

9.2.1. Written Warning. A written warning report will normally be used for unacceptable conduct by an employee that is deemed to require more than a verbal reprimand or an informal counseling session but does not warrant more serious disciplinary action.

9.2.2. Suspension Without Pay. A suspension without pay will normally be administered when an employee's conduct continues to be unacceptable after he/she has been given a written warning. However,

nothing should be interpreted herein to prevent the suspension of an employee at the first occurrence of unacceptable conduct, when circumstances warrant.

9.2.3. Dismissal from Service. Dismissal from service normally will be administered when an employee's conduct continues to be unacceptable after previous warnings and or disciplinary actions. However, nothing should be interpreted herein to prevent the dismissal of an employee at the first occurrence of unacceptable conduct, when circumstances warrant.

9.3 CLASSIFICATION OF OFFENSES.

Examples of employee conduct that are considered to be unacceptable are grouped below with a summary of the disciplinary actions that are normally recommended for each group. Such employee conduct as described are rule violations pursuant to these policies and procedures. However, the offenses and disciplinary actions as described in these guidelines are neither all inclusive nor automatic. An appointing authority is permitted and expected to treat individual situations according to the circumstances and facts involved.

9.4 GROUP ONE OFFENSES.

Group one offenses are instances of unacceptable conduct by an employee which, while serious, will not normally merit, upon the first occurrence, suspension without pay or dismissal, and which normally, upon the first occurrence, may be addressed by a lesser degree of discipline, as outlined below. Examples of group one offenses include, but are not limited to, the following types of situations:

9.4.1. Notice of Absence - failure to give proper notice of an absence;

9.4.2. Absenteeism - irregular attendance and/or absenteeism;

9.4.3. Tardiness - tardiness (not at assigned work station at the beginning of the first hour of the employee's workday);

9.4.4. Work Interference - interfering with the work of others to include offensive personal habits which interfere with efficient operations;

9.4.5. Inefficiency - excessive inefficiency to include waste, loafing, leaving the work area without permission, and defective workmanship;

9.4.6. Safety Violations - violation of normal safety practices to include failure to report a work-related accident or injury, accident proneness, or failure to attend safety classes when directed;

9.4.7. Abuse of Property - improper use and/or care of county property;

9.4.8. Political Activities - political activities during working time;

9.4.9. Refusal of Required Overtime - failure to respond to any requirement to work outside normal scheduled work day when directed by his/her supervisor;

9.4.10. Court Judgments - willful and/or repeated failure to honor court judgments;

9.4.11. Promiscuity - promiscuous behavior on county property;

9.4.12. Solicitation – non-authorized solicitation and/or distribution of any literature to another employee during the other employee's working time (to include posting of cards, literature, notices, or other materials of any kind on bulletin boards in work areas or distributed in working areas of any employee at any time); and

9.4.13. Other Conduct - similar conduct that meets the intent of the definition of a group one offense.

9.5 DISCIPLINARY ACTION FOR GROUP ONE OFFENSES.

Disciplinary action for group one offenses will be taken in accordance with the guidelines established in this chapter. Disciplinary action normally recommended for a group one offense is as follows:

9.5.1. First Offense - written warning.

9.5.2. Second Offense - final written warning or suspension without pay.

9.5.3. Third Offense - dismissal (any combination of three (3) written warnings and/or suspensions without pay within a twenty-four (24) month period will constitute justification for immediate dismissal).

9.6 GROUP TWO OFFENSES.

Group two offenses are instances of unacceptable conduct by an employee that are very serious and will normally constitute grounds for dismissal upon the first occurrence of such conduct, unless mitigating circumstances, as determined by the appointing authority, render lesser discipline more appropriate. Examples of group two offenses include, but are not limited to, the following types of situations:

9.6.1. Drugs and Alcohol - possession and/or use of alcohol, illegal drugs or controlled substances while on county property or on the job;

9.6.2. Driving County Vehicle Under the Influence - operation of a county vehicle or motorized equipment while under the influence of intoxicants such as alcohol, non-prescribed drugs, and/or prescribed drugs which induce an unsafe mental and/or physical state;

9.6.3. Firearm Possession - unauthorized possession and/or use of firearms, other weapons, explosives, or other dangerous materials on/in county property;

9.6.4. Falsification - deliberate falsification of records and/or personal misrepresentation of statements given to a supervisor, an official, the public, or any duly authorized committee;

9.6.5. Dishonesty - dishonesty as related to an individual's job duties and/or profession, or use of one's official position for personal advantages;

9.6.6. Fighting - fighting, except when the employee is a victim of an unwarranted assault;

9.6.7. Serious Leave Offenses - excessive tardiness or absenteeism, unauthorized absence, or fraudulent or abusive use of a sick leave;

9.6.8. Conviction - conviction of a felony or other crime or misdemeanor involving moral turpitude, or conviction during employment of misdemeanors which affect the employee's effectiveness on the job;

9.6.9. Theft or Abuse of Property - theft, destruction, careless or negligent use, or willful damage of county property or property of others;

9.6.10. Horseplay - dangerous horseplay on the job;

9.6.11. Flagrant Safety Violations - flagrant violation of safety practices that might endanger the life or health of the employee or others;

9.6.12. Serious Rule Violations - serious violation of county regulations, department rules, or lawful orders or directions made or given by a supervisor;

9.6.13. Proponent of Violent Overthrow of Government - membership in any organization that advocates the overthrow of the government of the United States by force or violence;

9.6.14. Bribes or Rewards - acceptance of any consideration of value or gratuity that was given to improperly influence the employee in the performance of his/her duties;

9.6.15. Refusal of Medical Exam - refusal to be examined by an authorized, fully licensed physician when so directed by the appointing authority or the county commission;

9.6.16. Gross Violations of Hatch Act - political activities that are gross violations of federal and/or state laws and these policies and procedures;

9.6.17. Harassment - sexual, racial, ethnic, religious or other forms of harassment against any individual;

9.6.18. Sleeping - sleeping on the job;

9.6.19. Abusive Conduct - abusive personal conduct or language toward the public or fellow employees, or abusive public criticism of a superior or other county official;

9.6.20. Willful Violation of Rules or Law - willful violation of any duly adopted county policy or rule, or state/federal law in the performance of one's duties;

9.6.21. Conduct Unbecoming an Employee - conduct unbecoming an employee, while on or off duty which tends to bring discredit upon the county and its employees, or which otherwise threatens order, safety, or health;

9.6.22. Insubordination - acts of insubordination, including refusal to obey legitimate orders, or delay or failure to carry out assigned work, disrespect, insolence, and like behavior;

9.6.23. Unauthorized Use of Property - unauthorized use, misappropriation, destruction, theft, or conversion of public property;

9.6.24. Refusal to Cooperate - refusal to fully and truthfully answer questions of a supervisor or other designated individual during any inquiry, interrogation, hearing, or court proceeding;

9.6.25. Unauthorized Release of Information - unauthorized release of privileged or confidential information;

9.6.26. Conflicts of Interest - conduct or actions determined to be a conflict of interest or ethics violation as defined by state law and/or county resolutions, rules, regulations, or procedures;

9.6.27. Fraud in Personnel Matters - fraudulent misrepresentation or omission in securing an appointment or promotion in the county service;

9.6.28. Repeated Violations of Group One Offenses - repeated violation of group one type offenses;

9.6.29. Failure to Comply with Ethics Law - Failure to comply with the Alabama Ethics Law to include filing of required annual statements of economic interests and any activity which is considered to be a violation of the ethics law; and

9.6.30. Other Conduct - similar conduct not listed herein that meets the intent of the definition of a group two offense.

9.7 DISCIPLINARY ACTION FOR GROUP TWO OFFENSES.

Disciplinary action for group two offenses will be taken in accordance with the disciplinary guidelines established in this chapter. Disciplinary action normally recommended for a group two offense is dismissal. However, a lesser disciplinary action may be taken, when an appointing authority determines extraordinary mitigating circumstances so warrant.

9.8 GENERAL DISCIPLINARY GUIDELINES.

9.8.1. Rights Protected. An appointing authority will ensure that an employee's rights are protected during any disciplinary action.

9.8.2 Facts and Circumstances Considered. Normally, disciplinary actions will be administered uniformly and according to the order listed for each group of offenses. However, an appointing authority is expected and may take action according to the facts and circumstances of each situation.

9.8.3 Actions Recorded in Writing. All disciplinary actions will be recorded in writing. The appointing authority and the employee will sign the record and the employee will be provided a copy. The employee's signature acknowledges receipt of a copy, but does not necessarily mean that he/she agrees with the action taken, nor will it affect the right to appeal that action. Refusal of an employee to sign the record of a disciplinary action will be so noted on the record. A copy will also be provided the personnel administrator for inclusion in the employee's personnel file.

9.9 DISCIPLINARY GUIDELINES FOR WRITTEN WARNINGS.

The following guidelines will be used in administering written warnings.

9.9.1. When Given. An employee may be issued a written warning when he/she fails to meet standards and/or commits a group one offense, and it is determined that more severe action is not necessary.

9.9.2. Procedure. Before any action is taken against the employee, the appointing authority will advise the employee orally of the reason(s) that he/she is considering disciplinary action and allow the employee an opportunity to respond. If the appointing authority determines that the facts of the case do not support the allegation, the employee will be notified orally of such decision and advised that the matter is closed. If the appointing authority determines that the facts of the case do support the allegation, but a written warning is not necessary to correct the situation, he/she will counsel the employee and warn the individual that in any future case stronger action may be taken. If the appointing authority determines that the facts of the case do support the allegation and a written warning is sufficient to correct the situation, the appointing authority will prepare and deliver a written warning to the employee. If the appointing authority determines that the facts of the case do support the allegation, but stronger disciplinary action is warranted, he/she will proceed to follow the guidelines required for the anticipated disciplinary action.

9.9.3. Content of Written Warnings. The written warning will contain the following information:

- (a) References to the discussion held, including the date, time and place;
- (b) Specific reason(s) for the warning, the employee's explanation as given during the discussion, other relevant information discovered during the inquiry, and the appointing authority's conclusions;
- (c) Warning that future infractions could result in more severe disciplinary action; and
- (d) Where appropriate, recommendations for corrective action.

9.9.4. No Affect on Benefits. A written warning will not affect the rights, privileges, or benefits to which an employee may have been entitled before the warning.

9.10 DISCIPLINARY GUIDELINES FOR SUSPENSION WITHOUT PAY.

The following guidelines will be used in administering suspensions without pay.

9.10.1. When Given. An employee may be suspended from duty without pay for a period of time not to exceed twenty (20) workdays when it is determined by his/her appointing authority to be justified.

9.10.2. Notice of Proposed Action. Before any action is taken against the employee, the appointing authority will notify the employee in writing of the proposed disciplinary action that is being considered and that he/she will conduct a hearing concerning the allegation against the employee. A copy of the notice will be provided the personnel administrator for inclusion in the employee's personnel file. The written notice to the employee will contain the following information:

- (a) Date, time and place of the hearing;
- (b) Grounds for the proposed disciplinary action;
- (c) Proposed disciplinary action to be taken and the effective date;
- (d) Notice of the employee's right to appear in person and/or be represented by someone of his/her own choosing and expense.
- (e) Notice of the employee's right to respond to the allegations orally or in writing; and
- (f) Notice that the employee has the right to present evidence in his/her defense

9.10.3. Response. The employee will have five (5) workdays in which to file a response to this notice with the appointing authority.

9.10.4. Informal Hearing. The hearing will be conducted informally by the appointing authority at the time and place designated in the notice to the employee. Formal rules of evidence will not apply.

9.10.4.1. Modification of Discipline Proposed. If the appointing authority determines after the hearing that the facts of the case do not support the proposed discipline, he/she may impose a lesser disciplinary action or advise the employee that the matter is closed. If a lesser action is taken, the guidelines for that action will be followed.

9.10.4.2. Discipline Made Effective. If after holding the hearing, the appointing authority determines that the facts of the case support the suspension, the suspension without pay will become effective on the date specified in the notice. The employee's suspension without pay will be recorded on the department's time and attendance report.

9.10.4.3. More Severe Discipline. If the appointing authority determines during the hearing that the facts of the case appear to support dismissal, he/she will proceed with the guidelines required for such action.

9.10.5. Hearing Declined. If the employee declines a hearing or fails to respond to the notice, the employee will be suspended without pay on the date specified in the notice.

9.10.6. Notice of Suspension. A notice of suspension under this procedure will be in writing, dated, signed by the appointing authority, and delivered to the employee at least on the day immediately prior to the effective date. The notice will contain:

- (a) Nature of the action being taken;
- (b) Effective date, and the length of the suspension;
- (c) Specific grounds for the suspension; and
- (d) Description of the appeal rights of the employee.

9.10.7. Record of Action. A record of the completed suspension without pay action, to include a written summary of the hearing results, will be provided the personnel administrator for inclusion in the employee's personnel file. Such record need not be a transcribed record.

9.10.8. Return to Work. When the employee returns to work, he/she will be considered to be in good standing with the county and will be restored to all rights, privileges, and benefits he/she had prior to said suspension. However, a suspension may be considered by the county during any personnel actions, such as promotion, RIF, subsequent disciplinary actions, etc.

9.11 DISCIPLINARY GUIDELINES FOR DISMISSALS.

When an employee is to be dismissed due to disciplinary reason(s) and/or the good of the county, the following guidelines will be used. (Administrative and/or job performance dismissals are not covered by these guidelines. Such dismissals are covered by Chapter 7 of these policies and procedures.)

9.11.1. When Given. An employee may be dismissed from employment when his/her appointing authority determines such action to be justified. Normally, a dismissal will be warranted, when an employee repeatedly commits a group one type offense or upon the first occurrence of a group two type offense. However, nothing should be interpreted herein as prohibiting the dismissal of an employee at any time when, in the opinion of the employee's appointing authority, it is justified.

9.11.2. Notice of Proposed Action. Before any action is taken against the employee, the appointing authority will notify the employee in writing of his/her intention to dismiss the employee and that the appointing authority will conduct a hearing concerning the allegation against the employee. A copy of the notice will be provided the personnel administrator for inclusion in the employee's personnel file. The written notice to the employee will contain the following information:

- (a) Date, time and place of the hearing.

