

ORDINANCE NO. 2017-02



AN ORDINANCE AMENDING LINCOLN COUNTY PERSONNEL POLICIES AND PROCEDURES; PROVIDING FOR THE SEVERABILITY OF PARTS HEREOF; PROVIDING AN EFFECTIVE DATE AND THE REPEAL OF ORDINANCE NO. 2015-04

WHEREAS, the Board of County Commissioners of Lincoln County, New Mexico adopted Ordinance No. 2015-04, which established personnel policies and procedures for the County; and

WHEREAS, it is good public policy to periodically review the personnel policies and procedures to ensure their efficacy and fairness; and

WHEREAS, after reviewing the personnel policies and procedures, the Board of County Commissioners of Lincoln County, New Mexico, desires to amend certain portions of Ordinance 2015-04; and

WHEREAS, The Board of County Commissioners of Lincoln County, New Mexico has determined that certain designations, specifications and clarifications with respect to the current Personnel Policy need revision; and

WHEREAS, the Board of County Commissioners of Lincoln County, New Mexico, finds that this amendment is necessary to provide for the safety, preserve the health and welfare, promote the prosperity, order, comfort, and convenience of the County of Lincoln, its personnel, or its inhabitants.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lincoln County, New Mexico, that the Lincoln County Personnel Policies and Procedures shall be amended to read as follows:

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**LINCOLN COUNTY
PERSONNEL POLICIES AND PROCEDURES
FOR EMPLOYEES OF THE COUNTY**

PREFACE

It is the purpose of these employee policies and procedures to set forth the general principles and the procedures which will be followed by Lincoln County in the administration of wages, salaries, benefits, and working conditions of Lincoln County employees. Specific rules and regulations cannot be formulated for every possible situation. This Personnel Policies and Procedures Manual serves as a general guide for the proper, efficient, and effective administration of personnel matters for the employees of the County of Lincoln.

Elected Officials of the County and departmental heads will need to give administrative direction to their respective department functions as mandated by State statutes. Departmental rules shall not conflict with these policies and procedures unless prior approval has been received from the County Commission.

STATEMENT OF RIGHTS

Pursuant to its statutory powers, the Lincoln County Board of Commissioners hereby exercises its express and derived authority to establish by ordinance, policy and procedures regulating employment of all County employees. Where the requirements as set forth in this ordinance conflict with policies or procedures adopted by Elected Officials or Department Heads insofar as they relate to employment with Lincoln County, the policies and procedures contained herein shall control.

The County of Lincoln retains the right to direct the work of employees; to hire, promote, demote, discipline, suspend, and dismiss employees for just cause; to release employees due to lack of work, financial constraints, or for other legitimate reasons.

The County of Lincoln shall retain sole authority to establish and enforce rules and regulations; to change or modify methods, services, equipment or facilities in compliance with the Statutes of the State of New Mexico.

EMPLOYEE KNOWLEDGE AND INFORMATION OF POLICY

Elected Officials/Department Heads shall provide a copy of this policy to present employees and to all new employees with instructions to read and know of all provisions of these rules. Employees shall sign for the copy of this policy upon receipt.

AMENDMENT OF POLICY

The County of Lincoln reserves the right to change these policies and procedures at its discretion.

PRONOUNS

All pronouns used in this Personnel Policy Manual shall include the masculine, feminine, and neuter gender, shall include the singular and plural, and the context of this Personnel Policies and Procedures manual shall be read accordingly.

RESPONSIBILITY FOR COMPLIANCE

County Manager and a Personnel Director may be appointed by the Commission. If the Board of County Commissioners does not hire a Personnel Director, the responsibilities of that position will be performed by the County Manager or designee.

EQUAL EMPLOYMENT OPPORTUNITY POLICY

Individuals will not be discriminated against on the grounds of race, age, religion, color, national origin, sex, physical or mental handicap or medical condition, in consideration for employment, duration of employment, compensation, terms, conditions, or privileges of employment by Lincoln County. It is the policy of Lincoln County to comply with Section 109 of the Housing and Community Development Act of 1974, Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination in Employment Act, and the New Mexico Human Rights Act, in all employment programs administered by Lincoln County.

SAVINGS CLAUSE

Modification, adjustment, or invalidation of any part, rule, or Section of these Personnel Policies and Procedures shall not affect the validity of other Sections of the Lincoln County government policies.

DEFINITIONS

ADMINISTRATIVE LEAVE WITH PAY - Leave with pay granted at the discretion of the Elected Official/Director/Road Superintendent and with the approval of the County Manager. An employee on administrative leave with pay will not have vacation deducted from accumulated vacation balance.

ANNIVERSARY DATE - The anniversary date for eligible full-time employees shall be the first day and month that the employee begins employment with the County. If a part-time employee becomes a full-time employee, the anniversary date shall be the date upon which the employee became a full-time employee.

ANNUAL LEAVE - Leave with pay granted to a regular or qualified appointed employee after accrual. This leave is subject to the approval of the appropriate Elected Official/Director/Road Superintendent or the County Manager.

APPEAL - Written request that a decision of a formal grievance be reconsidered at the next stage of the grievance procedure.

APPLICANT - A person who has made formal application on a County of Lincoln official application form for a vacant position.

APPOINTED EMPLOYEE - An individual who is appointed to an unclassified position by an Elected Official or County Manager.

CLASSIFICATION PLAN - An ordering of different positions in the County service according to the duties, responsibilities, and qualifications of the position. A Classification plan is used to determine fair and equitable placement on the salary/wage schedule.

CLASSIFIED EMPLOYEE - A full-time employee who has completed the probationary period, and who is entitled to all the rights and benefits provided by the County of Lincoln Personnel Policies and Procedures Manual. A classified employee must be specifically designated as such on a personnel action form which will be made part of the employee's personnel file. A classified employee may only be disciplined for just cause.

COUNTY BUSINESS - The performance of duties by an employee at the employee's normal work station or another location authorized by the County.

DAYS - Wherever the term "days" is used in this manual it shall mean calendar days and not working days, unless otherwise specifically stated.

DEMOTION - A personnel action which transfers an employee to a position which is lower in grade and reduces the employee's responsibilities and pay. Demotions may be voluntary or may be the result of disciplinary actions.

DEPARTMENT HEAD - Elected Official/Director/Road Superintendent or Appointee of the Board of County Commissioners who has responsibility for supervising and administering a specific department of county government.

DIRECTOR - Lead supervisor of a department under direction of the County Manager.

DISMISSAL - An action taken by an Elected Official/Department Head or the County Manager, which terminates an individual's employment with the County of Lincoln.

ELECTED OFFICIAL - An individual elected by popular vote or appointed to fill a vacancy in an elected office (*i.e.*, County Commissioner, County Assessor, County Clerk, County Sheriff, County Treasurer, and Probate Judge).

EMERGENCY - A sudden or unforeseen happening requiring the assistance of certain employees or groups of employees necessary to protect the health, welfare, and safety of the community and/or the Lincoln County Courthouse or its annexes.

EXEMPT EMPLOYEES - All executive, administrative, and/or professional employees as defined by the Fair Labor Standards Act, and whose compensation/wage is based on a fixed annual salary.

FULL-TIME EMPLOYEE - An employee whose normal work schedule is established at a minimum of forty (40) hours per week.

GRANT-FUNDED EMPLOYEE - An employee who is hired by the County of Lincoln into an unclassified position and whose funding is based wholly or in part by another agency.

GRIEVANCE - A formal written complaint of an employee concerning actions taken by management which result in suspension, demotion, dismissal, or an actual loss in pay.

IMMEDIATE FAMILY - The employee's spouse, children, parents, mother-in-law, father-in-law, siblings, grandchildren, grandparents, grandmother-in-law, and grand-father-in-law.

LAYOFF - See reduction in force (RIF).

LEAVE WITH PAY - Type of leave which is authorized by a proper authority enabling an employee to be away from work, during regularly scheduled work hours, with pay.

LEAVE WITHOUT PAY - Type of leave which is authorized by a proper authority enabling an employee to be away from work, during regularly scheduled work hours, without pay.

NEAR RELATIVE - A spouse or ex-spouse, children, parents, siblings, grandparents, grandchildren, aunts, uncles, nieces, nephews, first cousins, and like relations of the Elected Official's or employee's spouse. This definition includes any person related to the employee by birth, adoption, or marriage, up to and including those within the third degree of consanguinity or affinity. This includes any person who would fall under the above definition, if the persons who are cohabiting were in fact married.

NEPOTISM - The practice of giving preferential treatment in areas of employment including, but not limited to: selection, benefits, pay, promotion, and discipline to employees who are spouses, ex-spouses, children, parents, siblings, grandparents, grandchildren, aunts, uncles, nieces, nephews, cousins, or to unrelated persons who are cohabiting.

NON-EXEMPT EMPLOYEE - Employee who is not exempt under the Fair Labor Standards Act (FLSA). A nonexempt employee is entitled to receive overtime pay for actual hours worked as defined by the FLSA.

OVERTIME - Time for which an employee is paid the rate which is one and one-half (1½) the employee's regularly rate of pay for hours actually worked.

PART-TIME EMPLOYEE - An employee whose normal work schedule is established at no more than thirty-two (32) hours per week. Part-time employees cannot grieve disciplinary actions.

PAY PERIOD - The two week period of time designated by the County Commission for which an employee shall be paid for accumulated work.

PAYROLL-END CALENDAR YEAR - The last Friday in a calendar year that has a corresponding payroll distribution in the same calendar year.

PERFORMANCE EVALUATION - The written objective review made by the employee's supervisor of the employee's performance relating to assigned duties. This evaluation is a periodic review conducted for purposes such as evaluating an employee's work habits and skills, to note improvements needed, and record necessary training or experience.

PERSONNEL FILE - Papers and documents relevant to an employee's work history with the County of Lincoln that are kept by a proper administrative authority. These files are confidential and access is based on a legitimate "need to know" factor.

POST-DISCIPLINARY HEARING - A formal hearing conducted by the County Manager and/or hearing officer at the request of an employee, which is held after the pre-disciplinary hearing.

PRE-DISCIPLINARY HEARING - A hearing conducted by an Elected Official/Department Head or the County Manager before the imposition of a disciplinary action of suspension, demotion, or dismissal.

PROBATIONARY PERIOD - A period of time during which an employee who is hired into a classified position is evaluated to determine ability, potential, and suitability for the position. Sheriff Deputies and detention officers must serve a one (1) year probationary period. All other employees are required to serve a six (6) month probationary period. An employee on probation may be dismissed for any reason or no reason and has no rights to the grievance procedures.

PROMOTION - A personnel action which transfers an employee to a position which is higher in grade and increases the employee's responsibilities and pay.

REDUCTION IN FORCE (RIF) - The involuntary separation of an employee from the County of Lincoln services without fault on the part of the employee, due to the abolition of a position, reorganization, lack of work, lack of funds, or lack of appropriated funds.

RESIGNATION - Voluntary separation by an employee from employment with the County of Lincoln.

SEASONAL EMPLOYEE - An employee who may be called on short notice and/or on an occasional basis. Seasonal employees may be terminated for any reason or no reason and have no rights to the grievance procedures.

SENIORITY- The total number of years of continuous, uninterrupted service as a classified employee of the County.

SICK LEAVE - Leave with pay which may be granted for absence from duty because of personal illness, injuries or legal quarantine, and/or illness in the employee's immediate family, provided that the employee has sick leave accumulated.

SUPERVISOR - Elected or appointed employees and any other employees in the chain of command who have routine administrative authority for the functions and employees of the department.

SUSPENSION - An enforced leave of absence without pay for disciplinary reasons.

TEMPORARY EMPLOYEE - An employee hired not to exceed nine (9) consecutive months beginning with the employee's first day of employment. Temporary employees cannot grieve disciplinary actions.

TERMINATION - Separation from employment with the County of Lincoln for any reason such as resignation, retirement, or dismissal.

TRANSFER - The movement of an employee from one department or office to another department or office in the County of Lincoln service, or to a position in another geographic location or to a position having the same grade and salary.

UNAUTHORIZED LEAVE - Leave of absence during regularly scheduled work hours in which and employee did not receive prior approval by the proper authority.

UNCLASSIFIED EMPLOYEE - A full or part-time employee who is terminable-at-will and who is exempt from the merit provisions of the Personnel Policies and Procedures Manual.

VACATION - See Annual Leave.

VOLUNTEER - An individual who provided a service for the County and does not receive compensation other than expenses or in some cases a stipend. Such an individual is not considered an employee.

WORK WEEK - A period of time, which commences at 12:00 AM on Saturday and ends at 11:59 PM on the following Friday evening.

PERSONNEL POLICIES AND PROCEDURES

100. APPLICATION PROCEDURES

101. RECEIPT OF APPLICATION

Applications will only be taken when a position vacancy is posted. Each applicant for employment with the County shall complete an application form and submit it to the Personnel Department. No person shall be interviewed, examined, tested, referred for consideration, or employed without having completed the required application. Applications for employment must be completed in their entirety and signed by the respective individual making application for employment. An application will be filled out for each position the applicant wishes to apply for. Applications will be good for a period of six months.

102. GENERAL REQUIREMENTS

102.A. All applicants must be a minimum of 18 years of age. Evidence of job performance and capability, experience, education, training, skills and other abilities are carefully considered in reviewing individual qualifications.

102.B. The application shall not be worded as to elicit information concerning the race, color, national origin, religion, sex, medical condition, physical and mental handicap, or political affiliations of any applicant, except that information which is required to assist with equal employment opportunity efforts.

102.C. Applications shall be signed, dated, and the truth of all statements contained therein certified by the applicants signature. Any false statement knowingly made by any applicant in an application for employment with Lincoln County shall be regarded as grounds for disqualifying said applicant from consideration for employment and/or, just cause for dismissal, if hired.

103. RECRUITING AND POSTING PROCEDURE

103.A. Posting and Advertising Classified Positions

1. When a classified position becomes vacant and the County intends to fill the position it will be advertised, unless the vacant classified position may be filled by an employee within County Government without a public announcement.

2. When a vacancy exists for a classified position within the County of Lincoln, an Elected Official/Director/Road Superintendent with the approval of the County Manager, may, but is not obligated to, fill the vacancy with an existing County employee.

3. The classified vacancy shall be posted within the County for five (5) days on designated bulletin boards in the County Courthouse and other County sites when applicable.

4. To apply for a posted job vacancy, County employees must submit a letter requesting consideration for the vacancy to the County Manager/Human Resources Director. An employee seeking the position shall be expected to meet the basic qualifications of the position for which the employee is applying, including physical examination, and/or other tests deemed necessary by the appropriate Elected Official/Director/Road Superintendent. Employees within the Department may be considered before other employees of the County.

5. No County employee or Elected Official can deny a County employee who has completed probationary period, and who is not the subject of disciplinary action, permission to apply for a job vacancy in another County office or department for which the employee is qualified.

6. If necessary, the County Manager's Office may issue job announcements through such media as is deemed appropriate to insure open and competitive recruitment of individuals outside of County service, with sufficient time to insure reasonable opportunity for persons to apply. Internal posting and external job announcements may be made simultaneously.

7. The job announcement will list the position, locations, and basic qualifications, for each classified vacancy. Job announcements shall indicate a closing date, after which applications will not be received. The Human Resources Director shall establish the time limits for which applications for a position shall be accepted, but such period shall in no case be less than ten (10) calendar days.

103.B. All postings and job announcements will be good for any classified vacancies that occur for a six (6) month period.

104. POSTING AND/OR JOB ANNOUNCEMENT EXCEPTION

104.A. Vacant positions may be filled without posting by temporary employees on a temporary basis to replace a regular employee on leave, and/or pending the selection of a regular employee for the position.

104.B. A temporary employee who successfully performs in a seasonal position, may be re-employed each year without public announcement.

104.C. A public announcement for positions of the same title is required only one (1) time during each six (6) month period, provided there is a sufficient pool of applications received through original advertisement to insure competitive recruitment for such positions that are vacant within the six (6) month period.

104.D. Vacant positions may be filled without posting or public announcement by employees returning:

1. from approved leave of absence,
2. from military service, or
3. due to reduction in force.

105. BASIC QUALIFICATIONS

Basic qualifications, together with desirable attributes, will be contained in the job description for each classified position within the County and include the specific educational levels and skills which are necessary to perform the essential functions of the job. Waivers may be granted on basic qualifications by the County Manager. If a waiver is requested by an Elected Official/Director/Road Superintendent, they shall be in writing and shall contain the reason for such waiver request. If a waiver is granted, the position will be posted again.

106. SELECTION PROCEDURES

106.A. Performance Testing

1. Performance tests may be conducted for typing, shorthand, spelling and other skills for clerical/secretarial employees. Performance tests may also be given by appropriate Elected Official/Director/Road Superintendent for positions requiring operation of certain equipment to test the applicant's ability to operate equipment and/or vehicles.
2. A physical agility test may be given to applicants for the positions of deputy sheriff, detention officer, and transport officer.

106.B. Physical Examinations

1. The County requires the applicant selected to fill a vacant position to take a physical examination prior to commencing work to determine whether the employee can perform the essential functions of the position. The offer of employment is contingent upon the physician's statement that the applicant can perform the essential functions of the position. The examination shall be performed by a licensed physician contracted for, or approved by the County. If the employee does not successfully complete the physical, it will result in immediate withdrawal of the offer of employment. Medical examination shall include blood testing, urinalysis, and radiographic examinations for those employees from whom physical labor is expected.
2. The physical examination includes a substance abuse test. A confirmed positive test for drugs or alcohol shall result in rejection of the applicant.
3. In emergency situations, an employee may begin work immediately upon approval of the County Manager. The employee must sign a statement that the employee understands that the physical must be taken and results obtained within thirty (30) days.
4. Annual physical examinations may be required for individuals who operate County equipment.
5. Fees for the required physical examination shall be paid by the County.

106.C. Psychological Evaluation

The Sheriff may have a recognized psychological evaluation performed by a licensed psychologist for all employees under their supervision.

106.D. Background Information

1. Applicants will execute all necessary authorizations for disclosure of background information. References provided by the applicant will be fully processed for the top three (3) candidates. References provided by the applicant shall be checked. Applicants will be asked by the County to sign an authorization for the County to check references, perform a driver's license check, and any other background check, as necessary. Only applicants who sign the authorization will be considered for the position for which they have applied.
2. An applicant is responsible for providing evidence to support any statements or certifications made in an application for employment. Said evidence shall be of a sufficient degree to fully substantiate any and all assertions made by the applicant. Applicants must also furnish proof of identification and right to work in accordance with the Immigration Reform Act of 1986.

106.E. Interview

1. The Elected Official/Director/Road Superintendent shall determine which applicants meet the basic qualifications of the job and shall interview the top three (3) applicants selected.
2. In the event there are three (3) or fewer applicants, all will be interviewed.

107. FINAL SELECTION

The respective Elected Official/Director/Road Superintendent shall make the final selection, subject to prior review by the County Manager for compliance with Federal, State and local laws and the provisions of Section 107 of this Ordinance.

107.A. Basis for Final Selection

Selection shall be based on the applicant's overall qualifications compared to the requirements of the position. Final Selection for a position will be made by the Elected Official/Director/Road Superintendent and will be based upon criteria such as the following:

1. physical examination and/or substance abuse testing;
2. psychological examination, if conducted;
3. skills and/or proficiency test;
4. education, background, and experience;
5. equally qualified County employees will be given preference;
6. personal interview; and
7. references.

107.B. Notification of Interview Results

An applicant who has been interviewed shall be notified in writing by the Elected Official/Director/Road Superintendent within fifteen (15) working days the results of the interview.

107.C. Pre-Selection Prohibited

Positions that are not filled by County employees and are otherwise publicly advertised shall not be promised to a person prior to completing the recruitment and selection provisions contained in this policy.

107.D. Ineligibility

Applicants or former employees may be considered ineligible for hire or rehire by Lincoln County if the applicant or former employee:

1. made any false statement or omitted any relevant information on the application;
2. did not meet the requirements of the position;

3. failed to complete the medical examination, psychological examination, or other requirements as directed by the employing authority;
4. has not been certified by a physician that the applicant can perform the essential duties of the position;
5. has been dismissed from County service for disciplinary reasons;
6. is not a legal resident of the United States;
7. failed to fulfill the statutory requirement of §4-41-8 NMSA 1978, if applying for position of deputy sheriff or detention officer;
8. has been convicted of a felony or misdemeanor under the provisions of the Criminal Offender Employment Act, NMSA 1978, or convicted of a felony or infamous crime as defined in §10-1-3 NMSA 1978;
9. has not met the criteria for insurance bonding as required by County or State law where applicable;
10. has had a DWI conviction within the past five (5) years, if required to drive as part of employment with the County.

108. RE-EMPLOYMENT OF FORMER EMPLOYEES

Re-employment preference will be given in the following order:

108.A. Employees returning from an approved leave of absence, including military leave;

108.B. Employees laid-off due to reduction in-force;

108.C. Former qualified full-time and part-time employees, and temporary employees. Nothing shall require such re-employment, but only consideration by the employing authority.