- (b) Grounds for the proposed disciplinary action;
- (c) Proposed disciplinary action to be taken and the effective date;
- (d) Notice of the employee's right to appear in person and/or be represented by someone at his/her own expense at the hearing;
- (e) Notice of the employee's right to respond to the allegations orally or in writing; and
- (f) Notice that the employee has the right to present evidence in his/her defense.

9.11.3. Response. The employee will have **five (5)** working days in which to file a response to this notice.

9.11.4. Informal Hearing. The hearing will be conducted informally by the appointing authority at the time and place designated in the notice to the employee. Formal rules of evidence will not apply.

9.11.4.1 Modification of Proposed Discipline. If the appointing authority determines after the hearing that the facts of the case do not support the dismissal, the appointing authority may impose a lesser disciplinary action or advise the employee that the matter is closed. If a lesser action is taken, the guidelines for such action will be followed.

9.11.4.2. Discipline Made Effective. If after holding the hearing, the appointing authority determines that the facts of the case support the dismissal, it will become effective on the date specified in the notice.

9.11.5. Hearing Declined If the employee declines the hearing or fails to respond to the notice, the employee will be dismissed on the date specified in the notice.

9.11.6. Notice of Dismissal. A notice of dismissal under this procedure will be in writing, dated, signed by the appointing authority and delivered to the employee no later than the effective date of the action. The notice will contain:

- (a) Nature of the action being taken and the effective date;
- (b) Specific grounds for the dismissal; and
- (c) Description of the appeal rights of the employee.

9.11.7. Record of Action. A record of the completed dismissal action, to include a written summary of the hearing results will be provided the personnel administrator for inclusion in the individual's personnel file. Such record need not be a transcribed record. A report will be provided to the board within five (5) calendar days of the effective date of the discipline.

9.12 SUSPENSION WITH PAY.

In the event of a violent action, an intolerable offense on the part of an individual (e.g. fighting, destruction of county property, gross insubordination, etc.) or other similar cause in which it is anticipated that the individual will be dismissed, the appointing authority may suspend the employee with pay for up to ten (10) working days, pending completion of a hearing and dismissal. A copy of the appointing authority's notice to the employee will be provided the personnel administrator for inclusion in the employee's file. The employee's suspension with pay will be recorded on the department's time and attendance report.

9.13 CRIMINAL CHARGES.

If an employee is charged with a felony, which also is considered a serious violation of these policies and procedures, the appointing authority will notify the employee and conduct a hearing concerning the alleged violation. Such notification and hearing will be held according to the guidelines required by paragraph 9.11 above. If the appointing authority determines there is sufficient information available to indicate that the county's rules or standards of employment were violated, the appointing authority may take appropriate disciplinary action, to include suspension without pay or dismissal, as the case may warrant.

9.14 APPEAL.

A merit status classified service employee may appeal a suspension without pay or dismissal to the personnel board. The appeal of a suspension must be received by the board within five (5) calendar days from the date of the order of the suspension; the appeal of a dismissal must be received by the board within ten (10) calendar days from the time of notification of the discharge. The board shall hear the appeal within fifteen calendar days of receipt of the appeal.

CHAPTER 10

GRIEVANCE PROCEDURE

10.1 GENERAL PROVISIONS.

Recognition is given to the fact that grievances can sometimes be very helpful to an organization by calling matters to the attention of county officials and supervisors where action is needed. When a grievance procedure is used properly, it can assist in establishing a harmonious, cooperative working relationship between the county's employees, supervisors, managers, and elected officials.

10.1.1. Intended Use. The intended use of the county's grievance procedure is to provide a standard process for speedy investigation and resolution of an eligible employee's complaints.

10.1.2. Employees Eligible to File Grievance. Classified employees may file a written request for personal relief in any matter of concern or dissatisfaction relating to their employment which is subject to the control of the county. Normally, probationary employees and temporary employees may not file grievances. However, classified employees who are serving in a probationary status as a result of their being reassigned will also be eligible to file grievance actions.

10.1.3. Right to Discuss Grievance. An eligible employee who feels that he/she has been adversely affected by a county policy, practice, or incident will have the right to discuss such with his/her immediate supervisor, or anyone designated to hear such grievance. Every eligible employee will have the right to present his/her grievance in accordance with the established procedure free from fear, interference, restraint, discrimination, coercion, or reprisal.

10.1.4. Uses Excluded. The grievance procedure is not intended and will not be used for the following purposes:

- (a) Resolve personal differences between/among employees;
- (b) Appeal pay reductions which are part of a general plan to reduce salaries and wages, when such reductions are pro-rated to all employees;
- (c) Appeal non-selection for a position when properly established staffing procedures have been followed;
- (d) Appeal the content of approved and published county resolutions or other legal actions; or
- (e) Appeal of disciplinary actions.

10.1.5. Good Faith Timely Presentation. An employee's grievance must be submitted in good faith and within a reasonable period of time after the occurrence of the incident upon which the grievance is based. Grievances that do not meet these requirements will not be considered. If an employee willfully files a false grievance action, he/she may be subject to disciplinary action to include dismissal.

10.1.6. Withdrawal. An employee may withdraw his/her grievance at any step in the process.

10.2 GRIEVANCE PROCEDURE.

An employee's grievance will be resolved informally, through a discussion with his/her appointing authority, when possible. However, in a situation where the grievance is not resolved informally, an eligible employee may reduce the grievance to writing and submit it formally for consideration. When an eligible employee wishes to submit a formal grievance, the following procedure will be used.

10.2.1. Time Period. Within five (5) working days of the time the employee has knowledge of, or should have had knowledge of, the situation or circumstances he/she wishes to grieve, the employee will submit such grievance to his/her appointing authority.

10.2.2. Content of Written Grievance. The employee's grievance will contain, as a minimum, the following information:

- (a) Statement of the employee's grievance and/or any policies, rules, regulations and procedures that he/she believes have been misapplied or violated and the date and description of such misapplication or violation; or, the disciplinary action that is being appealed;
- (b) Previous supervisory decisions, if any;
- (c) Specific remedy which the employee is seeking; and
- (d) Names of any witnesses that the employee wishes to be present.

10.2.3. Appointing Authority's Review. After receipt of the employee's written grievance, the appointing authority will investigate and/or review the facts as presented by the employee. If the appointing authority determines that he/she needs to interview individuals knowledgeable of the employee's grievance, the appointing authority will schedule such meeting(s). The employee will be notified of such meeting(s) and will be allowed to attend, if so desired.

10.2.4. Appointing Authority's Findings and Decision. Within five (5) calendar days of receipt of the employee's grievance, the appointing authority will notify the employee of all findings and his/her decision. The appointing authority's notification will be in writing and will contain as a minimum the following information:

- (a) Summary of the investigation and/or findings;
- (b) The decision; and
- (c) The employee's right to request, in writing, within ten (10) calendar days that the grievance be submitted to the Marshall County Personnel Board for resolution in accordance with these policies and procedures, if the employee is not satisfied with the appointing authority's findings and/or decision.

10.2.5. Personnel Board's Review. The procedure for conducting of the hearing under this subsection is contained in Appendix – A. The board will schedule a meeting with the employee within fifteen (15) calendar days of its receipt of the employee's grievance. The board will review the appointing authority's findings and decision and may interview other individuals as requested by the employee, the appointing authority, and/or as it determines necessary. The employee and/or the employee's representative, and the appointing authority and/or the appointing authority's representative may address the board and present their positions on the grievance.

10.2.6. Personnel Board's Findings and Decision. Within fifteen (15) calendar days of the board's review, the board will render its decision. The board's decision will be in writing and will contain the following information:

- (a) Summary of the board's findings; and
- (b) Board's decision.

The board may sustain, amend, or overrule any previous decisions rendered.

10.3 RETALIATION FOR GRIEVANCE PROHIBITED.

Employees should feel free to use the county's grievance procedure. Therefore, no employee, official, or supervisor will discriminate against, coerce, or interfere with any employee, witness, representative, or appellant in the presentation or adjudication of any grievance action brought in good faith, or take any reprisal action against such persons. An allegation of any violation of these protected rights may be submitted, in writing, directly to the personnel board. Any individual found to have violated an employee's protected rights will be subject to disciplinary action, to include dismissal.

10.4 DISCRIMINATION AND SEXUAL HARASSMENT COMPLAINT PROCEDURES.

When any employee believes that he/she is being discriminated against on the basis of race, religion, color, disability, national origin, gender, age, or political affiliation, he/she may register a complaint with their appointing authority or the personnel administrator. If neither individual is acceptable to the employee, the personnel administrator shall designate an alternate choice for the employee. The personnel administrator will evaluate the complaint and ensure that it is thoroughly investigated.

10.4.1. Investigation. Upon receipt of the employee's complaint, the personnel administrator will investigate the situation thoroughly. If the complaint is against another employee or supervisor, the personnel administrator and the appointing authority will coordinate findings to determine what action, to include disciplinary action, the appointing authority will take to correct the situation. If the complaint involves the employee's appointing authority, the personnel administrator will investigate the situation and report all findings to the personnel board. The personnel administrator will complete the investigation as soon as possible, but no later than thirty (30) calendar days after receiving the employee's complaint.

10.4.2. Report. A report will be completed by the personnel administrator and will include the findings and the actions taken by the appointing authority to correct the situation. If the complaint is against the appointing authority the report will contain only the personnel administrator's findings.

10.4.3. Appointing Authority's Action. If the complaint is against another employee or supervisor, the appointing authority will ensure that appropriate action, to include disciplinary action, is taken, as necessary, to correct the situation.

10.4.4. Personnel Board's Action. If the complaint is against an appointing authority, the board will ensure that action is taken as necessary to correct the situation. If the complaint is against another employee or supervisor, the board will review the findings and actions to ensure they are adequate to prevent future occurrences.

10.4.5. Notification to Employee. Upon coordination of the report with the appointing authority and/or the personnel board, the employee will be notified, in writing, of the findings and corrective action. Such notification will be provided the employee within five (5) calendar days of the board's review and approval of the report.

10.4.6. Records. The personnel administrator will ensure that the report and supporting documents, to include a copy of the employee's notification, are secured in the board's personnel files.

10.5 RECORDS.

The review, investigation, and findings associated with all formal grievance actions will be fully documented. A copy of the completed action will be placed in the employee's personnel file.

CHAPTER 11

ATTENDANCE AND LEAVE

11.1 HOURS OF WORK

County offices and activities will be open for business as established by the county commission in coordination with the appointing authorities.

11.1.1. Work Schedule. An appointing authority will establish the actual work schedule for his/her employees accordance with the needs of the department. Work schedules will be posted in prominent locations that are readily available to all employees.

11.1.2. Regular Workweek. The regularly scheduled time for full-time classified non-exempt employees to work in a workweek will be forty (40) hours. ***Forty hours shall be exclusive of lunch periods.*** Normally, the workweek will begin 12:01 a.m. Saturday and then for seven (7) consecutive twenty-four (24) hour days. However, an appointing authority may establish in writing a separate workweek as needed to meet departmental requirements. If a different workweek is established, it will be in writing, with a copy provided each employee who will be affected.

11.1.3. Part-time Employee Workweek. The hours that a part-time employee works in a regularly scheduled workweek will be established by the appointing authority based upon the hours funded for the position by the county commission at the time of its approval. Part-time employees will be scheduled to work no more than twenty-nine (29) hours in a work week.

11.1.4. Temporary Employee Workweek. The hours that a temporary employee works in a workweek will be established by the appointing authority based upon the hours funded by the county commission at the time of their approval of the position. A temporary employee may work a full or part-time workweek, as required by his/her appointing authority.

11.1.5. Responsibility for Attendance at Work. All employees are responsible for ensuring that they are present at work or on approved absence during their scheduled work time. If an employee is unable to report for work, or to report on time, he/she must notify the appointing authority or the individual designated by the appointing authority, by the normally scheduled starting time or as soon as possible there after, only if unusual circumstances prevent notification as required. If an employee has a need to leave the assigned work area during the normally scheduled work time, the employee will notify his/her appointing authority, or the designated substitute, in order to obtain permission for such absence.

11.2. OVERTIME.

All jobs in the county service will be designated to be either non-exempt or exempt from the overtime provision for the FLSA. Such determinations will be made by an appointing authority, in coordination with the personnel administrator, based upon the criteria contained in the Fair Labor Standard Act (FLSA). Each individual will be notified in writing of the designation for the position he/she occupies. A copy of will be provided to the personnel administrator for inclusion in the individual's file.

11.2.1. Time Records. A non-exempt employee will have a workweek established in accordance with FLSA and paragraph above. All time that an employee works in a workweek will be accounted for on a time and attendance report in accordance with procedures established by the county commission. Those records required by the FLSA for hours worked, wages earned, and wages paid will be maintained by the county commission.

11.2.2. Approval for Extra Work. Any work that exceeds a non-exempt employee's normal scheduled workday will be approved prior to the work being accomplished. Such work will be approved by the appointing authority, in accordance with guidelines established by the personnel board.

11.2.3. Overtime Worked. When the time a non-exempt employee works in a workweek constitutes overtime as determined by the FLSA, he/she will normally be paid overtime pay for all overtime work. Such pay will be computed at one and one-half ($1\frac{1}{2}$) times the regular rate of pay for all overtime work. However, the employee may be provided compensatory time in accordance with a paragraph 11.2.3.1. below.

11.2.3.1. Compensatory Time. Non-exempt employees may earn compensatory time in lieu of overtime pay in accordance with the provisions of the FLSA. Compensatory time will be computed at one and one-half ($1\frac{1}{2}$) times the overtime hours worked. An employee who earns compensatory time will be allowed to use such time off within a reasonable period of time after making the request, if such use does not unduly disrupt work activity; however, in any event, an employee shall use any accumulated compensatory time within ninety (90) days from the date it is earned. If an employee is not able to take leave within the specified time, the employee shall be paid for the compensatory time at the overtime rate of pay for the hours worked. Employees who have accumulated compensatory time must use the compensatory time prior to using accrued annual leave. Compensatory time is intended to be a substitute for time taken off during a pay period. Compensatory time may not be used to create overtime in the pay period it is taken.

11.2.4. Exempt Employees. Exempt employees are excluded from the overtime provisions of the FLSA. Exempt employees perform work that is directly related to establishing policy, carrying out policy, and/or supervising employees. Such employees are typically salaried and are paid to accomplish a supervisory and/or a managerial function. Exemption of employees from the overtime provisions of the FLSA must be determined in accordance with the provisions of the FLSA and these policies and procedures.