109. REINSTATEMENT OF EMPLOYEES FROM MILITARY LEAVE

An employee who leaves a position with the County, other than a temporary position, to enter the armed forces of the United States, national guard or organized reserve, and who serves on active duty and is honorably discharged or released from active duty to complete the remaining service in a reserve component, and who is still qualified to perform the duties of the County position previously held, shall be re-employed in such position or to a similar position. To be re-employed in such position, the employee must make application for re-employment within ninety (90) days after being relieved from training or duty, or from hospitalization continuing after discharge for a period of not more than one (1) year.

109.A. The returning employee will be deemed to have accrued seniority and length of service rights as though employment with the County had been continuous since the date of initial employment.

109.B. The employee taking military leave will not be required to exhaust annual or sick leave. The returning employee shall have all annual and sick leave accrued at the time of departure for military service restored.

110. REHIRE OF WORKERS INJURED ON THE JOB

110.A. The County may offer to rehire an employee who has been terminated from work due to an injury for which the employee received, or is due to receive benefits under the Workers' Compensation Statute.

110.B. If an employee applies for a position, the employee is subject to the following conditions:

1. the employee's treating health care provider certifies that the employee is fit to carry out the essential duties of the pre-injury position or a modified position similar to the pre-injury position without significant risk of re-injury; and
2. the County has a position available.

110.C. Compensation benefits of an employee rehired prior to reaching maximum medical improvement shall be reduced as provided in the Workers' Compensation Statute.

111. RECALL OF EMPLOYEES FOLLOWING REDUCTION IN FORCE (RIF)

111.A. Classified employees who are eliminated due to a RIF will be considered for recall on a seniority basis for a period of six (6) months from the date of the RIF. Qualified individuals on RIF status will be given preference on positions to be filled in the classification that the employee held prior to the RIF. To be considered for other vacancies, the RIF'ed employee must re-apply.

111.B. A classified employee who is RIF'ed and returns to County employment within six (6) months of the RIF shall not be required to serve another probationary period if the employee returns to the employee's previous classification.

111.C. A RIF-classified employee returning to classified County employment will be credited for all unused sick leave accrued at the time of the RIF, if such return is within six (6) months. Reduction-in-force is not grievable.

200. EMPLOYMENT STATUS

All positions are divided into "unclassified" and "classified" positions.

201. FULL-TIME CLASSIFIED EMPLOYEE

A full-time classified employee is one who has successfully completed the probationary period, and who normally works a minimum of forty (40) hours per week. This employee is entitled to all rights and benefits of the Lincoln County Personnel Policies and Procedures manual.

202. UNCLASSIFIED EMPLOYEES

202.A. The County Manager, the chief deputy of each Elected Official, the executive secretary to the Sheriff, the Under-sheriff, Road Superintendent, probationary employees, temporary employees, seasonal employees, part-time employees, and grant-funded employees are unclassified and serve at the discretion of the Elected Official/Director/Road Superintendent under whom they serve.

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202.B. Unclassified employees are terminable-at-will, and are exempt from the merit provisions of this Ordinance. Unclassified employees cannot grieve disciplinary actions. Unclassified employees, with the exception of temporary or grant-funded employees, are subject to all other provisions contained herein, unless specifically excluded.

202.C. Unclassified employees are required to join the Public Employees Retirement Association (PERA). However, Elected Officials may choose to join PERA or not.

203. PROBATIONARY EMPLOYEE

203.A. A probationary employee is a newly hired full-time or part-time employee who is hired to fill a classified position and who has not completed the probationary period of employment during which the employee is evaluated to determine the employee's ability, potential and suitability for the position.

203.B. At any time during this period, the employee may be terminated for any reason or no reason and has no grievance rights.

203.C. Probationary employees shall receive forty (40) hours of sick/vacation leave upon satisfactory completion of the probationary period of employment.

203.D. A former Lincoln County classified employee rehired more than sixty (60) days after termination, or rehired into a new position at any time shall serve the required probation period.

203.E. An employee who is temporarily assigned to a vacant classified position and is subsequently hired to fill that position shall serve the required probationary period. The beginning date of the probationary period is the day when the employee is officially changed from temporary to classified status.

203.F. If an employee does not satisfactorily complete the probationary period, the employee will be dismissed. Proposed dismissal of a probationary employee must be discussed with the County Manager prior to dismissal.

203.G. As an alternative to dismissal, an Elected Official/Director/Road Superintendent or County Manager may extend an employee's probationary status for a period not to exceed three (3) months.

204. TEMPORARY/SEASONAL EMPLOYEE

204.A. A temporary or seasonal employee may be hired either in a full-time or part-time basis to a position created to last no more than nine consecutive, beginning with the employee's first day of employment.

204.B. A temporary employee also includes one who is hired to perform a specific job or fill the temporary absence of a classified or unclassified employee.

204.C. Temporary employees have no expectation of continued employment, are not eligible for County benefits and, therefore, do not accrue vacation, sick leave or holiday pay.

204.D. The determination of what constitutes a "seasonal" workload is determined by the Elected Official/Director/Road Superintendent or County Manager.

204.E. Employees in these positions are terminable for any reason or no reason.

205. PART-TIME EMPLOYEE

A part-time employee is one who has successfully completed the probationary period and who normally works no more than thirty-two (32) hours per week. Part-time employees are not eligible for County benefits.

206. APPOINTED EMPLOYEE

An individual who is appointed to an unclassified position by an Elected Official(s).

207. GRANT-FUNDED EMPLOYEE

207.A. A grant-funded employee is one whose work and term of appointment is subject to the availability of grant funds from the funding agency and the required appropriations by the Board of County Commissioners. All grant-funded positions are unclassified.

207.B. Benefits, wages, and other conditions of employment shall be in accordance with the contractual agreement between the County of Lincoln and the other governmental entity providing funding to the program or project.

300. CHANGES IN EMPLOYMENT STATUS

301. DEMOTION

301.A. An employee may be demoted to a lower position for which the employee is qualified when:

1. the employee would otherwise be terminated because the position is being abolished due to a lack of funds, or lack of work; or
2. when the employee does not render satisfactory performance in the position presently held; or
3. when the employee voluntarily requests such a demotion.

301.B. Demotion is not a required step in progressive discipline.

302. PROMOTION

A personnel action which transfers an employee to a position which is higher in grade and increases the employee's responsibilities and pay.

303. TRANSFER

303.A. An employee may voluntarily transfer to a vacant position for which the employee is qualified if the employee meets the qualifications required.

303.B. An employee may be involuntarily transferred from one position to another. The employee may be transferred if it is in the best interest of the County of Lincoln, or if further training and development of an employee in another position would be beneficial to future staffing potential of the County. Involuntary transfers are not grievable.

303.C. There shall be no pay adjustment for employees transferred from one position to another of comparable grade.

304. RESIGNATION

304.A. A County employee who wishes to resign in good standing must submit a letter to the immediate supervisor at least fifteen (15) days before leaving, unless the Elected Official/Director/Road Superintendent agrees to permit a shorter period of notice. If it is impossible to give fifteen (15) days' notice, the letter should explain the circumstances that prevent it. All County equipment, uniforms, and other County property shall be turned into the department upon termination.

304.B. Application for refund of retirement will not be forwarded to PERA until after termination of the employee. The letter of resignation must be promptly delivered to the Personnel Department.

304.C. Verbal resignations will not constitute termination of employment in good standing with the County of Lincoln.

305. REDUCTION-IN-FORCE (RIF)

The County may reduce the number of employees due to reorganization, lack of funds, lack of appropriation, lack of work, or other considerations. If reduction of force occurs the Elected Official/Director/Road Superintendent shall make the determination of the job classification to be affected. The reduction will occur in the following manner:

305.A. RIF will be determined by department within job classification. A temporary employee, probationary employee, or part-time employee within a Department will be RIF'ed before a full-time classified employee with the same classifications within the given Department, unless specific skills and knowledge must be retained.

305.B. RIF of a classified employee shall be done in reverse order of seniority. For the purpose of this Section, seniority shall mean total years of continuous, uninterrupted service as a classified employee of the County. Seniority is applied to the current classification held.

305.C. An employee to be RIF'ed shall be notified in writing by the Elected Official/Director/Road Superintendent.

306. DISMISSAL

306.A. An Elected Official/Director/Road Superintendent with the approval of the County Manager, or the County Manager shall have the authority to dismiss classified employees for just cause which shall include, but not be limited to, unsatisfactory performance, illegal activity, misconduct, or violation of established work rules or policies.

306.B. Unclassified employees serve at the discretion of Elected Official(s) or the County Manager under whom they are appointed, and may be dismissed for any reason or no reason. Unclassified employees have no rights to the grievance procedures.

307. MEDICAL DISABILITY TERMINATION

307.A. An employee shall be involuntarily terminated six (6) months from the last day of work after a qualified, licensed physician certifies that the employee is physically unable to perform the essential functions of the employee's position.

307.B. During this period of disability, the employee will be placed on medical leave without pay status.

307.C. This period may be extended up to six (6) months with the approval of the County Manager.

307.D. The employee must submit monthly reports from a qualified, licensed physician on the employee's condition. However, if the employee is declared to be permanently disabled and unable to perform the essential duties of the position, then the employee will be terminated if all other leave has been exhausted.

307.E. Medical disability termination will be taken in compliance with the Americans With Disabilities Act.

308. SUCCESSFUL COMPLETION OF PROBATIONARY PERIOD

If an employee satisfactorily completes the probationary period, the employee will be placed in classified County service. A personnel action notice from the Elected Official/Director/Road Superintendent must be sent to the County Manager before the employee can become a classified employee and entitled to all of the rights and benefits of classified service.

309. CHANGE OF CLASSIFIED STATUS

In the event an employee changes from a classified position to an unclassified position, the employee may elect to receive payment for accumulated vacation time or take the time as annual leave.

400. *CONDITIONS OF EMPLOYMENT*

401. PROBATIONARY PERIOD

401.A. New Hires

1. The probationary period is an integral part of the evaluation process and is utilized for observing the employee's performance, assisting the employee in effectively adjusting to the position, determining if the employee is suited for the position, and for dismissing any employee whose performance does not meet the required work standards.

2. An employee hired to fill a classified position shall serve a probationary period. An employee hired to fill a classified sheriff's deputy or detention officer position shall serve a probationary period of twelve (12) months. All other employees hired to fill classified positions shall serve a six (6) months probationary period.

3. During the probationary period, the employee may be dismissed for any reason or no reason. An employee on probationary status has no right to the grievance procedures. A probationary employee may be terminated at any time during the probationary period.