11.2.5. Work Schedule. Exempt employees are not scheduled to work a specific number of hours in a particular workweek, since they are not paid by the hour. However, they are expected to work the typical workday as established by their appointing authority. If they need to work outside the normal workday to attend meetings, such as commission meetings, or perform other work, it is considered part of their job.

11.2.6. No Overtime Entitlements. Exempt employees will not earn overtime entitlements regardless of the number of hours they work during a workweek. Routine absences for sickness, annual leave, etc. will be charged as leave in accordance with the leave guidelines of these policies and procedures so long as such action is in accordance with the provisions of the FLSA. However, exempt employees who work unusually long hours during peak work periods or emergencies may be allowed to take time off when their work load permits with the approval of their appointing authority. Such time will accrue and be taken on an hour for hour basis.

11.3. OFFICIAL HOLIDAYS.

11.3.1. Eligibility. All full-time classified employees are eligible for holiday pay for authorized paid holidays. Part-time and temporary employees will not receive holiday pay.

11.3.2. Scheduled Holidays. The county commission will publish a list of holidays that will be observed by the county at the beginning of each year. Normally New Year's Day, President's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day will be observed.

11.3.3. Holiday Pay. An eligible employee will receive holiday pay for all county approved holidays. If the employee is required to work on a holiday, the appointing authority will normally coordinate with the employee for comparable time off on another day. If the appointing authority cannot schedule comparable time off, the employee will be paid for the actual hours he/she worked on the holiday. The pay for the hours will be in addition to the holiday pay. Such pay will be at one and one-half times the regular rate of pay.

11.3.4. Entitlement to Overtime. If an employee does not work on the holiday, the hours that he/she is paid for such holiday will not count as hours worked in determining the entitlement to overtime pay or compensation time in lieu of overtime pay. Only the time that an employee actually works on the holiday will be counted to determine if he/she is entitled to overtime during the workweek as specified by the FLSA. (See Art. 12.9.5, page 115).

11.3.5. Preceding and Succeeding Workdays. To be entitled to receive holiday pay for an authorized holiday, an eligible employee must be present at work, or on approved leave with pay, on the scheduled workdays immediately preceding and following the paid holiday. If the employee is in a non-pay status for either of these days, holiday pay will not be paid.

11.3.6. Holiday Pay in Lieu of Sick or Annual Leave. If an eligible employee is on approved sick or annual leave when an approved paid holiday occurs, such time will be charged against the holiday and not as sick or annual leave.

11.4. TYPES OF LEAVE.

The board provides the following types of leave for its eligible county employees: annual leave, sick leave, administrative leave, military leave, and leave without pay.

11.5. ANNUAL LEAVE.

All classified employees will earn annual leave with pay in accordance with these guidelines. New hire probationary employees shall accrue but are not eligible to use annual leave until they have successfully completed their probationary period. Employees that do not successfully complete probation shall not be paid for any annual leave accrued at separation.

11.5.1. Leave Year. The leave year shall be based on the calendar year.

11.5.2. Accrual of Annual Leave. All full-time classified employees will earn annual leave according to the schedule below:

Completed Years of Continued Service	Annual Accumulation
0 – but less than 4 years	80.08 hours
4 – but less than 9 years	104.00 hours
9 – but less than 14 years	128.18 hours
14 – but less than 19 years	152.10 hours
19 – but less than 24 years	176.02 hours
24 years or more	208.00 hours

11.5.3. Proration of Annual Leave Credit. Annual leave credits will be earned by an eligible employee for each pay period in which he/she is eligible to earn annual leave. However, an employee will not earn annual leave credits for any pay period in which he/she is a non-pay status for more than half of their normal work schedule. Part-time classified employees do not earn annual leave.

11.5.4. Use of Annual Leave. Annual leave is considered to be a benefit to an employee, and he/she is expected to take the earned leave each year. Employees may accumulate and carry over an amount equal to three hundred (300) hours of annual leave, ***any additional unused annual leave will be forfeited***. The use of annual leave will be approved at the discretion of the employee's appointing authority, in accordance with guidelines to be established by the board. Annual leave will be approved in advance of each absence, except in unusual circumstances. Failure to comply with this requirement may result in an absence being treated as unauthorized leave. An appointing authority may require all employees in his/her department to take their leave at the same time if he/she feels it is in the best interest of the department to do so.

Annual leave hours will not be considered as time worked for the purpose of calculating overtime pay.

11.5.5. Requests for Annual Leave. Requests for annual leave will be made by employees as far in advance as possible of the time desired and will be submitted on the board's approved leave form. Before the start of a new leave year the employees in each department should attempt to schedule their projected leave days for the year. The order of selection will be based on the employees' continuous years of eligible service with the department and will be made in accordance with guidelines to be established by the appointing authority.

11.5.6. Scheduled Holiday During Annual Leave. When a scheduled paid holiday occurs during an employee's annual leave, the day will be credited as a paid holiday and not as an annual leave day.

11.5.7. No Advances. Annual leave will not be advanced to any employee.

11.5.8. Pay Upon Separation. Upon separation from county service, a classified, merit status employee will be paid for any accrued, unused annual leave.

11.5.9 Pay in Lieu of Time Off Eligible employees may request to be paid for up to a maximum of 40 hours of annual leave in lieu of time off. Employees requesting pay in lieu of time off must take a minimum of 40 hours of annual leave during the fiscal year (October 1st through September 30th) and, after payment of annual leave in lieu of time off, still have the equivalent of two pay periods of annual leave in reserve (160 hours for 80 hr. employees and 168 hours for 84 hr. employees.) The request will only be considered one time per year and will be paid out the first pay period in November. Requests must be approved by the Appointing Authority and submitted to the Commission office no later than July 31st for payment in November.

11.6. SICK LEAVE.

Sick leave is a benefit provided to classified employees. The intent of sick leave is to provide paid time off to an eligible employee who is ill or caring for an immediate family member who is ill. Sick leave hours will not be considered as time worked for the purpose of calculating overtime pay. *Probationary employees shall earn sick leave as specified in Article 11.6.1 and will be eligible to use sick leave after it has been accumulated. Usage of sick leave is governed by Article 11.6.4 based on the calendar year.*

11.6.1. Accrual of Sick Leave. Full-time classified employees will earn sick leave credit at the rate of 3.7 hours per pay period, up to a total of 96.2 hours per year, for each pay period in which he/she is eligible to earn sick leave. Part-time classified employees do not earn sick leave. Eligible employees may accumulate unlimited hours of sick leave credit; except as detailed in Article 11.6.3.

11.6.2. Non-Pay Status. Employees will not earn sick leave credits for any pay period in which they are in a non-pay status for more than half of their normal work schedule.

11.6.3. Separation. No employee who separates from county service for reasons other than retirement or death shall be paid for any unused sick leave. However, if an individual separates and is rehired by the county within two (2) years of the separation date, in a job that is eligible to accrue sick leave, he/she shall have his/her previous sick leave balance restored upon completion of six (6) months of service. In the event of retirement or death, payment for accrued, unused sick leave will be paid as follows:

- (a) Retirement. Employees that retire from county service shall be paid for one-half of any accrued, unused sick leave, up to a maximum of four hundred eighty (480) hours. Employees that retire from county service may also have the option of applying unused sick leave credits toward retirement credit up to a maximum of nine hundred sixty (960) hours. Employees may choose only one option—if they choose to be paid for one-half of their credits, they may not apply the remainder toward retirement credit.
- (b) Death. In the event of the death of an active merit status employee, the deceased employee's estate shall be paid for one-half of the employee's accrued, unused sick leave, up to a maximum of four hundred eighty (480) hours. Alabama Code § 43-8-253 expressly applies to this provision, specifically subsections (c) and (d) of that statute, with the express intent that a killer should be considered to have predeceased the decedent for all purposes under these policies and procedures.

11.6.4. Use of Sick Leave. Sick leave with pay will be granted to an eligible employee for any of the following types of reasons:

- (a) When an employee is unable to work due to personal illness, injury incurred off-duty, or when the employee's presence may endanger the health of fellow workers; or
- (b) Keeping a doctor, dentist, chiropractor, or optometrist appointment; or
- (c) Any impairment related to pregnancy and/or actual confinement. A female employee who requests time away from work for pregnancy, maternity and childbirth will be treated equally to other employees with other forms of disability or sickness who request leave; or
- (d) The serious illness of a spouse, child (including any child for which employee is the custodian and/or guardian), or parent for which employee is the custodian and/or guardian, requiring the care of the employee.

11.6.5. General Requirements for Use. To be granted sick leave, an employee should notify his/her supervisor before the normal workdays begins, or as soon as possible thereafter, of his/her inability to report to work. Failure to do so may be cause for denial of sick leave for the period of absence. Denial of sick leave will result in the employee being charged with annual leave, or placed in some non-pay status, at the discretion of his/her supervisor.

11.6.6. Requirements for Extended Use. For a period of absence of three (3) or more consecutive working days, or anytime at the request of the appointing authority or supervisor, the employee may be required to submit a medical report signed by a licensed physician stating that he/she has been incapacitated for work for the period of absence and when it is anticipated that the employee will again be physically able to perform work duties. The appointing authority may require an employee to undergo an examination and obtain a second opinion by a county designated physician. An employee, returning to work after a sickness or injury, may also be required to undergo a

medical examination to determine whether or not the employee is able to return to work. Such examination, when required, will be paid by the county and will be conducted by a physician or physicians as designated by the personnel board.

If an employee is out on leave for three (3) or more consecutive working days and qualifies for protection under the Family and Medical Leave Act (FMLA), the supervisor is responsible for notifying the Personnel office.

11.6.7. Fraudulent Use Prohibited. Any unjustified or fraudulent use of sick leave may result in loss of pay, charged as annual leave, and/or punished by disciplinary action (to include dismissal when appropriate).

11.6.8. Use During Holiday. When an authorized paid holiday occurs during the period an employee is on sick leave, the employee will receive regular holiday pay and that day will not be charged against sick leave.

11.6.9 Sick Leave Donation Program. Marshall County has a sick leave donation program that has been approved by the Marshall County Personnel Board. The program provides guidelines whereby merit employees may donate sick leave (1) to eligible Merit employees who, because of catastrophic illness, have exhausted all personal leave or (2) to eligible Merit employees who have exhausted all personal leave and who have a family member as identified in Section 11.6.4(d) who has suffered a catastrophic illness. A copy of the rules may be obtained from the department supervisor.

11.7 ADMINISTRATIVE LEAVE .

Classified employees will be granted administrative leave with pay in accordance with the following guidelines provided the absence is on a normally scheduled workday for the employees. The number of hours of leave granted for each day will not exceed the number of hours the employee would normally have been scheduled to work for that day. Administrative leave will not be charged against the annual or sick leave of an employee who earns such leaves; *except as otherwise provided in Section 11.7.4 – Emergency Closings*. The following types of administrative leave are provided by the county:

11.7.1. Civil/Legal. Leave will be granted to eligible employees for jury duty, court attendance as a witness in a case not involving personal litigation, or voting. The length of time granted for voting will be the reasonable time necessary to vote and normally will be granted at the start or end of a workday. When an employee is granted leave for jury duty or court attendance, he/she will return to work immediately upon release by the court.

11.7.2. On Duty Court Appearances. Attendance in court by employees who are acting in an official capacity will not be considered as administrative leave but as regular work time. The provisions of any law or board policy that requires any fees provided an employee who is attending court in an official capacity to be turned in to the county will be observed. In other situations, any fees paid to employees will be retained by the employee in addition to administrative leave pay.

11.7.3. Bereavement. Three (3) days of paid bereavement leave will be provided to regular full-time employees and probationary employees. The time period for using these three (3) days begins the day after the immediate family member's death and extends through the second scheduled workday after the funeral. For purposes of this leave, immediate family is defined to include: spouse, parents, children including step-children, foster children, or children for which employee is custodian and/or guardian), grandchildren, brothers and sisters.

One (1) day of paid bereavement leave will be granted to regular full-time employees and probationary employees who have a death in their extended family. The time period for using this one (1) day begins the day after the extended family member's death and extends through the next scheduled workday after the funeral. For purposes of this leave, extended family is defined to include: *parents-in-law, grandparents, grandparents-in-law, brothers/sisters-in-law, nieces, or nephews.*

An employee will only receive pay for regularly scheduled workdays. If additional time is required, the employee may request annual leave or leave without pay.

11.7.4. Emergency Closings When considered necessary for the safety of its employees due to emergencies, such as severe weather or power failures, the Marshall County Commission may authorize the closure and/or late arrival or early departure times for the County Courthouse and affiliated offices. When the County Commission authorizes an emergency closing, mandating the closing of the County Courthouse and offices, non-essential, classified employees may be granted paid administrative leave, provided the absence is on a regularly scheduled workday for the employee. The number of hours of leave granted for each approved day of leave will not exceed the number of hours the employee would have been scheduled to work for that day. (For example: *Jane works 8:00 a.m. – 4:30 p.m. (straight 8-hr schedule) and the office she works in was mandated to close by the County Commission at 2:30 p.m. due to severe weather. Jane is now short 2 hours of work. Jane will be paid six hours of regular time and two hours of paid administrative leave.*) Emergency closings and/or late arrival times will be announced through various public media sources, which may include: local news broadcasts, county email, website, and One Call Now. However, it is the responsibility of each employee to contact his/her

department head or supervisor if the employee is uncertain as to the situation.

Classified employees who are required to work during emergency closings performing “essential operations”, will receive “deferred leave” for the same number of hours the County Courthouse is closed during the emergency closing. *(For example: John works in an office that performs “essential operations” and is therefore required to work during a weather-related emergency closing. The County Courthouse is closed for four hours due to severe weather. John will receive his normal pay for the hours worked during his shift and will also receive four hours of “deferred leave” that he can take at a later date.)* Department heads are responsible for determining if an employee’s attendance is necessary to perform “essential operations”. Deferred leave does not count toward hours worked when calculating overtime. Deferred leave does not expire; however, it has no monetary benefit upon retirement or termination.

Employees who are out on scheduled annual, sick or any other type of leave during an emergency closing will be charged with the previous scheduled leave requested.

Absences due to inclement weather or emergencies that do not warrant the closing of the County Courthouse or offices, requires an employee to make a personal judgement pertaining to his or her safety in traveling to and from work. Employees are expected to make a good faith effort to get to work if County offices are open. An employee who is unable to get to work under such conditions is expected to notify his or her department head or supervisor. Loss of work time for this reason will be charged to the employee’s accrued annual leave or comp time. If an employee has no annual leave or comp time available, then the time will be charged as leave without pay. *(Revised April 19th, 2018)*

11.7.5 Involuntary Administrative Leave. It is the policy of Marshall County to place employees on an administrative leave of absence in situations where the County believes that the employee’s absence from work would be in the best interests of the County. Administrative leave is not disciplinary in nature. An Appointing Authority may place an employee on administrative leave in the following circumstances:

1. The leave is necessary or appropriate during the course of an administrative investigation;
2. the employee is disrupting normal business operations;
3. the employee is reasonably believed to represent a danger to themselves or others;
4. prior to a recommended termination; or
5. it is in the best interest of the County for other legitimate business purposes not to have the employee in the workplace or at the worksite while considering an appropriate course of action.

STANDARDS

An employee may be placed on an administrative leave of absence in situations where the County believes that the employee's absence from work would be in the best interests of the County. Unless a situation arises of such a nature that immediate action must be taken, the Appointing Authority shall confer with the Personnel Administrator prior to placing an employee on administrative leave. The Appointing Authority, at his/her discretion may authorize administrative leave for a period not to exceed 5 working days. The Appointing Authority will complete and submit to the Personnel Administrator the necessary paperwork required to place the employee on administrative leave.

Upon the approval from the Personnel Administrator, the Appointing Authority may extend the leave for an additional 25 days. If the Appointing Authority desires to keep an employee on administrative leave beyond 30 days, the Appointing Authority must present a written request to the Personnel Board for approval. Administrative leave is non-disciplinary in nature. Administrative leave will not count as hours worked for the purposes of calculating overtime.

PROCEDURES

- a) The Appointing Authority will consult with the Personnel Administrator when deciding whether to place an employee on administrative leave, unless a situation arises of such nature that immediate action must be taken.
- b) The Appointing Authority will submit a report by the next business day to the Personnel Administrator describing in detail the reason(s) why the employee is to be placed on administrative leave.
- c) The Appointing Authority will complete a Personnel Transaction form placing the employee on leave and submit it to the Personnel Administrator. The Personnel Administrator will sign and forward the form to the payroll department for entry into the payroll system.
- d) An employee on administrative leave with pay must leave a telephone number where he/she can be reached (or a message left). The employee must also be in a work-ready status at all times during his/her regular scheduled time, and be able to report to work with short notice.
- e) The Appointing Authority will notify any employee placed on administrative leave of the reason for the leave. Such notice may be mailed to the employee's last known home address of record if necessary. A copy of the notification will be sent to Personnel for placement in the employee's personnel file.

- f) If an employee has been placed on administrative leave pending the results of an internal investigation, upon completion of the investigation, the Appointing Authority will revoke any administrative leave and direct the employee to return to work or, if warranted, initiate disciplinary action.

11.8. MILITARY LEAVE.

Military leave will be authorized in accordance with Section 31-2-13 of the Alabama Code, 1975, as summarized below.

11.8.1. Entitlement. Classified employees who are active members of the Alabama National Guard, naval militia, or the Alabama State Guard organized in lieu of the national guard or of any other reserve component of the Armed Forces of the United States, will be entitled to military leave of absence from their respective duties on all days that they are engaged in field or coast defense or other training, or on other service ordered under the provisions of the National Defense Act, or of the federal laws governing the United States Reserves, without loss of pay, time, performance rating, annual or sick leave, or any other county provided benefit.

11.8.2. Limitation. No persons granted such leave of absence will be paid for more than one hundred sixty-eight (168) hours per calendar year.

11.8.3. Extended Limitation. Eligible employees will be entitled, in addition to the above, to be paid for no more than one hundred sixty-eight (168) hours at any one time while called to duty by the governor in active service of the state or nation.

11.8.4. Procedure. An eligible employee who wishes to be granted military leave will submit a copy of the military orders or other documentation necessary to support the request and a leave request to the personnel administrator. Such request will be submitted as soon as the employee becomes aware of the projected dates of services.

11.9. LEAVE WITHOUT PAY.

The board provides leave without pay to eligible employees in certain situations as described below. An employee who is granted a leave without pay will be placed in a non-pay status.

11.9.1. Family and Medical Leave Act.

(Revised September 19th, 2013 – See Family & Medical Leave Act Addendum)

11.9.2. General Leave Without Pay. Classified employees may be granted leave of absence without pay for a period not to exceed one hundred (120) calendar days.

11.9.2.1. Guidelines for General Leave Without Pay. The following guidelines apply to approval of any general leave of absence without pay;

- (a) Leave will be for a justifiable reason;
- (b) All applicable accrued leave (sick, annual, deferred or comp time) has been exhausted;
- (c) Leave will not cause an undue hardship on the county;
- (d) Employee understands that he/she may be required to return to work before the leave expires; and
- (e) Employee understands that failure to report for duty promptly when requested or at the end of the leave will be considered a resignation and the employee will be separated.

11.9.3. Political Leave Without Pay. A classified, merit status county employee desiring to campaign for a Marshall County political office shall be granted a leave of absence without pay beginning on the date they qualify until they complete their participation in the election process.

11.9.3.1. If the employee is elected, the employee will resign from his/her classified position with the county and assume elected office, or if the employee is defeated for political office, the employee, may within five (5) working days, be reinstated to his/her former position, or one of comparable rank and pay.

11.9.3.2. An employee may elect to be paid for any accumulated annual leave upon beginning the leave of absence without pay to campaign for public office.

11.9.3.3. No county employee shall campaign or otherwise engage in political activity in support of or against a candidate or any cause during the employee's working hours.

11.9.3.4. No employees shall be rewarded or penalized in any way for using authorized political leave.

11.9.4. Expiration of Leave Without Pay. When the leave of absence expires, the employee will be reinstated to the position he/she held at the time the leave was granted or to a similar position, if the previous position is no longer available. However, the employee is not guaranteed a position if there has been a Reduction in Force (RIF) in the employee's department, and he/she would have been separated due to the RIF. Under such circumstances the guidelines pertaining to RIF actions will apply.

11.9.5. Benefits While in Leave Without Pay Status. No county paid Benefits (annual leave, sick leave, etc.) will be provided an employee for any pay period in which the employee been placed in a leave without pay status for a period that exceeds five (5) working days, however, those employees covered under the FMLA will continue to be covered by the county for medical insurance benefits. However, the employee will be required to continue to pay their share of any premiums. An employee who is on leave without pay for more than ten (10) working days in a month will be required to reimburse the county for any insurance premium benefit costs paid on behalf of the employee for that month. Any unused sick leave days an employee was entitled to at the time he/she was placed in a general leave without pay status will be made available upon return to work. If the employee does not return to work, these days will be forfeited. An employee in a leave without pay status will accrue credit toward longevity and pay increases.

11.9.6. Military Duty. An employee that leaves the service of the county to enter into the service of the armed services may, under certain conditions as contained in the Uniform Services Employment Act and Reemployment Rights Act (USERRA), return to employment with the county. However, nothing should be interpreted herein to provide any additional rights and/or entitlements than are provided in the USERRA or other legal documents.

11.9.6.1. Annual Leave. Unused annual leave will either be taken by the employee prior to departure or, if such action is not feasible, the employee will paid for such leave. Accrual of annual leave will be treated as it is with other employees who are in a leave without pay status.

11.9.6.2. Sick Leave. Unused sick leave that the employee had accumulated at the time of departure will be credited to the employee account when he or she returns to work. Accrual of additional sick leave while the individual is on military leave will be treated as it is with other employees who are in a leave without pay status.

11.9.6.3. Health Benefits (COBRA). Departing individuals may be entitled to up to eighteen (18) months of continuous coverage under the county's medical and hospital insurance plans, if they were covered by such plans prior to their departure. There is no grace period during which the county continues to pay the employee's insurance, therefore departing individuals must begin paying for their insurance effective the first day of his/her absence. If the individual's absence does not exceed thirty-one (31) days the employee will be required to pay the employee's normal share for the coverage. For longer leaves, the employee may be required to

pay up to one hundred two (102) percent of the full premium. Upon reemployment, there will not be any waiting period or limitations on coverage for the employee and all covered family members.

11.9.6.4. Seniority Based Benefits. Individuals returning from military duty will be entitled to any seniority based benefits that they had at the beginning of the leave, plus any additional seniority and benefits they would have attained if they had remained continuously employed.

11.9.6.5. Non Seniority Based Benefits. Individuals returning from military duty will be treated the same as any other employee on leave of absence from the county.

11.9.6.6. Retirement Benefits. The county's retirement plan shall treat an individual on military duty, as if he or she had been in continuous employment. The employee will be allowed the chance to make up missed employee contributions. The county will make corresponding employer contributions for those contributions the employee makes up.

11.9.6.7. Notification. Upon receipt of active duty orders, an employee shall notify his or her appointing authority and request in writing a leave without pay for military duty. A copy of activation orders will be provided with the request.

11.10 ATTENDANCE RECORDS.

Attendance records for all employees covered by the board's personnel system will be reviewed monthly by the personnel administrator

11.10.1. Content. Each employee's attendance record will record:

- (a) Approved workweek;
- (b) Scheduled hours of duty and hours worked for each duty day during the workweek;
- (c) Authorized and/or unauthorized absences, including sick leave, annual leave, administrative leave, military leave, leave without pay, and non-pay status/worker's compensation;
- (d) Earned overtime pay; and
- (e) Overtime paid.

11.10.2. Availability. An employee's attendance record will be made available to the employee for inspection upon request.

11.10.3. Responsibility for Maintenance. Appointing authorities are responsible for ensuring the accurate completion of time and attendance reports for each employee within their activity. Such time and attendance reports will be submitted to the commission office for each pay period in accordance with procedures established by the county commission.

CHAPTER 12

COMPENSATION AND BENEFITS

12.1 GENERAL PROVISIONS

12.1.1. Policy Statement. Marshall County will, so far as financially practical, provide its employees fair and equitable compensation. Such compensation will include an employee's regular pay and county provided benefits.

12.1.2. Responsibility. Every employee's pay and benefits, as provided for herein, will be established and maintained fairly, equitably, and consistent with the intent of these guidelines. The personnel administrator will monitor the county's compensation system and recommend in coordination with the appointing authorities needed changes to the personnel board.

12.1.3. Deviations Not Authorized. Deviations from the approved board classification and pay plans and the guidelines contained herein will not be authorized. If warranted, such plans and/or guidelines will be changed, as required.

12.2 JOB DESCRIPTIONS

The personnel administrator will ensure that a job description is prepared for each classified service job. Each job description will be approved by the personnel board and the appropriate appointing authority.

12.2.1. Purpose. Each job description will identify the representative duties and tasks, along with the job-related knowledge, skill, and ability (KSA's), that are required for proper performance of the job. The job description, and its associated job analysis information, will be used to evaluate each job and to assign it to an appropriate pay grade in the board's classification plan.

12.2.2. New/Revised Jobs. When an appointing authority determines that a new/revised job description is required because he/she wants to create a new job or to make a substantial change in an existing job, the appointing authority will provide the personnel administrator the required duties and KSA's associated with the job. The personnel administrator will prepare a new/revised job description and submit it to the personnel board and appointing authority for approval.

12.3. CLASSIFICATION PLAN

The classification plan will be maintained by the board. The classification plan will recognize that jobs of comparable responsibility, scope, complexity, and required knowledge, skill and ability will be assigned to the same pay grade. All classified service jobs will be assigned to one of the pay grades established in the plan.

12.3.1. Maintenance. The classification plan contains a sufficient number of pay grades to adequately and fairly distinguish between the compensable differences between jobs assigned to the plan. The assignment of a job to a pay grade in the plan will be made through the evaluation of each job, using job evaluation criteria and procedures approved by the personnel board for such purposes. The classification plan will be approved by the personnel board.

12.3.2. Additions/Changes. When a new/revised job description is prepared in accordance with paragraph 12.2.2 above, the job will be evaluated or re-evaluated using the approved job evaluation criteria and procedures and a recommended pay grade assignment will be determined and submitted by the personnel administrator to the personnel board for approval. Upon approval, the personnel administrator will ensure that the classification plan is revised as required.

12.3.3. Periodic Reviews. In addition to required changes made in accordance with paragraph 12.3.2 above, the personnel board will cause the approved classification plan to be reviewed on a periodic basis to ensure that each job's pay grade assignment is still valid. Upon completion of such review, an updated classification plan will be submitted to the personnel board for approval.

12.4. PAY PLAN

The pay plan will be maintained and used in conjunction with the approved classification plan to determine the pay rates for all classified service employees.

12.4.1. Maintenance. The pay plan will contain a minimum and maximum pay for each pay grade contained in the classification plan. The personnel board is responsible for the maintenance of an equitable and fair pay plan to be used in determining pay ranges for each pay grade in the classification plan. Such pay ranges are established with due regard to:

- (a) Rates of pay paid by public and private organizations in the local area;
- (b) Cost of living factors;
- (c) County financial policies and available resources; and
- (d) Availability of qualified applicants for job vacancies.

12.4.2. Periodic Review. The pay plan will be reviewed periodically and appropriate “across the board” adjustments recommended by the personnel board to the county commission, when needed to meet inflationary and/or labor market changes and when funds are available. During the preparation of the annual budget, the personnel board will, as needed, cause to be made such comparative pay studies of those factors that affect pay levels.

12.5 EMPLOYEE ANNIVERSARY DATE

12.5.1. Purpose. The purpose of the employee anniversary date is to establish a point from which an employee’s years of service can be determined. An employee’s anniversary date will be used to determine his/her eligibility for longevity pay increases, benefits, and other areas, which are related to an employee’s years of service. ***Annual and Sick Leave will be handled on a Calendar year basis.***

12.5.2. Establishment. Each classified employee will have an anniversary date established. An employee’s anniversary date will not change except as provided for in paragraph 12.5.3 below.

12.5.3. Break in Service. If an individual is separated and subsequently re-employed as a classified service employee, his/her new employment date will be established as the anniversary date. If an employee is placed in a leave without pay status for more than thirty (30) calendar days, his/her anniversary date will be adjusted to reflect the break in service.

12.6 ESTABLISHMENT OF EMPLOYEE PAY

The pay of all employees will be established and maintained in accordance with the guidelines contained herein.