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4. If a probationary employee does not successfully complete the probationary period, it may be extended at the discretion of the Elected Official/Director/Road Superintendent to whom the employee reports. The probationary period may be extended for up to three (3) months.
5. If the Elected Official/Director/Road Superintendent chooses to extend the probationary period of an employee for any given period of time not to exceed the maximum period of three (3) months, the Elected Official/Director/Road Superintendent will notify the employee in writing of the extension and the reasons for the extension. A copy of this notification will go into the employee's personnel file. In the event that the Elected Official/Director/Road Superintendent declines to convert the employee's status to classified at the end of the probationary period, the employee will be dismissed.
6. A probationary employee hired to fill a deputy sheriff or detention officer position shall serve a twelve (12) month probationary period, during which time the employee shall be required to obtain appropriate certification for the position. Failure to obtain such certification within the twelve (12) month period shall result in the employee's dismissal.
7. A probationary employee may apply for other positions in another County office, but if selected, shall serve another complete probationary period.
8. If the employee is hired to a full-time classified position, the first day of work shall be used in computing the beginning of the probationary period.

401.B. Temporary Employee Hired to a Classified Position

A temporary employee who is subsequently selected to fill a classified position shall serve the required probationary period. The beginning date of the probationary period shall be the date the employee changes from temporary status.

401.C. Former Employee Hired to a Classified Position

1. A former County employee rehired more than six (6) months after termination, or rehired at any time to fill a different position, shall serve the required probationary period. All benefits will accrue at the same rate as any new employee.
2. A former County employee whose termination was in good standing and who is rehired within six (6) months after termination to fill the same position in which the employee was previously employed, will not be required to serve an probationary period.

402. NEPOTISM

402.A. The practice of nepotism is prohibited. Any person elected or appointed to public office shall not give employment as clerk, deputy, assistant or other class of departmental employee to their spouse, ex-spouse, children, parents, siblings, grandparents, grandchildren, aunts, uncles, nieces, nephews, cousins, or to an unrelated individual sharing a spousal relationship with an employee when that person's compensation is \$600.00 or more. (§ 10-1-10, NMSA 1978.)

402.B. When there is a change in assignment or relative relationships among County employees which leads to one employee supervising another employee, as specified in Section 402.A., in the same department, the employees must inform the Elected Official/Director/Road Superintendent in writing within five (5) working days. The Elected Official/Director/Road Superintendent must transmit a letter and a recommended course of action to the County Manager within five (5) working days of receipt of the letter.

The County Manager will attempt to transfer one of the employees in question and will officially notify those involved, if a position is available. If no position is available within three (3) months of notice, one employee will be terminated. Any employee not submitting a letter indicating a change of relative or spousal relationship, as specified in this Section, will be disciplined.

402.C. Employees hired prior to March 1, 1998, who are relatives, as specified in Section 402.A., of supervisors in the direct chain of command or persons who are cohabiting with a supervisory employee in their direct chain of command are grand-fathered under the current situation for the duration of County employment.

403. CONFLICT OF INTEREST

No employee shall engage in any business or transaction or accept private employment or other public employment which is incompatible with the proper discharge of the employee's responsibilities, or which gives the appearance of impropriety.

404. ATTENDANCE

Regular and punctual attendance at work shall be required of all Lincoln County employees. All employees are to be at their designated work areas on time and ready to work. They shall work until the scheduled quitting time, unless permission of the supervisor has been obtained for different work hours. If the Elected Official/Director/Road Superintendent does not take appropriate action, the County Commission may compel regular and punctual work habits of all County employees.

405. WITNESSES AT PERSONNEL GRIEVANCE HEARINGS

Elected Officials of departments, department heads, and all employees of Lincoln County are required to attend grievance hearings, if designated as witnesses.

406. DRESS AND APPEARANCE

County employees are constantly in the public eye. Consequently, it is important that the employees present the best possible image to the public and should always be clean and as neatly dressed as work assignments allow.

406.A. Dress Code

The Elected Official/Director/Road Superintendent may establish a reasonable dress code for employees under the direction of the Elected Official/Director/Road Superintendent. Employees must adhere to the required dress code.

406.B. Uniforms

If a uniform is prescribed for an employee's function, it shall be worn at all times while on duty and at no other time unless authorized by an Elected Official/Director/Road Superintendent. Failure to wear a designated uniform while on duty will be considered insubordination, unless otherwise authorized by the Elected Official/Director/Road Superintendent. Uniforms will be issued at the time of employment.

407. DESIGNATED WORK AREAS

Employees shall not litter work areas and will keep them neat and clean.

408. HEALTH AND INJURY CONDITION

If an employee is on medication or under a doctor's care for any reason that could affect the employee's operation of machinery, equipment, or other job duties, the employee must inform the supervisor of the employee's condition. Failure to report a health or injury condition may subject the employee to disciplinary action, up to and including dismissal.

409. WORK SCHEDULES

The Elected Official/Director/Road Superintendent shall have authority for setting work schedules for all employees within the department. The Elected Official/Director/Road Superintendent may designate a person in a supervisory role within the department to coordinate work schedules.

409.A. Changes in Work Schedule

The Elected Official/Director/Road Superintendent or designee shall give employees reasonable notice of long term changes in work schedules.

409.B. Adjustment of Work Hours

1. On occasion, a full-time non-exempt employee may be required to work more than regularly scheduled hours in a particular day. On such occasion, the respective Elected Official/Director/Road Superintendent or County Manager may authorize the employee to take up to the number of excess hours worked off during the same work week.
2. Similarly, a full-time non-exempt public safety employee may be required to work more than regularly scheduled hours in a particular day or week. On such occasion, the respective Elected Official/Director/Road Superintendent or County Manager may authorize the employee to take up to the excess number of hours worked off during the same twenty-eight day pay cycle.

409.C. Call-In

If an employee is called in for emergency duty, the employee will be compensated for the actual hours worked. If an Elected Official/Director/Road Superintendent, or the County Manager determines that, in order to protect the health, safety, and welfare of the citizens of Lincoln County, it is necessary to require employees to work after hours or on days off, the employee will be paid time and one-half, irrespective of the total hours worked during the work period. The nature of the emergency shall be documented by the call-in official.

409.D. Lunch Periods

Lunch periods are normally one (1) hour, except for departments with established thirty (30) minute lunch periods.

409.E. Breaks

Normally breaks will be taken once during the first half of the shift and once during the second half of the shift. Supervisors may limit or delay breaks if, in their opinion, continuous work is required. There will be no accumulation of breaks.

409.F. Overtime

1. Only employees considered non-exempt under the Fair Labor Standards Act (FLSA) will be entitled to receive overtime compensation. Employees considered exempt under the FLSA are considered salaried and are not entitled to overtime compensation.
2. Elected Official/Director/Road Superintendent or County Manager may require employees to work over-time.
3. Eligible employees are entitled to over-time compensation for time worked in excess of forty (40) hours per week. Sheriff's Deputies, as 207(K) employees, will receive overtime in excess of 80 hours per pay cycle.

410. COUNTY PROPERTY

410.A. The responsibility for County equipment or property used by an employee in the discharge of one's duties belongs to the employee.

410.B. Return of County Property

An employee terminating from employment with Lincoln County for any reason shall, prior to termination, return all County property, keys, and equipment, etc., issued the employee.

410.C. The employee entrusted with equipment by a supervisor assumes sole and complete responsibility for the condition and proper use of such property or equipment from the time of assuming use or control until acknowledgment of its return by the Elected Official/Director/Road Superintendent. Monetary costs of damages to County property or equipment caused by careless, negligent or deliberate acts or omissions by user employee shall be deducted from the net pay of such employee.

411. USE OF TELEPHONES

Telephones are to be used in the conduct of County business. Long distance calls shall not be made at County expense except in the conduct of County business. All long distance calls shall be carefully logged by each Department and be subject to review by the County Commission or County Manager.

412. HATCH ACT

A County employee whose principal employment is in connection with an activity financed in whole or in part by federal loans or grants is required to comply with the provisions of the Federal Hatch Act (5 U.S.C., Section 7321-7328).

413. POLITICAL ACTIVITY

413.A. Every employee has a civic duty to vote for candidates and issues of one's choice. No employee will be subjected to coercion, intimidation or threat of reprisal because of any political affiliations or beliefs.

413.B. No employee shall continue in employment with the County with pay when such person engages in political activity which is found to adversely affect, interfere with or lead to a diminishing of the integrity, efficiency or discipline of the County service.

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414.C. Political materials, paraphernalia and literature favoring candidates may be dispensed on County premises, until such time as forty (40) calendar days prior to any election day when all such candidate advertising in any form must be completely removed.

414.D. County employees shall not:

1. use their official authority or influence for the purpose of interfering with or affecting the nomination for office;
2. directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person, for political purposes; or
3. campaign for themselves or other candidates during working hours.

414.E. Candidates for County elective offices shall be encouraged to take leave of absence without pay, vacation, or terminate employment to allow sufficient time and freedom to campaign.

415. PHYSICAL AND/OR MEDICAL EXAMINATIONS

Physical and/or medical examinations may be required of any employee at the discretion of the Elected Official/Director/Road Superintendent or County Manager. An employee required to have a medical examination must provide the County with a completed Medical Certification Form completed by a physician. Any examination required will be conducted at the expense of the County. The Elected Official/Director/Road Superintendent will allow the employee reasonable time off for the medical examination.

416. MEDICAL EXAMINATIONS

416.A. Successful employment applicants to whom positions are offered will be required to undergo medical examinations which includes urinalysis, blood testing, and radiographic examinations. In addition, successful employment applicants shall be tested for alcohol and/or use of illegal substances. Applicants will be required to provide a specimen for analysis.

416.B. All offers of employment shall be conditional upon the applicant passing a substance abuse/alcohol test which shall be administered by a qualified company selected by the County. The qualified company will complete the analysis and provide the results to the Human Resources Director. If the applicant fails the drug screen as a direct result of a positive substance abuse test, the conditional offer of employment will be rescinded.

416.C. Medical examinations in conjunction with employment will be paid for by the County.

417. SUBSTANCE ABUSE TESTING (DRUG TESTING)

Lincoln County is committed to the goal of a drug-free work place in compliance with the Drug-Free Work Place Act of 1998. Substance abuse testing of the employees will not be conducted by the County except in compliance with legal requirements. Testing for substance abuse is adopted to assure that the County is in compliance with Federal mandates regarding substance abuse in the workplace and to provide a safe environment for all employees and the public.

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417.A. Use of Alcohol, Substances, and/or Drugs

The use of controlled substances, drugs or alcohol prescribed and non-prescribed, is a concern to Lincoln County when it interferes with job performance, conduct, attendance, safety, or when it is in violation of the law. The unlawful manufacture, distribution, possession or use of a controlled substance by an employee while on County premises, or while on County business is prohibited. Conducting County business, which includes driving vehicles or operating County equipment, while under the influence of alcohol or other drugs is also prohibited. Engaging in any of these prohibited activities may result in disciplinary action, including dismissal.