12.6.1. Salaried Employees. All employees who are assigned to jobs that have been determined to be exempt from the overtime provisions of the FLSA and such other non-exempt employees who are designated by the personnel board as salaried employees will be paid a salary each pay period. Normally, such salary will be based upon the hours that the employee routinely works during the pay period and the approved hourly rate of pay for his/her job. However, the actual hours used in the calculation of a non-exempt salaried employee’s pay will be approved by the personnel board, in coordination with his/her appointing authority.

12.6.1.1. Salaried Employees Overtime Entitlement. An exempt salaried employee will not receive overtime entitlement, regardless of the hours that are worked. A non-exempt salaried employee will receive overtime entitlement when the hours worked

in the established workweek qualify as overtime. Such overtime will be computed at one and one-half (1½) times the employee's hourly rate of pay in accordance with the provisions of the FLSA.

12.6.2 Hourly Employees. All employees who are not designated as salaried employees in accordance with paragraph 12.6.1 above are designated as hourly employees. Hourly employees will be paid only for those hours they work per pay period. Such pay will be based on the employee's approved hourly rate of pay.

12.6.2.1. Hourly Employees Overtime Entitlement. Hourly employees are non-exempt from the overtime provisions of the FLSA and will receive overtime pay for all hours that they work that qualify as overtime in accordance with the FLSA. Such overtime pay entitlement will be computed at one and one-half (1½) times the employee's hourly rate of pay in accordance with the FLSA. A non-exempt employee may, however, receive compensatory time in lieu of overtime pay.

12.6.3 Entry Level Pay for Full-time Classified Employees. Each classified employee shall be paid at one of the rates set forth in the Pay Plan for the classification in which he/she serves, in accordance with these rules and the special provisions for administering the Pay Plan.

New appointments to a position paid on the non-exempt (hourly) pay scale or exempt (salary) pay scale shall be made at the minimum rate (step 1) of the salary range for the classification to which the appointment is made. The Personnel Administrator may authorize appointments up to the step three (3) pay rate for non-exempt and exempt positions if requested by the appointing authority and approved by the Personnel Administrator prior to appointment. Such appointment must be based on outstanding credentials (education, experience, or achievement in the applicant's field). The request for approval of such appointment shall be submitted in writing to the personnel office and shall be accompanied by justification for the request (documentation of the outstanding credentials, etc.) and certification from the County that funding for the request is available.

The Personnel Board may authorize appointments above the step three (3) pay rate for non-exempt and exempt positions if requested by the appointing authority and approved by the Personnel Board prior to appointment. Such appointment must be based on even more outstanding credentials (education, experience, or achievement in the applicant's field) than would be necessary to justify starting pay at step two (2) or step three (3). The request for approval of such appointment shall also be submitted in writing to the personnel office and shall be accompanied by justification for the request (documentation of the outstanding credentials, etc.) and certification from the County that funding for the request is available.

12.6.4. Entry Level Pay for Part-time Classified Employees. The minimum hourly rate of pay used to determine the pay of a salaried or hourly part-time employee will be established at the time the position is authorized and funded. Such pay levels will be based upon the content of the employee's job; however, no pay level will be established at less than the federal minimum hourly wage.

12.6.5. Entry Level Pay for Temporary Employees. The hourly pay level for all temporary employees will be established by the personnel board at the time the position is authorized and funded. Such pay levels will be based upon the content of the employee's job; however, no pay level will be established at less than the federal minimum hourly wage.

12.6.6. Entry Level Pay for Former Employees. Former employees who are rehired by the county, within twelve (12) months of resignation, to a job in the same pay grade that he/she held would be started at the same pay he/she was paid at the time of his/her resignation. If the individual is rehired to a job in a lower grade, his/her pay will be set at the same percent of the new pay grade range that his/her pay was in previous range. Employees rehired after this time period will have their entry-level pay established the same manner as any other newly hired employee, unless they are subject to paragraph 8.3.6.

12.6.7. Pay Level After Leave of Absence Without Pay. An employee who returns to work after a leave of absence without pay will have his/her pay established at the same rate of pay he/she was paid prior to the leave of absence. However, any general adjustments applied to other employees while he/she was on leave without pay status will also be applied to the employee.

12.7 PAY INCREASES

Pay increases will be awarded to classified service employees only if increases have been recommended by the board and funds are available and have been set aside by the county commission during budget approval. Normally, a pay increase will be awarded to eligible employees in accordance with the guidelines contained herein. However, the board is responsible for establishing and approving the actual criteria to be used in awarding a pay increase for a specific year.

12.7.1. Longevity Increases. Longevity pay increases will be provided to eligible employees for each (12) months of satisfactory service they complete, as calculated from their anniversary date. Satisfactory service shall be defined as the employee's receipt of a satisfactory rating or higher on his/her latest written performance appraisal. Once an employee's pay level meets the maximum pay level for the job, he/she will not be entitled to any other longevity increase.

12.7.2. Cost of Living Adjustments (COLA'S). When the board recommends and the commission approves a "COLA" increase, the pay rates for each pay grade of the pay plan will be adjusted to reflect the approved increase. Normally, all classified employees will have their pay increased by the amount of a "COLA" increase.

12.7.3. COLA and Longevity Increases in Same Budget Year. When the board recommends and the county commission approves a "COLA" and longevity increase in the same budget year, an eligible employee who has not reached the maximum pay level for his/her pay grade will receive both increases. However, an employee will receive only that amount of a longevity increase that does not cause his/her pay to exceed the maximum rate of pay for his/her pay grade. An employee whose pay is at the maximum rate of pay for his/her job will receive only the "COLA" increase.

12.8. ESTABLISHMENT OF EMPLOYEE PAY UPON REASSIGNMENT

When an employee is transferred, promoted, or demoted to another job, his/her pay will be established in accordance with the following guidelines.

12.8.1. Transfers. When an employee is transferred to another job, his/her pay level will remain the same as before his/her reassignment. However, any adjustments required due to a change in the approved hours to be worked during the pay period by a salaried employee will be made.

12.8.2. Promotions. When an employee is promoted to a new job, his/her pay level will be established at least at the minimum pay level for the new classification pay grade of his/her new job, provided, however, that the employee's new pay level will be at least four (4) percent above the pay received prior to the promotion.

12.8.3. Return to Old or Comparable Job Before Completing Probationary Period. If an employee is returned to his/her old job, or a comparable job, prior to completing the required probationary period, his/her pay will be returned to the pay level it was prior to the employee's promotion. However, the employee's pay level will be increased or decreased to reflect any general adjustments applied to other employees during his/her probationary period that would have otherwise affected his/her pay.

12.8.4. Demotions. When an employee is demoted to a new job, his/her pay level will be established at the same step within the new pay grade for his/her new job that he/she was in for the pay grade for his/her prior job. Under no circumstances will a demoted employee's pay exceed the maximum level of pay or be less than the minimum rate for the pay

grade of his/her new job. The Personnel Board will approve the actual amount of wage decrease.

12.8.5. Temporary Assignments Of Classified Employees. When an employee is temporarily assigned to another job, his/her pay will be adjusted, when required, in accordance with the guidelines of paragraph 5.3 of these policies and procedures.

12.9 SPECIAL PAY PROVISIONS

Under certain situations employees may be entitled to special pay for activities and/or duties performed as a part of their assigned work. Such special pay will be provided in accordance with the following guidelines.

12.9.1. Emergency (Call Out) Duty. Every employee is expected to respond to requests from his/her appointing authority, even without pre-arrangement, to work in the event of an emergency. ***Employees who are called out for emergency duty will be paid the greater of four hours (regardless of how many times they are called out in the four-hour period) reporting pay or actual hours worked per terms of Section 12.9.2.***

12.9.2. Emergency Duty Pay. A non-exempt employee who is called out or requested to begin work earlier or stay longer than the normal work day by a department head to respond to an emergency situation will be paid for the emergency work in accordance with the following guidelines:

- (a) Non-exempt employees will be paid at time and one half for all time spent in response to the emergency outside of normal working hours;
- (b) Time and one-half will be paid for emergency work time regardless if the employee's hours worked for the workweek meet FLSA overtime requirements for overtime payments.

12.9.3. Emergency Duty Authorization. Department heads shall request authorization from the commission chairman to designate work time as emergency duty. If it is not feasible to obtain advance authorization, the department head is responsible for ensuring any commission emergency duty standards are met and justify the use of emergency duty status to the commission chairman as soon as it practical.

12.9.4 Military Leave Pay. Eligible employees who are placed on military leave in accordance with paragraph 11.8 above will receive the standard pay they would have received if they had reported to work and were not on military leave.

12.10 PAY PERIOD

The county commission has established pay periods for all employees. The pay period for all employees, except elected officials, begins and runs for fourteen consecutive days. All pay earned during the pay period will be paid to the employee on the next Thursday after the end of the pay period.

12.11 PAYROLL DEDUCTIONS

The county commission may, upon request of a classified service employee, withhold specified amounts of money from the employee's pay. Withholding will only be made for county commission-approved types of transactions.

12.12 EMPLOYEE BENEFITS

Benefits are provided eligible employees as part of their overall compensation. Such benefits are in addition to the paid leaves as authorized in Chapter 11 of these policies and procedures and will be provided in accordance with the specific criteria established for each benefit. The information contained herein is considered general information concerning the provided benefits. Specific details about a particular benefit may be obtained from the personnel administrator.

12.12.1. Workers' Compensation. The county provides worker's compensation insurance coverage in accordance with Alabama law for any qualifying injury or illness that might be sustained on the job. Benefits and eligibility in each case will be determined in accordance with criteria specified in Section 25, Code of Alabama.

12.12.1.1. Reporting Requirements. All job-related injuries or illness will be reported immediately by an employee through his/her appointing authority to the personnel administrator. Failure to do so may result in loss, or delay, of receipt of any authorized benefits. If

deemed necessary, the personnel administrator may require the employee to see a county approved doctor at the county's expense.

12.12.2. Employee Group Insurance. The county provides eligible classified employees health, life, accident and cancer insurance coverage under its group insurance program. Coverage and benefits shall be subject to the provisions and requirements as stated in the policies providing the coverage.

12.12.2.1. Dependent Coverage. Health coverage may also be provided an eligible employee's authorized dependents. Dependent eligibility will be determined in accordance with the provisions of the existing group policy.

12.12.2.2. Costs. Costs of coverage and the amount of employee contribution will be determined by the current contract in effect.

12.12.2.3. Effective Date. Insurance coverage for an eligible employee and his/her dependents will become effective in accordance with the specific policies in effect for the coverage. If an individual is on leave of absence or is separated from the county, the continuation of coverage will be in accordance with the terms of each policy and federal law.

12.12.2.4. Non-pay Status. An employee will be required to reimburse the county for any premiums normally paid by the county for any month in which he/she is in a non-pay status for more than ten (10) working days, unless otherwise provided by federal law.

12.12.3. Unemployment Insurance. The county provides unemployment insurance benefits to its employees. When employees are laid-off due to lack of work or lack of funds, they are ordinarily eligible for Unemployment Compensation benefits, provided they have completed the normal required work time. When an employee is fired or suspended due to unsatisfactory performance of work he/she is not normally eligible for benefits, nor are those employees who resign or quit the workforce.

12.12.4. Social Security. Federal Law requires that the county deduct each pay period from the employee's salary, that amount specified for Social Security benefits. The county is required to match these deductions.

12.12.5. State Retirement System. Eligible employees will have withheld from their pay each pay period, that amount required for participation in the State Retirement System of Alabama. The county also contributes toward the employee's retirement.

1.5 DRUG AND ALCOHOL PROVISIONS

1.5.1. Purpose. Marshall County is concerned about the effects of the abuse of controlled substances and alcohol upon the health and safety of its employees. The Marshall County Commission, the Marshall County Personnel Board, and the Appointing Authorities of Marshall County (hereinafter collectively referred to as the “County”) recognize that substance abuse and alcohol use on or off duty leads to increased accidents; injuries, illnesses and medical claims and can lead to the deterioration of employees’ health and adversely affect their family lives. Employees who abuse controlled substances or alcohol are not only a danger to themselves but to their fellow employees and as well as to the public. Medical costs incurred by employees with substance abuse and alcohol problems place an unacceptable financial burden on health and benefit programs to the detriment of the public and other employees. Decreased productivity, employee morale, increased absenteeism and turnover adversely affect the County’s ability to serve the public.

In light of these concerns, it is the goal of this policy to maintain a safe, healthy and productive workplace and workforce free of substance and alcohol abuse. The County’s policy is to identify substance and alcohol abusers as early as possible, help such employees with their problems associated with substance abuse and alcohol abuse, and encourage their rehabilitation and return to work. However, no part of this policy or any of the procedures hereunder, is intended to affect the County’s right to manage the workplace or to discipline employees. Nor is this policy a contract or guarantee of employment, continued employment, or of any terms of conditions of employment. The County has an interest in maintaining a Drug & Alcohol-Free Workplace. This policy is intended to further these interests by identifying and removing the adverse effects of alcohol and drug abuse on job performance, and to protect the safety of the employees and the public.

1.5.2. Prohibited Conduct. In order to achieve the goal of a drug and alcohol-free environment, this policy specifically **prohibits** the following:

1.5.2.1. The use of any intoxicants or illegal drugs, including narcotics or hallucinogenic drugs, marijuana, or other non-prescribed controlled substances as defined below in Sections 1.5.5.1. and 1.5.5.2. (hereinafter referred to as “Alcohol” and “Controlled Substances”) during work hours while operating a County owned vehicle or equipment or while on County property. That includes use, possession, distribution, sale, purchase, trade, manufacture, offer to sale, offer to buy, or make arrangements to distribute, or reporting to work under the influence of Alcohol or Controlled Substances. This prohibition also includes the possession of equipment, products, and materials, which are used, intended for use, or designed for use with Controlled Substances.

1.5.2.2. Using prescription drugs illegally, this includes the use of a Controlled Substance that is not medically authorized or prescribed for the employee being tested.

1.5.2.3. Failing to notify the employee's Appointing Authority in writing of any conviction of a violation of a criminal drug statute not later than five (5) calendar days after the conviction in conformity with the Drug Free Workplace Act of 1988.

1.5.2.4. Operating county-supplied vehicles while under the influence of Alcohol or Controlled Substances.

1.5.2.5. Operating any vehicle, whether a personal or county provided vehicle, on official county business at any time while under the influence of Alcohol or Controlled Substances. This applies to employees who operate any vehicle on county business, including but not limited to, those who are receiving a travel allowance or drive their personal vehicle on county business. A DUI arrest may result in disciplinary action up to and including termination of employment.