417.B. Reasonable Suspicion Testing

Any Lincoln County employee shall be tested for alcohol and/or substance, if a trained supervisor has reason to suspect that the employee is engaging in the use of alcohol or substances on the job, or is reporting to work under the influence of alcohol or substances. Reasonable suspicion that an employee is under the influence of alcohol or substances means that an employee is affected in an objectively detectable manner. It is supported by objective evidence, based upon known specific, articulable, and observable facts that would lead a reasonable person to believe that the employee is under the influence of alcohol or other substances. In assessing whether reasonable suspicion exists, the employee's ordinary individual characteristics will be taken into consideration. Additionally, an employee's admission of abuse of alcohol or other substances to a supervisor in the chain of command, or a provider of medical services under contract to the County shall constitute reasonable suspicion when the abuse could impair job performance and/or safety and the employee is not compliant with the County's recommended treatment program.

1. When there is reasonable suspicion that an employee has reported to work, is conducting work, has been involved in an accident, is representing the County, or is on County premises while under the influence of alcohol or other substances, the respective Elected Official/Director/Road Superintendent shall contact the County Manager. The County Manager should be consulted regarding the circumstances and evidence as to whether or not testing is appropriate to the specific situation. If the Elected Official/Director/Road Superintendent decides to proceed with the testing, the third-party administrator will be notified and will schedule the employee for immediate testing. The Department shall be responsible for transporting the employee to the testing site. The impacted employee shall be placed on administrative leave with pay.

2. All testing results shall be reported back to the Human Resources Director who shall be the designee of the County. If the test results are negative, the Human Resources Director will notify both the employee and the supervisor and the employee shall be returned to work at the inception of the employee's next regularly scheduled work shift unless other disciplinary action is pending.

417.C. Positive Results

1. The guidelines established by the National Institute of Drug Abuse will be used to determine whether an employee tests positive.

2. If an employee tests positive for alcohol or substances, the employee will be placed on administrative leave until a pre-determination hearing is held. (Section 706)

417.D. Safety Sensitive Positions

1. For the purposes of this substance abuse policy, all law enforcement officers, detention employees, employees required to operate County vehicles, and employees who have control or access to controlled

drugs or reports associated with those drugs shall be classified as safety sensitive positions. It shall be the responsibility of the County Manager/Human Resources Director to determine additional positions, if any, which will be classified as safety sensitive. All persons hired for or presently in positions classified as *safety sensitive* shall submit, at least on an annual basis, to driver's license record checks.

2. The following criteria shall be used as a guide for determining additional positions to be classified as safety sensitive:

- a. the extent to which the job responsibilities impact upon the safety of the public;
- b. the extent to which the job responsibilities expose the employee or co-worker to hazardous conditions;
- c. the extent to which the job responsibilities require responsibility for the physical safety of others.

3. A valid and positive test, or refusal to submit to a test, by an employee in a safety sensitive position shall be just cause for discipline, including dismissal.

4. Employees in safety sensitive positions who self-refer in advance of a notification of a substance abuse or alcohol test shall be placed on the appropriate leave status until successfully completing an approved rehabilitation program. The employee shall be responsible for paying the cost of the rehabilitation program unless the employee has insurance coverage for such treatment. Upon the employee's return to work after completion of the drug rehabilitation program, the employee shall sign an agreement and be required to submit to unannounced, unscheduled substance abuse tests for a period of two (2) years. If the employee tests positive during the two (2) year testing period, the employee shall be subject to disciplinary action, up to and including dismissal.

417.E. Non-Safety Sensitive Positions

All other employees, except those identified as safety sensitive, are in non-safety sensitive positions.

1. With the approval of the County Manager, an employee in a non-safety sensitive position may attend and successfully complete an approved rehabilitation program. The employee shall be responsible for paying the cost of the rehabilitation program unless the employee has insurance coverage for such treatment.

2. An employee who attends a rehabilitation program shall be placed on leave until the employee successfully completes an approved treatment program. This shall occur within thirty (30) days unless written authorization to exceed thirty (30) days is recommended by the respective Elected Official/Director/Road Superintendent and is approved by the County Manager.

3. During the County's recommended treatment program, the employee may use the pay status as follows:

- a. first, accrued sick;
- b. second, annual leave.
- c. If accrued leave is insufficient, the employee shall be placed on Leave Without Pay.

4. Employees in non-safety sensitive positions may, with the approval of the County Manager, be permitted to perform their duties while participating in the County's recommended treatment program unless other disciplinary action is pending.

5. Prior to returning to work, the employee shall sign an agreement and be required to submit to unannounced, unscheduled substance abuse tests for a period of two (2) years. A positive test after completing the rehabilitation program shall be considered just cause for disciplinary action, up to and including dismissal.

417.F. Refusal to Submit to Alcohol/Substance Abuse Testing

1. Refusal by the employee to submit to a substance abuse or alcohol test shall be considered just cause for disciplinary action, including dismissal.

2. An employee who refuses an instruction to submit to a substance abuse or alcohol test shall not be permitted to finish the shift and shall immediately be placed on administrative leave with pay status pending disciplinary action. (Section 702)

417.G. Retesting

An applicant or employee who tests positive on a drug test may elect to have, at the applicant's or employee's expense, a retest of a portion of the original sample at a certified drug testing laboratory of the applicant's or employee's choosing, provided the request is made in writing within twenty-four (24) hours of the applicant or employee receiving notice of a positive test result. The job will not be held open for the applicant during the retesting.

417.H. Confidentiality

No laboratory reports or test results shall appear in the employment personnel file unless they are a part of a disciplinary action, but shall be placed in a separate file with other medical records.

417.I. Commercial Driver Drug Testing

In concert with the third-party administrator, the County Manager shall develop and implement a Department of Transportation commercial driver drug testing program.

418. COUNTY OPERATOR'S PERMIT TESTING

418.A. No employee or other individual shall operate or drive County vehicles or equipment which require a State of New Mexico Commercial Class or Class E driver's license without a valid vehicle/equipment Operator's Permit issued to the individual.

418.B. This permit will not be issued to any individual who is expected to operate or drive vehicles or equipment which require the Class E or Commercial Class driver's license unless the employee has submitted to and passed a substance abuse test administered by a laboratory designated by the County.

418. C. Employees must notify their supervisor to arrange for the substance abuse test within sixty (60) days prior to the expiration of their current State of New Mexico Class E or Commercial Class Driver's License. The supervisor shall notify the Human Resources Director, who shall schedule the employee for an appointment.

419. HARASSMENT

419.A. Prohibition of Harassment

Employees of the County are prohibited from harassing any other County employees on the basis of sex or any other protected class (race, religious creed, sex, national origin, age, physical or mental disability). Harassment occurs when an employee is subjected to unwelcome verbal or physical conduct based on any of the protected classifications. Sexual harassment is any unwanted sexual attention or such attention when submission to such conduct is made, either explicitly or implicitly, a term of an individual's employment; submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or such conduct has the purpose of affecting or unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

419.B. Policy Regarding Harassment

Lincoln County is committed to enforcing a policy prohibiting harassment on the basis of sex or any other protected class that:

1. provides for a work environment free from all harassment on the basis of sex or any other protected class;
2. applies to the actions of all County employees, elected and appointed officials, volunteers, vendors, and contractors;
3. ensures that appropriate corrective measures, up to and including dismissal and/or appropriate legal action, will be taken if this policy is violated;
4. establishes a complaint procedure that is fair, confidential, and protects against retaliation for making a complaint or testifying as a witness to a complaint;
5. ensures that all complaints are investigated promptly, thoroughly, and fairly; and
6. ensures that all Elected Officials, Directors, Road Superintendents and Supervisors are fully trained in their responsibilities under this policy.

419.C. Harassment Complaint Procedures

1. Employees of Lincoln County shall report acts of harassment to their immediate supervisor, Elected Official/Director/Road Superintendent or County Manager. If the employee feels uncomfortable reporting the harassment to the immediate supervisor, the employee may report the complaint to the County Manager. If the County Manager is the alleged harasser, the harassment shall be reported to the County Attorney.
2. A meeting shall be held with the alleged harasser as soon as possible and in no event later than three (3) working days from the report of the complaint. The purpose of the meeting shall be to investigate the matter and, if necessary, take appropriate corrective action. The investigation shall be confidential to the extent possible and documented. Discipline may vary depending on the nature of the activity of which was complained. A complaint will be kept confidential to the extent possible. All persons interviewed are required to keep contents of interviews confidential.

420. PERSONAL BUSINESS

Personal business shall not be conducted during work hours.

421. FALSE STATEMENTS AND FRAUD

421.A. No person shall willfully, corruptly or by deliberate omission, make any false statements, certificate, mark, rating, or report in regard to any signed application, test, certification or appointment or in any manner commit fraud or deliberately omit responsible action preventing, or for the purpose of preventing, the proper or impartial execution of this Ordinance.

421.B. No person seeking appointment to or promotion in the service of Lincoln County shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person for, on account of, or in connection with that person’s assigned application, test, appointment, proposed appointment, promotion, or proposed promotion; provided, however, that the provisions hereof shall not apply to payments made to duly licensed employment agencies.

422. ADDITIONAL RULES

Employees shall obey any and all additional rules, directives and requests stated verbally or in writing by their supervisors. Employees are generally required to follow all standards, rules, procedures and policies that are similar or normally expected in the work place.

500. BENEFITS

501. LEAVE WITH PAY

Request for leave with pay for any purpose shall be made in writing by the employee to the Elected Official/Director/Road Superintendent prior to the time the leave is to begin (or advise in advance with as much lead time as possible). Requests for leave with pay for short-term temporary absences (such as voting) shall be made informally between the employee and the Elected Official/Director/Road Superintendent.

501.A. Annual Leave (Vacation)

An employee holding a full-time classified position of Lincoln County shall accrue annual leave on the following basis:

<u>Annual Service</u>	<u>Hourly Accrual Rate/Bi-weekly</u>	<u>Leave Days Per Year</u>
0 up to 24 months	3.077	two (2) weeks
24 months + 1 day up to 120 months	4.615	three (3) weeks
120 months + 1 day and over	6.154	four (4) weeks

1. An employee does not accrue additional annual leave for time worked in excess of forty (40) hours per week.

2. Upon termination from County employment, an employee shall be paid for unused accrued annual leave.
3. An employee may take annual leave just prior to resignation.
4. No more than twenty (20) working days, or one hundred-sixty (160) hours of annual leave, may be carried forward from one payroll-end calendar year to the next. All excess annual leave shall be forfeited, if not used by the 15th of December of said calendar year, unless extenuating circumstances warrant approval of an extension to be forwarded to the County Manager for submission to the Board of County Commissioners of Lincoln County for approval.
5. Annual leave may be taken only with prior approval of the immediate supervisor. Approval of vacation requests is contingent upon departmental needs.
6. Annual leave shall not be charged in less than one-half (½) hour increments.