1.5.2.6. Failing to report to the Appointing Authority any citation alleging that they were driving under the influence of Alcohol or Controlled Substances regardless of whether the offense may have occurred in the employee's vehicle, county-supplied vehicle, on personal business or on county business. The report must be made within two (2) calendar days of the citation, unless the employee is unable to make report due to extenuating circumstances.

1.5.2.7. Switching or adulterating any urine and/or blood sample submitted for testing, when requested.

1.5.2.8. Use of Alcohol or Controlled Substances off-the-job, or any other prohibited substances which results in impaired work performance, such as absenteeism, tardiness, poor work performance.

1.5.2.9. Refusing to consent to testing or to submit a urine and/or blood sample for testing under this policy, when requested.

1.5.2.10. Refusing to submit to a search of county owned/county controlled property that is under the control of or in the possession of the employee when requested by the appointing authority or his or her designee in accordance with this policy.

1.5.2.11. Failing to abide by the terms of this policy.

1.5.2.12. Failing to adhere to the requirements of any alcohol or drug treatment or counseling program in which the employee is enrolled.

1.5.2.13. Refusing to sign a statement agreeing to abide by the Marshall County Drug & Alcohol-Free Workplace Policy.

1.5.3. Voluntary Treatment Encouraged. This policy is not meant in any way to discourage any employee from voluntarily seeking assistance, counseling, or treatment for drug or alcohol problems. The County urges any employee with a drug or alcohol dependency to seek this type of professional assistance before such dependency leads to an incident requiring disciplinary action. However, where a violation of this drug and alcohol policy has occurred, an employee's request to submit to a drug or alcohol rehabilitation program will not serve to waive the application of disciplinary action deemed appropriate for the violation.

1.5.4. Alcohol and Controlled Substance not allowed on County Property. The County prohibits the possession or presence of Alcohol, Controlled Substances, contraband or paraphernalia in its buildings, vehicles, or on its property by its employees when such possession is outside the line and scope of the employee's employment. Any prohibited substance or contraband will be seized. The employee possessing or responsible for the presence of alcohol, illegal or controlled substances will be referred to law enforcement authorities for appropriate action. Further, the employee will be subject to disciplinary action, up to and including termination.

1.5.5. Definitions.

1.5.5.1. Alcohol. Distilled or fermented beverage containing ethyl alcohol, including beer, malt beverages, wine, and distilled spirits.

1.5.5.2. Controlled Substances include, but are not limited to, Marijuana, Cocaine, Heroin, Hallucinogens, Methaqualone, Benzodiazepines, Opiates, Amphetamines, Methamphetamines, Barbiturates, Methadone, Phencyclidine (PCP), Propoxyphene and any other substance and all derivatives thereof, whose manufacture, sale, distribution, dispensation, possession or use is prohibited or controlled by Alabama Code §20-2-2(4) or federal law. Controlled Substances also include: (1) Any prescription substance to the extent and in the opinion of the Appointing Authority that the drug is present in such a quantity that it prevents the employee from performing the duties of his or her job or poses a risk to the safety of the employee, other employees, or any other persons; (2) Any so-called "designer drug", "look-alike", synthetic drug and similar substance, even if not specifically prohibited by state or federal law; and (3) Any other substance which may be abused, whether available legally or over-the-counter (such as cough syrup), or naturally occurring (such as hallucinogenic mushrooms) or which was never intended for human consumption (such as glue), and a metabolite of any substance described herein.

1.5.5.3. Medical Review Officer. The “Medical Review Officer” (MRO) is a designated licensed physician with knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate positive results of Alcohol and Controlled Substance tests in light of an applicant’s or employee’s medical history and relevant biomedical information.

1.5.5.4. Testing Laboratory. The “Testing Laboratory” is a designated facility certified by the National Institution for Drug Abuse, and licensed or certified, when required, by appropriate local and state authorities, to test applicants and employees for the use of Alcohol and Controlled Substances.

1.5.5.5. Screening Test. A “Screening Test” is an immunoassay screen for Alcohol or Controlled Substances to eliminate negative samples from further consideration.

1.5.5.6. Confirmatory Test. A “Confirmatory Test” is a second analytical procedure to confirm the use of Alcohol or a Controlled Substance by gaschromatography/mass spectrometry (GC/MS).

1.5.5.7. Collection Site. The “Collection Site” is a designated physician office, hospital, clinic or other facility to collect samples for testing by the testing laboratory. Where necessary, a Marshall County representative or medical personnel may obtain a specimen outside of a designated collection site (such as at a public restroom at an accident investigation site).

1.5.5.8. Chain of Custody. “Chain of Custody” is the procedure established and followed by the testing laboratory to account for identification and integrity of samples from point of collection to final disposition.

1.5.5.9. Sample Collector. A “Sample Collector” is a designated physician, agency or person authorized by the County to collect samples.

1.5.5.10. Safety-Sensitive Position. “Safety-Sensitive Positions” are those employees who are subject to random drug and alcohol testing. These positions include those in which employees participate in safety sensitive functions pursuant to their jobs, and are identified as such in their respective job descriptions. This would include, but not be limited to, employees who: (1) carry firearms or other items as part of their duties which could be used as weapons such as knives, machetes, blades, tasers, or batons; (2) regularly operate or maintain County vehicles or on or off road equipment or machinery including tractors/ riding mowers; (3) use tools that have the capacity to injure any person including but not limited to hand tools, power tools, weed-eaters, or chainsaws; (4) load or unload vehicles or heavy equipment; (5) participate in any activity related to the safe operation of a transit system, including dispatching vehicles; (6) answer emergency calls or direct the provision of emergency services; (7) provide emergency medical services; and (8) employees required to have commercial drivers licenses (CDLs). CDL drivers must also abide by Federal Highway Administration and Federal and State Department of Transportation requirements.

1.5.5.11. Under the Influence of Alcohol. An employee shall be determined to be under the influence of alcohol if the employee's normal faculties are impaired due to the consumption of alcohol, or the employee has an alcohol level of .02 or higher.

1.5.6. Notification of Convictions & Citations. An employee who is convicted of a criminal drug violation must notify the Appointing Authority in writing within five (5) calendar days of the conviction. The Appointing Authority will take action as appropriate under the circumstances and as required by the Drug-Free Workplace Act. Departments/agencies which have been awarded federal grants or contracts shall notify the appropriate contracting agencies as required by law.

1.5.7. Drug/Alcohol Testing. To detect violations of this important policy, Marshall County will presume that, by accepting or continuing employment, an employee agrees to abide by all aspects of this policy, including testing designed to detect the use of Alcohol. All testing is done in accordance with federal, state and local statutes, regulations, standards and guidelines. Submittal of an adulterated sample or refusal by an employee to submit to testing will be considered the same as a positive result. A positive result may result in disciplinary action, up to and including termination of employment, in accordance with the Policies and Procedures of the Personnel Board of Marshall County.

1.5.7.1. Pre-Employment Testing. Each applicant offered employment with the County will be required to undergo a test to detect the presence of Alcohol and Controlled Substances. Any offer of employment is contingent upon such applicant testing negative. No such applicant shall be permitted to begin work until the test results have been obtained. Applicants will be provided with access to a copy of the Marshall County Drug-Free Workplace Policy. An applicant who decides not to cooperate in the pre-employment screening or testing or who is unwilling to acknowledge this policy on drug and alcohol screening or testing may withdraw his/her application, and will not be considered for employment. An applicant who refuses to undergo a test or who tests positive for Alcohol or a Controlled Substance will be ineligible for employment, unless the applicant is currently prescribed such substance for a valid medical reason by a licensed doctor of medicine (including a psychiatrist), osteopathy or dental surgeon familiar with the applicant's medical history and contemplated duties. Any applicant may, upon written request, obtain a confirmation test at the applicant's own expense.

1.5.7.2. Accident or Incident Testing. The Appointing Authority may test an employee involved in an accident or incident which caused or could have caused personal injury, including illness or death, or property damage, if the action or inaction of the employee contributed to, or cannot be ruled out as a factor leading to the accident or incident. If determined necessary by The Appointing Authority or his or her designee, tests should be conducted as soon as possible, but preferably not later than two (2) hours after the accident or incident. Employees are prohibited from using alcohol within eight (8) hours following an accident, until testing or initial screening is

completed. In no way shall the immediate medical treatment of injured employees be jeopardized by the post accident testing procedure. Employees will be tested after any work-related accident or injury where: 1.) an employee is injured beyond the need for simple first aid; 2.) property or vehicles are damaged; 3.) an employee has caused or contributed to an on-the-job injury which results in loss of time from work time; or 4.) there is reasonable suspicion of drug or alcohol use.

1.5.7.3. Reasonable Suspicion Testing. The Appointing Authority may take such action as it deems appropriate or necessary whenever it has reasonable suspicion that an employee may be in violation of the County's Drug & Alcohol-Free Workplace Policy, including relieving an employee from duty and requiring the employee to submit to drug and/or alcohol testing. Reasonable Suspicion testing shall be based on objective facts sufficient to lead a reasonable person to suspect that an employee is under the influence of Controlled Substances or Alcohol so that the employee's ability to perform his/her job safely is reduced.

1.5.7.4. Random Drug & Alcohol Testing. As a condition of employment, Marshall County reserves the right to require all Safety-Sensitive Positions and employees having a Commercial Driver's License (CDL) to be tested throughout the year. All employees who have Commercial Drivers License will be tested for Controlled Substances and Alcohol in accordance with the Department of Transportation's (DOT) Rule 49 CFR Part 40. Selections for random testing are done by a computer-generated list and are made without bias or prejudice.

1.5.7.5. Testing After Referral for Assistance. The Appointing Authority shall test an employee who has made a *voluntary self-referral* for assistance for counseling or rehabilitation under this policy before the employee returns to work, or on completion of the counseling or rehabilitation program, whichever is earlier. Testing shall be required and may occur at any time during the counseling or rehabilitation program and for a period of two (2) years after return to work or after the completion of the counseling or rehabilitation program, whichever is later.

Employees who return to employment after referral to counseling or rehabilitation shall meet all standards of conduct and job performance. Employees who have been referred for counseling or rehabilitation under this policy shall cooperate and participate fully in their rehabilitation and the recommendations of the program administrators, which may include regular attendance at Alcoholics or Narcotics Anonymous or similar therapy sessions and participation in after-care, follow-up and similar monitoring programs. In such cases, the employee must sign and abide by the terms set forth in a Return-to-Work Agreement.

1.5.7.6. Return to Work Testing. If an employee has violated the prohibited drug and alcohol rules, the employee must take and pass a drug and alcohol test before being returned to work. Further, any person who has violated the prohibited drug and alcohol rules is required to take a drug

and/or alcohol test before returning to safety-sensitive functions for *any* DOT regulated employer and is also subject to unannounced follow-up testing at least six (6) times in the first twelve (12) months following a return to active safety-sensitive service.

1.5.7.7. Consent Forms and Disclosure (Appendix A). In all cases involving testing for the presence of alcohol or drugs, applicants and employees will be asked to sign a consent form, a copy of which is attached hereto, authorizing the test and permitting release of information to Marshall County. THE SIGNING OF THE CONSENT FORM IS VOLUNTARY. All information from the tests will be kept in strict confidence, imparted only on a need-to-know basis, used for personnel purposes only and will not be used in any criminal proceeding.

1.5.7.8. Continuation of Work. Any employee testing .02 or higher for Alcohol, or who tests positive for any Controlled Substance, will be removed from safety-sensitive duties immediately for the remainder of the scheduled workday.

1.5.7.9. Specimen Collection & Analysis. Specimens shall be collected in a manner that will afford the individual privacy, yet be reasonably calculated to prevent substitution or adulteration of the specimen. The donor will be given the opportunity after specimen collection, to record any information considered relevant to the test, current or recently used prescription or nonprescription medication or other medical condition, on the back of the donor's copy of the chain of custody control form. The employee/applicant shall observe the collector prepare the chain of custody control form and the specimen for transportation to the testing site. The employee/applicant shall initial and/or sign the appropriate labels and control form for transporting the specimen as verification of the collector preparation of the control form and specimen. Once the analysis on the specimen is complete, initial tests having a positive result shall be confirmed. The laboratory will forward the results of all tests to the medical review officer, the employee, and the County's Personnel Administrator.

1.5.7.10. Transportation to the Collection Site. If use is suspected, the Appointing Authority shall arrange transportation of employees to be tested to the collection site. Under no circumstance shall the employee be permitted to drive if the employee appears to be impaired, disoriented, or confused. If an employee refuses to accept transportation arranged by the Appointing Authority, the employee shall be warned that the Appointing Authority may take disciplinary action, up to and including discharge, if the employee refuses County-provided transportation. If supervisory or management personnel believe that the employee is impaired by Alcohol or a Controlled Substance, the employee shall be advised that the Appointing Authority will notify local law enforcement authorities if the employee attempts to drive, the law enforcement shall be notified immediately and all actions taken to persuade the employee not to drive shall be documented.

1.5.8. Communication of Test Results.

1.5.8.1. Negative Test Results. The testing laboratory shall report negative results to the Personnel Administrator, who shall communicate the results confidentially in person to the applicant or the employee.

1.5.8.2 Positive Test Results. The testing laboratory shall confirm all positive test results using GC/MS. If the confirmatory test is positive, the following procedures shall be followed:

1.5.8.3. The testing laboratory shall report positive tests results to the MRO for verification and if verified, then to the employee and the County's Personnel Administrator.

1.5.8.4. Prior to finally verifying a positive test result, the MRO shall give the applicant or employee an opportunity to discuss the result in person, and shall review the applicant's or employee's medical history, relevant biomedical factors and all medical records made available by the applicant or employee to determine if a confirmed positive result might be due to an alternative medical explanation.

1.5.8.5. The MRO shall report as negative any initial positive result for which there is a legitimate medical explanation consistent with legal drug use or which, based on laboratory inspection reports, quality assurance control data and other test results, the MRO concludes is scientifically insufficient for further action.

1.5.8.6. If the MRO verifies that the positive result is correct, the MRO shall inform the applicant or employee, and the applicant or employee shall be asked to provide an explanation and whether a second confirmatory test is desired.

1.5.8.7. If the applicant or employee desires a second confirmatory test, he/she must submit a written request to the MRO for such retest. The applicant or employee should submit the request no later than **72 hours** after being informed of the initial positive result. The MRO shall notify the Personnel Administrator and the second test shall be done on the original sample at an authorized laboratory using GC/MS or equivalent. This test shall be at the applicant or employees expense and must be paid before retesting is done. Untimely requests for retesting shall be denied.

1.5.8.8. If the results of the additional confirmatory test are negative, the MRO shall notify the Personnel Administrator and the results of the initial positive test will not be used to deny employment or impose discipline.

1.5.8.9. If the results of the additional confirmatory test are positive, the employee may contest or explain the results to the Appointing Authority within five (5) working days after notification of the positive test results. The MRO will provide the employee with an opportunity to discuss the results of

an apparently positive confirmed lab test. If the employee expressly declines the opportunity to discuss the test results with the MRO, the MRO may verify the test as confirmed positive without further discussion with the employee. If, in the sole judgment of the MRO, there is a legitimate medical reason for a confirmed positive lab test, the MRO will verify the test as negative. If there is no legitimate medical reason for a confirmed positive lab test, the MRO will verify the test as positive and report the finding to the Personnel Administrator. It is the employee's responsibility to return any phone calls from the MRO within a reasonable period of time and not to exceed 24 hours. If the employee does not contact the MRO within 5 days of notification, or if the employee refuses to talk to the MRO, then the MRO may report the results of the test to the Personnel Administrator.

1.5.8.10. An employee who tests positive for drugs or alcohol in a positive confirmed lab test will be subject to disciplinary action, up to and including termination of employment.

1.5.8.11. The Personnel Administrator shall notify an employee of any positive results of any random, post-accident, reasonable cause or post rehabilitation controlled substance test conducted. The employee shall also be advised what drug or alcohol was indicated by the test.

1.5.8.12. The Personnel Administrator shall notify any applicant who is rejected on the basis of a positive result of a drug or alcohol test

1.5.9. Unreadable Sample. The testing laboratory shall report any sample, which is adulterated, contaminated, unreadable, not authentic or otherwise impossible to analyze properly to the Personnel Administrator. If the testing laboratory determines immediately that the sample is impossible to analyze, the employee or applicant may be requested to remain at the test site until another sample can be obtained.

1.5.10. Consequences of Policy Violation. Violations of this policy, including (but not limited to) a positive confirmed laboratory test result for Controlled Substances or Alcohol; refusal to sign a consent or chain of custody form; refusal to submit to or cooperate with substance screening, including the initial screening, as required by this policy; knowingly submitting an adulterated, diluted or otherwise altered blood or urine specimen; or submitting a specimen from another person, are subject to disciplinary actions by the Appointing Authority, up to and including termination. Refusals will be classified as a positive test.

Under Alabama Law, Section 25-5-51, et seq., of the Code of Alabama (1975), workers' compensation benefits may not be paid under the Alabama Workers' Compensation Law if the employee's injury is caused by an accident due to the injured employee being intoxicated from the use of alcohol or being impaired by a Controlled Substance. No workers' compensation shall be allowed an injured employee if the injured employee refused to submit to or cooperate with a test conducted in accordance with the standards set forth in this policy. Such refusal will forfeit an injured employee's right to recover workers' compensation benefits.

An individual may be denied total or partial unemployment compensation as a consequence of the use of a Controlled Substance or Alcohol, for submitting an adulterated specimen, or for refusing to submit to or cooperate with a test conducted in accordance with the standards set forth in this policy.

Any employee subject to discipline or termination for the violation of this policy shall have the same rights of hearing or appeal as set forth for any other violation of the policies and procedures of the Marshall County Personnel Board.

1.5.11. Employee Responsibilities. Individual employee shall:

1.5.11.1. Refrain from the use of Controlled Substances or Alcohol, which adversely affects safety or job performance.

1.5.11.2. Refrain from the possession of Controlled Substances or Alcohol in the buildings, vehicles, or on other property of Marshall County.

1.5.11.3. Refrain from using alcohol if designated to be on-call for the specific on-call hours. The Appointing Authority will provide an opportunity for such on-call employee to acknowledge the use of alcohol at the time he/she is called to report for duty, and it is the employee's responsibility to inform his/her supervisor at the earliest possible time of any potential impairment from alcohol.

1.5.11.4. Advise his or her supervisor if they are an employee in a Safety-Sensitive Position taking a prescribed or over-the-counter narcotic or drug, if such narcotic or drug might pose a risk to the safety of the employee, other persons or property, or if its use may interfere with the employee's job-related performance. Such prescriptions brought to work should remain in the original labeled container and show both the prescribing doctor's name and the prescription's expiration date. An employee using such prescribed or over-the counter substances may be required to take a leave of absence or other appropriate action as determined by the Appointing Authority.

1.5.11.5. If an employee has direct knowledge, report the use, possession, or storage of Controlled Substances or Alcohol in the buildings, vehicles, or on the property of Marshall County.

1.5.11.6. Pursue and complete rehabilitation, if the employee has a Controlled Substance or Alcohol abuse problem that affects job performance or safety. Rehabilitation will include regular random drug testing and supervision of these requirements.

1.5.12. Appointing Authority's and Department Heads' Responsibilities.

1.5.12.1. Appointing Authorities and department heads shall inform supervisors of their responsibilities in implementing this policy. Supervisors shall be counseled and receive instruction on 1.) focusing concerns on job performance and safety; 2.) identifying Controlled Substance and Alcohol abuse problems including determining "Reasonable Cause" to refer an employee for testing; and 3.) advising management and law enforcement authorities in instances of illegal possession.

1.5.12.2. Appointing Authorities and department heads shall conduct an orientation for all employees on this policy. The orientation should cover 1.) restrictions on Controlled Substance and Alcohol possession and use; 2.) availability of counseling and treatment for administrative referrals to psychological services and rehabilitation facilities; 3.) disciplinary actions for noncompliance; and 4.) responsibility to report instances of policy violations.

1.5.13. Confidentiality. The County is committed to a safe, productive workplace that is free of substance abuse. The County is also concerned about employee's privacy. All information received by the County, its supervisors, testing lab, and/or MRO, concerning employee drug and alcohol testing, initial screening results, lab test results, and related medical information is *confidential*.

1.5.13.1. Such information shall only be released upon the written consent of the employee 1.) to local, state, or federal agencies with investigative or regulatory jurisdiction; 2.) to the County's workers' compensation carrier, or other third-party administrator of workers' compensation or insurance claims; 3.) to employees of the County who have a "need to know," as well as 4.) to any retained consultant or counselor of the County relating to its drug and alcohol testing program; 5.) as evidence, obtainable in discovery, or disclosure in any public or private proceedings, with the exception of any criminal proceeding against the employee; 6.) following a subpoena from a court of competent jurisdiction; and/or 7.) to subsequent employers upon receipt of a written request/release from the former employee.

1.5.13.2. Records relating to Controlled Substance and Alcohol testing, initial screening, lab reports showing test results, or other documents relating to the County's Controlled Substance and Alcohol testing program shall be kept in a separate location from employee's individual personnel files. Records shall be kept in a secure location; and only authorized personnel shall have access to the records.

1.5.13.3. A written consent form from the employee to release such records shall contain at a minimum 1.) the name of the person who is authorized to obtain the information; 2.) the purpose of the disclosure; 3.) the precise information to be disclosed; 4.) the duration of the consent; and 5.) the signature of the person authorizing release of the information.

1.5.14. Employee Assistance/Benefits Program.

1.5.14.1. Counseling and rehabilitation for Alcohol or Controlled Substance abuse is available for employees currently enrolled in the County's Group Health Care Plan, only to the extent of the current benefits package. The County will assume no direct financial responsibility for counseling or rehabilitation costs of an employee. Any costs in addition to or in excess of any available health benefits are the employee's responsibility. The County can provide a list of state and national resources upon request.

1.5.14.2. An eligible employee with a Controlled Substance or Alcohol problem may make a *voluntary self-referral* for assistance prior to being chosen for screening or testing without jeopardizing his/her continued employment, provided the employee immediately discontinues the substance abuse. Employees may not, however, make a voluntary self-referral to avoid taking a required any Controlled Substance or Alcohol test or screen.

1.5.14.3. Employees, who are referred for rehabilitation through administrative channels, may use the extent of any accrued paid annual or sick leave time during such time as they are in attendance at the rehabilitation program. If the employee has accrued no paid annual or sick leave time at the time he/she enters the rehabilitation program, such attendance will be without pay to the employee.

1.5.15. Investigations or Searches. Where there is reasonable cause to suspect an employee has violated this policy, the Appointing Authority reserves the right for a supervisor to inspect County property or County vehicles without prior notice. "Cause to Suspect" shall be solely in the judgment and discretion of the Appointing Authority. The County may release any Controlled Substance, Alcohol, or paraphernalia to law enforcement authorities in accordance with appropriate procedures.

1.5.16. Miscellaneous.

1.5.16.1. This policy shall not alter nor supersede any existing disciplinary appeal or grievance procedures established under the policies and procedures of the Marshall County Personnel Board.

1.5.16.2. The Marshall County Personnel Board reserves the sole right to interpret all provisions of this policy and take all appropriate actions within its sole discretion and judgment.

1.5.16.3. The County shall provide 60 days prior notice of initiation of the testing requirements of this policy. A copy of this policy shall be distributed to all employees and shall be available in the office of the Marshall County Commission and Personnel Board for inspection and copying during regular business hours.

1.5.16.4. Upon written request, an employee shall have access during regular business hours to any records relating to the employee's screening tests conducted pursuant to this policy. The employee is entitled to one copy of the results, if requested in writing.

1.5.16.5. All information involving medical examination, testing, counseling, rehabilitation, treatment, or discipline of an individual employee or applicant shall be treated as confidential medical information.

1.5.16.6. Adherence to this policy on Controlled Substance and Alcohol is a condition of employment for all employees who are subject to the Marshall County Personnel Board. All employees will be required to sign the applicable acknowledgement form and to consent to this policy.

1.5.16.7. This policy can be altered or amended, as provided in the Policies and Procedures of the Marshall County Personnel Board, in order to accommodate changes in current state and federal regulations, testing technologies, or circumstances which impact County practices and policies or industry standards.

MARSHALL COUNTY - DRUG & ALCOHOL TESTING CONSENT & RELEASE FORM

I hereby certify that I have reviewed a written copy of Marshall County's Drug & Alcohol-Free Workplace Policy which was (is) effective 05/19/2011. I have been given the opportunity to ask questions regarding this policy. I understand that violation of this policy is cause for disciplinary action, up to and including termination, or disqualification of employment.

I hereby give my voluntary consent for specimen(s) to be collected from me and submitted for drug and/or alcohol testing as a condition of my initial or continued employment. I understand that I will not be forced to submit to any alcohol or drug test, but my refusal to do so shall result in termination of employment or consideration for employment. I further consent to the release of said test results to Marshall County and their Medical Review Officer. I understand that these results will be held in strict confidence; to be used for County's employment purposes only and will not be used in any criminal proceedings.

I understand that consent and cooperation in these procedures is a condition of employment, and that refusal to consent may result in termination or disqualification from employment. I also understand that an employee subject to discipline or termination for the violation of this policy shall have the same rights of hearing or appeal as set forth for any other violation of County policy.

I agree to hold harmless this County and its agents from any liability arising in whole or in part from the collection of specimens, testing, and use of the results from said tests in connection with the County's consideration of my application for employment or disciplinary action, up to and including termination.

I authorize the release of any test results to the Marshall County's worker's compensation insurer, the Alabama Department of Industrial Relations, Unemployment Compensation Division, or any other government agency investigating my employment or termination thereof, or in any related administrative or court proceeding, and as set forth in the Policy Statement.

I further agree that a reproduced copy of this consent and release form shall have the same force and effect as the original.

I have carefully read the foregoing and fully understand its contents. I acknowledge that my signing of this consent and release form is a voluntary act on my part and that I have not been coerced by anyone to sign this document.

Employee/Applicant - Printed Name: _____ Date: _____

Employee/Applicant - Signature: _____

Employee/Applicant - SSN: _____ - _____

Witness - Printed Name: _____ Date: _____

Witness - Signature: _____

11.9.1 FMLA LEAVE.

The Family and Medical Leave Act (“FMLA”) provides eligible employees the opportunity to take unpaid, job-protected leave for certain specified reasons under certain specified conditions. The maximum amount of leave an employee may use is 12 weeks within a 12-month period, or 26 weeks within a 12-month period for care for a Covered Servicemember (with leaves for all other reasons constituting no more than 12 of those 26 weeks).

Such leave is not automatic but will be governed by and handled in accordance with applicable regulations contained in the Family Medical Leave Act, 29 U.S.C. 2601, et seq, as amended, and nothing within this policy should be construed to be inconsistent with those regulations.

11.9.1.1 CONDITIONS TRIGGERING LEAVE

An eligible employee may take FMLA leave for the following reasons (29 U.S.C. 2601 §102(a)):

- a. **Birth , Care or Placement of a Child of the Employee (up to 12 weeks).** The right family leave for the birth and care of a newborn child of the employee and/or placement of a child with the employee for adoption or foster care may only be taken within 12 months after the date of the birth or placement of the child;
- b. **Serious Health Condition of Employee or Employee’s Spouse, Child, or Parent (up to 12 weeks).** The right to family leave is available to care for a spouse, child, or parent with a serious health condition, or is available based on the employee’s own serious health condition. A serious health condition means an illness, injury, or impairment or physical or mental condition which involves incapacity (i.e., inability to work or perform other regular daily activities) or treatment that results in incapacity. A serious health condition normally does not include conditions such as the common cold, flu, upset stomach, headaches, or routine dental procedures. The FMLA is very specific with regard to the definition of serious health condition. Please see your department head or direct supervisor if you have questions concerning the FMLA or whether your condition or your family member’s condition is within the FMLA’s definition. 29 U.S.C. 2601 §101 (11);
- c. **Care for a Covered Servicemember or Covered Veteran (up to 26 weeks).** Family leave is available to care for a Covered Servicemember or Veteran with a serious injury or illness related to certain types of military service. (See Military-Related FMLA Leave for more details); or,
- d. **To Handle Certain Qualifying Exigencies Arising due to Employee’s Spouse, Son, Daughter, or Parent being on Covered Active Duty or being notified of an impending Call or Order to Covered Active Duty in the Armed Forces, Covered Active Duty requires deployment to a foreign country (up to 12 weeks).** (See Military-Related FMLA Leave for more details.)