501.B. Sick Leave

1. Accumulated sick leave with pay may be taken for:
 - a. personal illness, injuries or legal quarantine;
 - b. illness in the employee's immediate family, provided that the use of sick leave is approved by the immediate supervisor.
 - c. for visits to a medical practitioner's office or to a clinic for examination, tests, review or examination where the intent is preventive in nature as contrasted with treatment.
2. Sick leave should only be used as needed, and abuse of sick leave will be considered just cause for disciplinary action and/or dismissal.
3. Sick leave shall be accumulated at the rate of three point zero seven seven (3.077) hours bi-weekly or a total of eighty (80) hours per year. Unused sick leave shall accumulate from year to year to a maximum of nine hundred sixty (960) hours.
4. Employees shall obtain prior approval of their respective Elected Official/Director/Road Superintendent or the County Manager prior to taking the leave. An employee who cannot report to work for reason of illness or injury shall report to the department head within fifteen (15) minutes of the opening of the office.
5. The Elected Official/Director/Road Superintendent or County Manager may request a physician's statement or medical certificate concerning verification of illness or injury where leave time is requested. Sick leave of more than three (3) consecutive days duration shall require certification by a physician identifying the nature of the illness and certifying that the employee is able to return to work.
6. An employee shall keep the Elected Official/Director/Road Superintendent informed and updated regarding the employee's status when on sick leave that exceeds three (3) days duration.
7. Probationary employees are not eligible to utilize accrued sick leave, but may be granted an excused leave for reason of illness or injury, upon written approval from the County Manager.

8. Storage of Accrued Sick Leave

In the event an employee is elected or selected into an unclassified position, the accumulated sick leave will be frozen and maintained in the payroll records until such time the employee returns to a classified status or leaves County employment.

9. Donated Hours, Sick and Vacation Leave

- a. In certain cases, County employees may require leave from work for a period exceeding accumulated sick leave. In such instances, employees are encouraged to use other leave, such as vacation, to prevent being placed on leave without pay status.
- b. County employees may donate accumulated sick, or vacation hours to an affected employee after submitting a written request to and obtaining approval from the County Manager.
- c. Such donations are only possible when the affected employee has exhausted any and all accumulated leave. Donations of leave are limited to a maximum of 20 hours per donor to recipient within a 12-month period, and recipients are limited to accepting a maximum of 240 hours per 12-month period. Requests to donate leave must be in writing and are subject to verification by the Human Resources Director. While on donated leave, an employee will not accrue any leave.

10. Loss of Sick Leave

Upon leaving the employment of Lincoln County all accumulated sick leave is forfeited, except as specified in Section 612 hereof.

501.C. Holidays

1. Legal holidays for classified employees will be designated by the Board of County Commissioners of Lincoln County each calendar year.
2. If a designated holiday falls on the first day of an employee's scheduled day off, the holiday will be observed on the preceding work day. If a designated holiday falls on the second day of an employee's scheduled day off, the holiday will be observed on the following work day. This provision does not apply to emergency personnel, as they will be paid holiday pay pursuant to Section 614 hereof.
3. If a designated holiday falls during an employee's scheduled annual leave, the day shall be counted as a holiday and not deducted from accrued annual leave.

501.D. Bereavement Leave

1. In the event of the death in an employee's immediate family, or near relative, the employee will be entitled to a bereavement leave with pay not to exceed three (3) working days.
2. When travel out-of-state is required for funeral services of an immediate family member, or near relative, an employee may receive an additional two (2) days of bereavement leave.
3. An employee shall notify the supervisor prior to taking bereavement leave.

501.E. Jury Duty

An employee will be granted leave with pay for the purpose of serving as a juror in federal court or the state court of a political subdivision of the State of New Mexico. When excused by the Court during a working day, the employee is expected to return to duty if at least one (1) hour of County duty can be served in the work day. Employees receiving Jury Duty leave with pay shall turn any fees received for such Court service to the County.

501.F. Court Appearances

An employee may be required to testify in court on a job-related case. An employee may be called to testify on behalf of the County on the employee's scheduled day off.

501.G. Voting Time

1. For purposes of a national, state, or local election, an employee who is registered to vote will be granted a reasonable period of time up to two (2) hours paid leave for voting between the time of opening and the time of closing the polls. The employee's supervisor may specify the hours for the leave.
2. This leave will not be granted to any employee whose work day begins more than two (2) hours subsequent to the time of the opening of the polls or ends more than three (3) hours before the closing of the polls.

501.H. County Business Leave

1. Elected Officials/Director/Road Superintendent, or the County Manager may authorize leave with pay to allow an employee to attend meetings of boards and/or commissions when the employee's attendance is on behalf of the County and in the best interest of the County.
2. If the employee is paid by the board or commission for travel and attendance, that money shall be turned in to the County or its equivalent subtracted from the employee's pay.
3. The County Manager may grant early departure from work or late arrival to work due to hazardous road conditions or unusual circumstances. The employee will receive leave with pay.

501.I. Administrative Leave

An Elected Official/Director/Road Superintendent, with the approval of the County Manager, may place an employee on administrative leave pending a disciplinary action. (Section 702)

501.J. Military Leave

Military leave with pay will be granted for authorized reserve or national guard activities for a maximum of fifteen (15) working days each calendar year. Military leave must be requested twenty (20) days in advance. The employee must furnish proof of duty orders or other documentation prior to leave being granted, unless the leave is for emergency purposes.

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502. LEAVE WITHOUT PAY

502.A. Family and Medical Leave Act (FMLA)

1. Non-probationary Classified Employees will be entitled to leave under the provisions of the Family and Medical Leave Act (FMLA) for one or more of the following reasons:

- a. the birth of a child or the adoption of a child;
- b. the placement of a foster child;
- c. the care of a sick spouse, child, or parent, if that individual has a serious health condition; or
- d. the employee's own serious health condition. A serious health condition of any employee must make an employee unable to perform the essential duties.

2. Eligible employees are entitled to a maximum of twelve (12) weeks of unpaid leave during any twelve (12) month period for serious health conditions, birth, and/or adoption. Additional leave under the FMLA does not become available under FMLA until a date twelve (12) months after the leave period begins.

3. To be eligible for FMLA benefits, an employee must:

- a. have worked for the County for a total of at least twelve (12) months;
- b. have worked at least 1,250 hours over the previous twelve (12) months;

4. Medical and other benefits:

During an approved family/medical leave, the County will maintain an employee's health benefits, as if the employee continued to be actively employed. If paid leave is substituted for unpaid family/medical leave, the County will deduct the employee's portion of the health plan premium as a regular payroll deduction. If the employee's leave is unpaid, the employee must pay the employee's portion of the premium through the County payroll department. An employee's healthcare coverage will cease if the premium payment is more than thirty (30) days late. If an employee's payment is more than fifteen (15) days late, the County will send a letter to this effect. If the County does not receive co-payment within fifteen (15) days after the date of the letter, the employee's coverage may cease. If an employee elects not to return to work for at least thirty (30) calendar days at the end of the leave period, the employee will be required to reimburse the County for the cost of the premiums paid by the County for maintaining coverage during any unpaid leave, unless an employee cannot return to work because of a serious health condition or other circumstances beyond the employee's control.

5. The employee is required to provide:

- a. thirty (30) days advance notice of such leave when the need is foreseeable;
- b. medical certification supporting the need for leave due to serious health condition;
- c. periodic reporting during the FMLA leave regarding the employee's status and intent to return to work.

6. Physician's Certificate

a. If an employee is requesting leave because of the employee's own or a covered relation's serious health condition, the employee and the relevant health-care provider must supply appropriate medical certification. One may obtain medical certification forms from the County Manager's Office. When an employee requests leave, the County will notify the employee of the requirement for medical certification and when it is due [at least fifteen (15) days after leave is requested]. If an employee provides at least thirty (30) days' notice of medical leave, the employee should also provide the medical certification before leave begins. Failure to provide requested medical certification in a timely manner may result in denial of leave until it is provided. The County, at its expense, may require an examination by a second health-care provider designated by the County if it reasonably doubts the medical certification the employee initially provides. If the second health-care provider's opinion conflicts with the original medical certification, the County, at its expense, may require a third, mutually agreeable, health-care provider to conduct an examination and provide a final and binding opinion. The County may require subsequent medical recertification. Failure to provide requested certification within fifteen (15) days, if such is practicable, may result in delay of further leave until it is provided.

b. If an employee takes leave because of the employee's own serious health condition or to care for a covered relation, the employee must contact the County on the first and third Tuesday of each month regarding the status of the condition and intention to return to work. In addition, an employee must give notice as soon as practicable [within two (2) business days, if feasible] if the dates of the leave change, or are extended, or initially were unknown.

7. Use of Accrued Leave

Family Medical Leave is unpaid leave, although an employee may be eligible for sick leave, annual leave, short-term disability payments, and/or workers' compensation benefits under those insurance plans, if applicable. Those plans are described elsewhere in this Ordinance. The employee using this benefit is required to first use all accumulated sick and annual leave, and short-term disability, and/or workers' compensation benefits, if applicable. If the employee does not have twelve (12) weeks of accumulated sick and annual leave, short-term disability benefits, and/or workers' compensation, the remainder of the twelve (12) weeks will be leave without pay. The employee may take no more than twelve (12) weeks of leave, whether using paid accumulated leave or leave without pay. The substitution of paid leave time for unpaid leave time does not extend the twelve (12) week leave period. Further, in no case can the substitution of paid leave time for unpaid leave time result in receipt of more than one hundred percent (100%) of an employee's salary. Family/medical leave runs concurrently with other types of leave, *i.e.*, sick leave, annual leave, short-term disability, and worker's compensation, if applicable.

510.B. Personal Leave

An Elected Official/Director/Road Superintendent or the County Manager may grant a non-probationary classified employee leave without pay (LWOP) for a period not to exceed six (6) months. Leave without pay may be granted to classified non-probationary employees for:

1. a non-duty related injury or disability which occurred off the job;
2. sabbatical;
3. education;

4. good and sufficient reason as determined by the Elected Official/Director/Road Superintendent with the approval of the County Manager.