11.9.1.2 EMPLOYEE ELIGIBILITY

To be eligible for FMLA leave, you must have worked for Marshall County at least 12 months and for at least 1,250 hours over the preceding 12 months. 29 U.S.C. 2601 §101(2)(a)

While the 12 months of employment need not be consecutive, employment periods prior to a break in service of **seven** years or more will not be counted unless the break is due to the employee's fulfillment of the his/her military obligation (as protected under the Uniformed Services Employment and Reemployment Rights Act (USERRA)).

11.9.1.3 PROCEDURES/RULES

A. Identifying the 12-Month FMLA Leave Period

The 12-month period is calculated by the "rolling" backward method. This means that the 12-month period is determined by calculating backward from the date the employee initially begins FMLA leave.

B. Using Leave

FMLA leave may be taken in a single block of time. Intermittent leave (in separate blocks of time) or leave by reducing the normal work schedule by increments (of less than one hour [as used by the County Administrator in calculating all types of leave], or by one or more hours) may be allowed if such leave is medically necessary for the serious health condition of the employee or family member, or in the case of a covered servicemember, his or her injury or illness. Eligible employees may also take intermittent or reduced-scheduled leave for military qualifying exigencies. With prior approval, intermittent leave is permitted but must be concluded within 12 months of the birth or placement of a child, to care for newly-born child, or for placement of a child for adoption or foster care. Employees who require intermittent or reduced-schedule leave must try to schedule their leave so that it will not unduly disrupt the County's operations. 29 U.S.C. 2601 §102 (b).

C. Use of Accrued Paid Leave

An eligible employee may run any accrued paid sick or annual leave of the employee concurrently with FMLA leave for any part of the 12-week period of such leave. The employee, however, is not required to do so.

If an employee does not elect to run paid sick or annual leave concurrent with FMLA leave, if an employee exhausts his or her accrued paid leave, or if the employee does not have leave with pay accrued, the employee will be placed in a leave without pay status for the FMLA leave (in whole or in part, as the case may be). While the employee is in a paid leave status, he/she will receive regular pay and benefits associated with such leave. 29 U.S.C. 2601 §102 (d)(2).

Some examples of this policy, for illustrative purposes only, are as follows:

Example A- Employee (with 3 weeks of sick leave and 2 weeks of paid annual leave accrued) requests leave which qualifies for FMLA leave. Employee can first take 12 weeks of unpaid leave. After the 12 weeks is over, the employee can then take 5 paid weeks off by using their sick leave and paid vacation. The employee is out of work a total of 17 weeks, 12 being unpaid and 5 paid.

Example B- Employee (with 3 weeks of sick leave and 2 weeks of paid annual leave accrued) requests leave which qualifies for FMLA leave. The employee requests to take 2 weeks of paid sick leave concurrently with the first 2 weeks of FMLA leave. This would mean that the first 2 of the 12 weeks are paid, and the remaining 10 weeks remain unpaid. After the 12 weeks has run, the employee can then take the remaining week of sick leave and 2 weeks of paid vacation. The employee is out of work a total of 15 weeks, 10 being unpaid and 5 paid.

Example C- Employee (with 3 weeks of sick leave and 2 weeks of paid annual leave accrued) requests leave which qualifies for FMLA leave. The employee requests to take all 5 weeks of paid leave concurrently with the FMLA leave. This would mean that the first 5 of the 12 weeks are paid, and the remaining 7 weeks remain unpaid. The employee will be out of work a total of 12 weeks, 7 being unpaid and 5 paid.

D. Accrual of Sick and Annual Leave

Sick and annual leave will not continue to accrue during any pay period in which an employee is in a non-pay status for more than half of his/her normal work schedule. 29 U.S.C. 2601 §104 (3).

E. Maintenance of Health Benefits

If you and/or your family participate in our group health plan, the County will maintain coverage during your FMLA leave on the same terms as if you had continued to work. If applicable, you must make arrangements to pay your share of health plan premiums while on leave. In some instances, the County may recover premiums it paid to maintain health coverage or other benefits for you and your family. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of your leave. 29 U.S.C. 2601 §104 (2).

F. Notice and Medical Certification

When seeking FMLA leave, you are required to provide:

1. notification to your direct supervisor or department head that you are requesting FMLA leave;
2. sufficient information to determine if the requested leave may qualify for FMLA protection and the anticipated timing and duration of the leave. This information must be provided 30 days in advance of the anticipated beginning date of the leave, or as soon as practical, and in compliance with the County's normal call-in procedures, absent unusual circumstances. 29 U.S.C. 2601 §102 (e);
3. medical certification supporting the need for leave due to a serious health condition affecting you or an immediate family member within 15 calendar days of the request to provide the certification (additional time may be permitted in some circumstances). 29 U.S.C. 2601 §103;
4. periodic reports as deemed appropriate during the leave regarding your status and intent to return to work. 29 U.S.C. 2601 §104 (5); and

5. medical certification of fitness for duty before returning to work, if the leave was due to your serious health condition. 29 U.S.C. 2601 §104 (4).

Failure to comply with the foregoing requirements or providing false information may result in delay or denial of leave, withdrawal of FMLA designation (in which case your absence will be treated in accordance with standard leave of absence and attendance policies), or disciplinary action, up to and including termination.

G. Employer Responsibilities

Employees will be informed whether they are eligible for leave under the FMLA. Should an employee be eligible for FMLA leave, the employee will be provided with a notice that specifies any additional information required, as well as the employee's rights and responsibilities. If an employee is determined not eligible for FMLA, the employee will be provided with a reason for the ineligibility. Employees will also be informed if leave will be designated as FMLA-protected and, to the extent possible, note the amount of leave counted against the employee's leave entitlement. If it is determined that the leave is not FMLA-protected, the employee will be notified of such determination.

H. Job Restoration

Upon returning from FMLA leave, eligible employees will typically be restored to their original job or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions. Any employee who fails to return to work as scheduled after the designated FMLA leave is subject to absence, attendance and disciplinary policies which may result in termination of employee's job and benefits (subject to any applicable COBRA rights).

11.9.1.4 MILITARY-RELATED FMLA LEAVE

FMLA leave may also be available to eligible employees in connection with certain service-related medical and non-medical needs of family members. There are two forms of such leave. The first is Military Caregiver Leave, and the second is Qualifying Exigency Leave. Each of these leaves is detailed below.

A. Military Caregiver Leave

Military Caregiver Leave is designed to allow an eligible employee who is the spouse, son, daughter, parent, or "next of kin" to care for a "**covered servicemember or veteran**", who has sustained serious injuries or illnesses in the line of duty while on active duty. Military caregiver leave may be taken for the following: **(1)** a covered service member who is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is receiving medical treatment, recuperation, or therapy; **or** is in outpatient status; **or** is on the temporary disability retired list for a serious injury or illness. A **serious injury or illness** is one that is incurred by a servicemember in the line of duty on active duty on active duty that may cause the servicemember to be medically unfit to perform the duties of his or her office, grade, rank or rating. A serious injury or illness also includes injuries or illnesses that existed before the servicemember's active duty and that were aggravated by service in the line of duty on active duty. **(2)** a covered veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness, which was incurred by the covered veteran in line of duty on active duty in the Armed Forces or that existed before the veteran's active duty and was aggravated by service in the line of duty on active duty. A veteran who is undergoing medical treatment,

recuperation, or therapy for a serious injury or illness is a covered veteran if he or she: (a) was a member of the Armed Forces (including a member of the National Guard or Reserves); (b) was discharged or released under conditions other than dishonorable; and (c) was discharged within the five-year period before the eligible employee first takes FMLA military caregiver leave to care for him or her. Military Caregiver Leave is not available to care for servicemembers on the *permanent* disability retired list. The employee must also meet all other eligibility standards as set forth within the FMLA Leave policy. 29 U.S.C. 2601 §101-102.

Military Caregiver Leave applies on a per-injury basis for each servicemember. However, a total of no more than 26 workweeks of any type of FMLA Leave may be taken within any “single 12-month period.” 29 U.S.C. 2601 §102 (a)(4).

An employee seeking Military Caregiver Leave may be required to provide appropriate certification from the employee and/or covered servicemember and completed by an authorized health care provider within 15 days. 29 U.S.C. 2601 §103 (a).

B. Qualifying Exigency Leave

Eligible employees may take unpaid “Qualifying Exigency Leave” to tend to certain “exigencies” arising out of the duty under a call or order to active duty of a “military member” (i.e. the employee’s spouse, son, daughter, or parent). 29 U.S.C. 2601 §102 (a)(E). The employee must also meet all other eligibility standards as set forth within the FMLA Leave policy.

An employee seeking Qualifying Exigency Leave may be required to submit appropriate supporting documentation in the form of a copy of the covered military member’s covered active duty orders or other military documentation indicating the appropriate military status and the dates of covered active duty status, along with a statement setting forth the nature and details of the specific exigency, the amount of leave needed and the employee’s relationship to the military member, within 15 days. 29 U.S.C. 2601 §103 (f).

Covered active duty means: (1) for members of the **Regular** Armed Forces, duty during deployment of the member with the Armed forces to a foreign country; or (2) for members of the **Reserve** components of the Armed Forces (members of the National Guard and Reserves), duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in support of a contingency operation.

Qualifying Exigency Leave is available under the following circumstances as determined by the U.S. Department of Labor, 29 U.S.C. 2601 §102 (a)(E):

(1) Short-notice deployment. To address any issue that arises out of short notice (within seven days or less) of an impending call or order to active duty.

(2) Military events and related activities. To attend any official military ceremony, program, or event related to covered active duty or a call to covered active duty status or to attend certain family support or assistance programs and informational briefings.

(3) Childcare and school activities. To arrange for alternative childcare; to provide childcare on an urgent, immediate need basis; to enroll in or transfer to a new school or daycare facility; or to attend meetings with staff at a school or daycare facility.

(4) Financial and legal arrangements. To make or update various financial or legal arrangements; or to act as the military member's representative before a federal, state, or local agency in connection with service benefits.

(5) Counseling. To attend counseling (by someone other than a health care provider) for the employee, the military member, or for a child or dependent when necessary as a result of duty under a call or order to active duty.

(6) Temporary rest and recuperation. To spend time with a military member who is on short-term, temporary rest and recuperation leave during the period of deployment. Eligible employees may take up to **15** days of leave for each instance of rest and recuperation.

(7) Post-deployment activities. To attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of up to 90 days following termination of the military member's covered active duty status. This also encompasses leave to address issues that arise from the death of a military member while on covered active duty status.

(8) Mutually agreed leave. Other events that arise from the close family member's duty under a call or order to covered active duty, provided that the County and the employee agree that such leave shall qualify as an exigency and agree to both the timing and duration of such leave.

(9) Parental care leave. To care for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty. Such care may include arranging for alternative care, providing care on an immediate need basis, admitting or transferring the parent to a care facility, or attending meeting with staff at a care facility.

APPENDIX - A

Prehearing procedure:

- A. Other than the filings set forth in this Chapter, no other filings shall be made in connection with a hearing other than the issuance of subpoenas to compel the attendance of witnesses and/or production of documents. Specifically, there shall be no prehearing “discovery” nor shall there be any effort, via any type of filing, written submission, or any informal, verbal, or other communication, to contact any member of the Personnel Board. Failure to follow this rule may result in punishment in the same manner and degree as for contempt of court, including issuance of an order granting some or all issues in favor of the party which did not commit the contempt.
- B. Any motions filed by either the employee or the appointing authority will be taken up at the beginning of the hearing.
- C. The hearing shall be conducted by the Chair of the Personnel Board, or his designee, which may be another Board Member or the Board’s attorney.
- D. The hearing will be conducted in accordance with the rules applicable in Alabama courts, specifically, the Alabama Small Claims Rules.
- E. The actual hearing will be conducted as follows:
 - 1) Employee goes first. Employee, or any witness called by the employee, must take an oath or affirmation to tell the truth, the whole truth, and nothing but the truth. Employee (or employee’s witness) explains why the decision of the appointing authority was incorrect, improper, or otherwise due to be changed.
 - 2) The appointing authority, or counsel, if the appointing authority is represented by counsel, may question the employee or the employee’s witness.
 - 3) Any member of the Board may ask a question of the employee or the employee’s witness.
 - 4) The employee may present any other witness, or himself or herself, who must swear or affirm to tell the truth, the whole truth and nothing but the truth, and ask that witness questions, or offer testimony directly.
 - 5) The appointing authority, or counsel, if the appointing authority is represented by counsel, may question that witness or the employee.
 - 6) Any member of the Board may ask a question of the witness or employee.
 - 7) Steps 4, 5, and 6 may be repeated for the witness (or employee) until all questions by the employee, the appointing authority, and the Board are answered.
 - 8) The employee may call another witness.
 - 9) Steps 4, 5, and 6 are repeated for that witness.
 - 10) Steps 8 and 9 are repeated until the employee has presented his or her last witness.

- 11) The appointing authority may then present its representative or other witness to explain why the decision of the appointing authority was correct or proper, and not due to be changed. The representative or other witness must swear or affirm to tell the truth, the whole truth and nothing but the truth.
- 12) The employee may question the appointing authority's representative or witness.
- 13) Any member of the Board may question the appointing authority's representative or witness.
- 14) The appointing authority may present any other witness, or its own representative, who must swear or affirm to tell the truth, the whole truth and nothing but the truth, and ask that witness questions.
- 15) The employee may question the witness.
- 16) Any member of the Board may question the witness.
- 17) Steps 14-16 are repeated until all questions by the appointing authority, the employee, and the Board are answered.
- 18) The appointing authority may call another witness.
- 19) Steps 14-17 are repeated for that witness.
- 20) Steps 18 and 19 are repeated until the appointing authority has presented its last witness.
- 21) The Board may call and question any additional witnesses, who must swear or affirm tell the truth, the whole truth and nothing but the truth.
- 22) The employee and the appointing authority may question any such witnesses in the manner described above.
- 23) The employee may present any final statement to the Board.
- 24) The appointing authority may present any final statement to the Board.
- 25) The Board will declare the hearing concluded.
- 26) The Board may take a recess and confer about the case and then reconvene and announce a decision, or the Board may adjourn the hearing, meet at another time, and announce a decision thereafter. In any event, the Board must issue a signed, dated, written decision, including its findings of fact, within fifteen days of the conclusion of the hearing.