511. CONDITIONS OF LEAVE WITHOUT PAY

All leave without pay is subject to the following conditions:

511.A. Position Upon Return

Upon return to work, the employee will be placed into the same or similar position left by the employee. The employee must be qualified for the position in which the employee is being placed. The placement will be at the discretion of the Elected Official/Director/Road Superintendent with the approval of the County Manager.

511.B. Vacancies May be Filled by Temporary Employees

Temporary personnel may be hired to fill vacancies created by an employee who is on leave without pay (LWOP).

511.C. Benefits at Employee's Expense

Employees on leave without pay do not accrue any type of leave, nor do they receive County benefits. Employees wishing to continue their insurance benefits may do so at their own expense by paying the employee's and the County's share of the premium to the Finance Department on the regular pay day.

511.D. If the employee is unable to return to work after six (6) months, the employee may be terminated.

512. OCCUPATIONAL INJURY LEAVE/WORKERS' COMPENSATION

Employees injured on the job or suffering from occupational diseases as defined in the New Mexico Workers' Compensation Statute, §52-1-1, *et. seq.* NMSA 1978, shall receive Workers' Compensation benefits as prescribed by law.

512.A. Reporting Procedure

1. An employee must report all work-related injuries, however minor, to the supervisor immediately, or as soon as possible. A Report of Injury shall be filed with Human Resources within twenty-four (24) hours of the injury. The report shall be signed by the employee.
2. Elected Officials/Directors/Road Superintendent and the County Manager have the responsibility of recording, in detail, all relevant facts regarding the accident(s) or injury(ies) on the job. The appropriate supervisor must conduct an accident investigation and file a report on the following work day.

512.B. An employee injured on the job may utilize accrued sick leave for the first seven (7) scheduled working days after the injury occurs. If the employee is off of work because of a work-related injury for more than seven (7) days and receives Workers' Compensation benefits for any or all of the first seven (7) days, the employee shall reimburse the County for the amount which the employee received in Workers' Compensation benefits for the first seven (7) days.

512.C. The employee will not draw a salary from the County until the employee is able to return to work. Accrued sick leave or annual leave may not be used to supplement Workers' Compensation benefits. County employees will not accrue benefits while on Workers' Compensation.

512.D. If an employee is unable to work because of an on-the-job injury and wishes to keep the insurance active, the employee may pay both County and employee portions of medical insurance.

512.E. An employee who incurs a work-related injury/illness must go to the County-selected physician, who will treat the employee or will refer the employee to a non-contract physician, depending on the nature of the problem. In circumstances of a medical emergency, the employee should go to the nearest urgent-care center. Treatment subsequent to the emergency treatment will be coordinated by the contract physician.

512.F. Medical certificates and proof of occupational injury may be required by the County in addition to anything required by Workers' Compensation.

512.G. If an employee who is on Worker's Compensation benefits is unable to return to the employee's position after six (6) months, the employee may be terminated, and the position may be filled. The employee may be eligible for re-hire after six (6) months, as specified in Section 110 hereof.

513. UNAUTHORIZED LEAVE

An employee who fails to report to work for three (3) consecutive days without authorization is considered to have abandoned the position and may be subject to disciplinary action, including dismissal.

514. PERA BENEFITS

A. Each classified and appointed employee will be enrolled as a member of the appropriate Lincoln County Retirement Plan or the Public Employees Retirement Association (PERA).

1. PERA will be optional to Elected Officials.
2. Employees planning to retire should initiate the process at least three (3) months before the projected date of retirement.

515. UTILIZATION OF ACCUMULATED VACATION LEAVE AT RETIREMENT

Employees eligible for retirement may elect to take any accumulated vacation time prior to the official date of retirement.

516. MEDICAL AND OTHER INSURANCE BENEFITS

The County provides medical and other insurance benefits to all classified employees. Insurance plans may be changed at the discretion of the County Commission.

Insurance benefits for newly hired employees will be effective on the first day of the month following their employment start date.

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517. UNIFORMS/CLOTHING

517.A. An employee in designated jobs with the County may be required to wear special clothing to perform the job function. An employee who is required to wear special clothing shall receive a clothing issue from the County.

517.B. The County shall purchase and issue a service weapon and related leather gear which shall be used by all Sheriff's Deputies. All remaining clothing and related gear required to be used by Deputies shall be specified in the Lincoln County Sheriff's Department Standard Operating Procedures Manual.

518. LEAVE FOR IMPAIRED EMPLOYEES

518.A. If a supervisor has reason to believe that an employee's work performance has deteriorated due to excessive use of intoxicants or other personal problems, the supervisor may call the employee in for a consultation. At the consultation meeting, the nature of the diminished work performance will be presented to the employee. The employee will be given an opportunity to explain any circumstances which may have caused the diminished work performance.

518.B. If the employee acknowledges that a problem exists involving excessive consumption of intoxicants, or other personal problems, the supervisor may recommend medical treatment to the employee. The employee must express a willingness to obtain such medical treatment.

518.C. The supervisor, with the approval of the County Manager, may place the employee on leave without pay not to exceed thirty (30) days while the employee is enrolled in an in-patient treatment program. The employee may utilize accrued sick leave, or annual leave during this period.

519. VOLUNTARY ACTIVITIES

519.A. A County employee may participate in volunteer activities, including, but not limited to ambulance, EMT, or fire department during working hours or during work shifts for which they are assigned or scheduled. An employee may leave the work post only after the employee has requested and received permission from the supervisor.

519.B. A County employee participating in volunteer training and administrative activities during working hours shall be required to use accrued vacation or leave without pay. This provision may be waived by supervisors when the employee is participating in an actual municipal or County emergency for which the employee is not being reimbursed by another agency for the activity.

519.C. Any employee participating in volunteer activities during working hours is prohibited from receiving pay as a County employee and receiving pay or reimbursement as a result of volunteer activities.

600. COMPENSATION

Compensation includes more than wages, although base salary is the largest component in compensation. Other forms of compensation include fringe benefits such as insurance and pensions.

All wages and salaries are approved by the County Commission. Wage and salary increases, when authorized, will be dependent upon the financial condition of the County. The County Commission shall set the pay schedule and policy regarding any and all wage and salary increases each fiscal year for all County employees.

601. ANNIVERSARY DATE

601.A. The anniversary date for eligible full-time employees shall be the first day and month that the employee begins employment with the County. If a part-time employee becomes a full-time employee, the anniversary date shall be the date upon which the employee became a full-time employee.

601.B. The anniversary date for Elected Officials shall be the first day and month in office. If an Elected Official subsequently becomes an employee of the County with no break in service, the established anniversary date shall remain the same.

601.C. If a current County employee is elected to a County office with no break in service, the anniversary date shall remain the same.

601.D. Time of service shall not include those periods of time a person is not in the employment of Lincoln County. If there is a break in service, the anniversary date shall be adjusted accordingly.

602. ENTRY LEVEL COMPENSATION

Under normal circumstances, compensation for a newly hired employee shall begin at the entry level. Higher than entry level compensation may be necessary for certain jobs requiring specialized job skills or technical knowledge and experience. Higher than entry level compensation may be paid when required at the request of the Elected Official/Director/Road Superintendent and with the approval of the County Manager.

603. WORK WEEK

The work week shall begin at 12:00 AM on Saturday and shall end at 11:59 PM on the following Friday evening.

604. PAY PERIODS

The "pay period" will cover a two-week period. Lincoln County employees will receive a pay check every two (2) weeks. This method of payment results in twenty-six (26) pay checks per year. Checks will be issued every other Wednesday at a time and place determined by the Finance Department. If a holiday falls on a Wednesday, checks will be issued on the following Thursday. Checks may be issued early, but only in case of emergency, and only after written approval of the County Manager.

605. TIME SHEETS

At the completion of such pay period and after review by the Supervisor, Elected Official/Director/Road Superintendent, the original time sheets must be forwarded to the Finance Department. Faxed copies will be accepted if followed by an original time sheet. Time sheets shall be signed by the employee and the immediate supervisor. Time sheets must record time worked each day in addition to holidays, time spent on vacation, sick leave, or other leave during the pay period.

606. PAY ADJUSTMENT FOR PROMOTIONS

Promoted employees will receive an increase in pay equivalent to the difference between their old and new job classifications in accordance with the current pay grade chart adopted by the Board of Commissioners of Lincoln County.

607. PAY ADJUSTMENT FOR TEMPORARY UPGRADE

Employees who are temporarily assigned to perform duties of a position graded higher than their current position for a period of more than eight (8) hours shall receive pay equivalent to the job classification performed.

608. PAYROLL DEDUCTIONS

There are several items for which mandatory payroll deductions are made from an employee's paycheck including: FICA, Federal Income Tax, State Income Tax, Medicare, Retirement Insurance, and PERA. If the employee desires to secure group insurance, the employee's portion will be deducted from the employee's paycheck. Other deductions may be made with the approval of the County Manager.

609. CHIEF DEPUTIES

Chief Deputies are the political appointees of the Elected Officials as follows: the Undersheriff Administrative Secretary to the Sheriff; and the Chief Deputies to the County Assessor, County Clerk, and County Treasurer. As such, the Chief Deputy is under the direct supervision of the Elected Official and has regular contact with such official. The Chief Deputy shall be an unclassified employee whose position and employment shall be at the sole pleasure and discretion of the Elected Official. The hiring of the Chief Deputy and the job description for such position shall not be subject to the approval or clearance of the Board of County Commissioners or any other authority within the County. Chief Deputies' salaries, with the exception of the Undersheriff, shall be a minimum of ninety-five percent (95%) of the Elected Official's salary, plus any other pay increases authorized by the Board of County Commissioners. The Undersheriff's salary shall be at one hundred percent (100%) of the Sheriff's salary.

610. OVERTIME PAY

610.A. Nonexempt Employees

Nonexempt employees as defined by the Fair Labor Standards Act, other than those involved in a public safety activity, who are required to work more than forty (40) hours in a work period of seven (7) days shall be compensated for such overtime work at a rate of one and one-half (1½) times the employee's regular rate of pay.

610.B. Actual Hours Worked

In computing the number of hours worked during the week for overtime purposes, time absent from work, such as holidays, sick leave, and annual leave, shall not be computed as hours worked, except as provided for in Section 409.C above.

610.C. Exempt Employees

Elected Officials, appointed employees, and Road Superintendent are exempt employees under the Fair Labor Standards Act and, as such, are not entitled to overtime compensation.

610.D. Overtime shall be kept to a minimum and authorized only under special circumstances by the Elected Official/Director/Road Superintendent or the County Manager.

611. GRATUITIES

611.A. The pay rate established for a position shall be the total compensation received by the employee for services rendered.

611.B. No County employee shall accept a reward, gift, or other form of compensation from any vendor, contractor, individual or organization doing business with the County or those who reasonably anticipate doing business with the County in the future. Acceptance of any reward, gift, or other remuneration will be considered just cause for disciplinary action, including termination.

611.C. This rule does not include awards given to employees under a County-sponsored employee's suggestion system or other special incentive programs established by the Board of County Commissioners or civic inspired awards.

612. PAY FOR ACCUMULATED SICK LEAVE AT RETIREMENT

Employees eligible for retirement will be reimbursed for 50% of the accumulated sick leave time if a person has been in the employ of Lincoln County for a minimum of fifteen (15) consecutive years prior to retirement. In no case shall reimbursed sick leave exceed 240 hours.

613. SICK LEAVE INCENTIVE PAY

Classified employees who have completed no less than fifteen (15) years of service with the County and who retire, or who are permanently laid off due to reduction in force after fifteen (15) years of service, may receive compensation for up to 50% of accumulated unused sick leave time not to exceed 240 hours. This compensation may be taken either as leave with pay or as a monetary incentive figured on the basis of earnings at the time of separation from employment.

614. HOLIDAY PAY

614.A. Employees who work eight (8) hour shifts are entitled to eight (8) hours of straight time pay for a holiday. Employees who work ten (10) hour shifts are entitled to ten (10) hours of straight time pay for a holiday.

614.B. In order to receive pay for a designated holiday, employees shall be in a paid status on their regularly scheduled work day immediately preceding and following the holiday, or must have worked on the stated holiday.

614.C. An employee on leave without pay during the regularly scheduled workday before or after a holiday shall not receive pay for that holiday.

614.D. When an employee is required to work on a designated holiday, the employee will receive pay at straight time for the actual hours worked in addition to holiday pay.

615. JURY DUTY PAY

Pay while serving as a juror shall be authorized only for those days that the employee was scheduled to work.

616. PAY FOR COURT APPEARANCE

616.A. If an employee is required to testify in court on a job-related case, the employee will receive pay.

616.B. If an employee is called to testify on behalf of the County on a scheduled day off, the employee will be paid regular pay or overtime, as appropriate, upon proof of said Court appearance.

617. PAY FOR APPEARANCE AT PERSONNEL GRIEVANCE HEARING

617.A. If an employee is required to testify in a personnel grievance hearing during regularly scheduled work hours the employee will receive pay.

617.B. If an employee is called to testify on a scheduled day off, the employee will be paid regular pay, overtime pay, as appropriate.

700. EMPLOYEE DISCIPLINE

701. BASIS FOR EMPLOYEE DISCIPLINE

701.A. Just Cause Discipline. An employee may be disciplined for violations of work rules, policies, poor performance, misconduct, or inappropriate behavior. A classified employee shall only be disciplined for just cause. Just cause is defined as any conduct, action, or inaction arising from, or directly connected with an employee's work which is inconsistent with the employee's obligation to the County.

701.B. The County reserves the right to exercise judgment and render disciplinary action or dismissal, as determined appropriate, based on the circumstances of each case.

702. DISCIPLINARY ACTION

702.A. Any supervisor may take disciplinary action against an employee under the supervisor's authority. Disciplinary action must be consistent with governing laws, departmental policies, and this Personnel Policies and Procedures Manual.

702.B. Disciplinary actions will be taken without regard to race, age, religion, color, national origin, sex, physical or mental handicap, or medical condition. Copies of any documented disciplinary action will be placed in the employee's file with the signature of the recipient acknowledging receipt of discipline.

703. CONSULTATION WITH COUNTY MANAGER

Suspension, demotion and dismissal requires consultation by the supervisor with the County Manager prior to implementation. Whenever such consultation is not practical due to urgency or other pressing reasons, the supervisor may place the employee on administrative leave with pay pending a review of the circumstances by the County Manager.

704. PROGRESSIVE DISCIPLINE

Progressive discipline will be administered when it is deemed appropriate by the supervisor. The step of the progressive discipline depends on the severity of the infraction and the employee's previous work history. Therefore, the initial disciplinary action may be dismissal, where appropriate. The County reserves the right to exercise judgment and render disciplinary action or dismissal, as determined appropriate based on the circumstances of each case.

704.A. Verbal Reprimand

A verbal reprimand is used for minor infractions to inform the employee that the employee's actions, behavior or conduct needs to change. Normally the supervisor will keep written notations of verbal reprimands, and these will not be placed in the employee's personnel file.

704.B. Written Reprimand

1. An employee may receive a written reprimand for a single offense because the deficiency or infraction is a greater degree than that for which a verbal reprimand may be used, or if a verbal reprimand failed to correct the employee's behavior.
2. Written reprimands to an employee shall be placed in the employee's personnel file by the employee's supervisor after providing the employee with a copy of the statement. The employee will be asked to acknowledge having read the reprimand by signing the document. The employee's signature does not necessarily indicate concurrence with its content. If the employee refuses to sign the disciplinary action, the supervisor will note the refusal on the disciplinary action form and file the form in the employee's personnel file.
3. A written reprimand to a classified employee is grievable through the informal complaint procedures identified in this Personnel Policies and Procedures Manual.

704.C. Suspension

1. An employee may be suspended without pay for a single offense because the deficiency or infraction is a greater degree than that for which a written reprimand may be used, or if previous discipline failed to correct the employee's behavior. Such suspension will not exceed thirty (30) working days.
2. Record of the suspension shall be placed in the employee's personnel file by the employee's supervisor after providing the employee with a copy of the personnel action form.
3. A suspension of a classified employee is grievable through the formal Grievance procedures in this Personnel Policies and Procedures Manual.

704.D. Dismissal

1. An employee may be dismissed for a single major offense because the deficiency or infraction is a greater degree than that for which a suspension may be used, or if previous discipline failed to correct the employee's behavior. Dismissal of a classified employee must be approved by the County Manager.
2. Dismissal of a classified employee is grievable through the formal grievance procedures in this Personnel Policies and Procedures Manual.

705. UNLAWFUL ACT

No employee will be disciplined for refusing to perform an unlawful act.

706. PRE-DISCIPLINARY PROCEDURES

706.A. The employee's supervisor shall present the employee with written notification of intent to suspend, demote, or dismiss at least five (5) working days in advance of the proposed discipline. The notice of anticipated discipline shall be hand-delivered to the employee.

706.B. The written notification must identify the charges, the basis of the charges, the proposed discipline, and the employee's right to a pre-disciplinary hearing. The notification shall establish the date, time, and place of the pre-disciplinary hearing. The employee may choose not to participate in the pre-disciplinary hearing.

706.C. The appropriate supervisor shall meet with the employee. The supervisor, the employee, and/or a representative may attend the pre-disciplinary hearing. At the pre-disciplinary hearing, the employee shall have the opportunity to respond to the charges.

706.D. The hearing will be held within five (5) working days of the notice to the employee, unless a continuation is mutually agreed upon by both parties in writing.

706.E. The County Manager will evaluate the information provided by the employee at the pre-disciplinary hearing and will issue a decision in writing within ten (10) days following the hearing. The written decision shall include the persons present at the pre-disciplinary hearing and the determination. The written decision shall be delivered directly to the employee.

707. ADMINISTRATIVE LEAVE

In cases where County property, other employees, or citizens are at risk as a result of the employee's actions, an Elected Official/Director/Road Superintendent, or County Manager may place an employee on administrative leave with pay until a pre-disciplinary hearing is held and the decision is rendered.

800. GRIEVANCE AND COMPLAINT PROCEDURES

A grievance is as a written formal complaint of an employee concerning actions taken by management which result in suspension, demotion, dismissal, or an actual loss in pay.

801. INITIAL STEP IN FORMAL GRIEVANCE PROCEDURE

Within ten (10) days of receipt of the written decision of the supervisor, the grievant must notify the County Manager of intent to pursue a post-disciplinary hearing by submitting a written request for a grievance hearing to the County Manager's office.

802. POST-DISCIPLINARY APPEAL

802.A. Within sixty (60) days of the request for grievance the County Manager shall schedule a grievance hearing by a personnel hearing officer.

802.B. At the hearing, the grievant shall have an opportunity to present witnesses, physical evidence, and cross-examine the County's witnesses. The grievant and the Elected Official/Director/Road Superintendent may be represented by legal counsel or representative.

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802.C. The parties must agree in writing to any postponement of the grievance hearing beyond sixty (60) days.

802.D. An employee may elect any person to serve with him in the presentation of a grievance.

802.E. Employees who have filed grievances and employees required to give testimony as witnesses in a grievance hearing shall be given the necessary time off.

803. PERSONNEL HEARING OFFICER

803.A. The personnel hearing officer shall be hired by the County Manager.

803.B. The personnel hearing officer shall be an attorney who is a member of the New Mexico Bar Association or a person experienced in arbitration.

803.C. The personnel hearing officer shall provide services under a contract with the County and shall not be considered an employee of the County for any purpose. The term of a contract shall be determined by the County Manager.

803.D. A personnel hearing officer shall not be actively involved in partisan political activities or the political affairs of Lincoln County.

803.E. All personnel grievance hearings will be conducted in private.

804. PERSONNEL HEARING OFFICER'S DUTIES AND RESPONSIBILITIES

804.A. The personnel hearing officer may conduct pre-hearing conferences in order to obtain information necessary to the issuance of a pre-hearing order.

804.B. The personnel hearing officer may consolidate cases in which two (2) or more grievants have cases containing identical or similar issues or to expedite final resolution of the cases, provided that such consolidation would not adversely affect the interest of the parties.

804.C. The personnel hearing officer shall operate the hearings in accordance with common law evidentiary standards applicable to administrative hearings. The hearings shall be conducted in an orderly and informal manner with adherence to the rules of evidence.

804.D. The personnel hearing officer may admit and consider any evidence, including affidavits, which is the type of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The personnel hearing officer shall exclude incompetent, immaterial, irrelevant, or unduly cumulative testimony. Documentary evidence may be received in the form of copies or excerpts unless the source of the information or other circumstances indicate lack of trustworthiness.

804.E. The personnel hearing officer shall determine whether the just cause standard was met in order to discipline the employee. The hearing officer shall provide the parties with written finding of facts and conclusions of law within thirty (30) days.

804.F. The personnel hearing officer may bar from the hearing room any person who is disruptive.

1. A grievant who is disruptive may be barred from the specific hearing.

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2. A disruptive person other than a grievant may be prohibited from appearing before a County personnel hearing officer for a period of up to twelve (12) months.

3. The County personnel hearing officer must provide written notice and show good cause prior to barring a disruptive person for any period of time up to a twelve (12) month period.

804.G. The personnel hearing officer shall not participate in any adjudicatory proceeding if, for any reason, the personnel hearing officer cannot provide a fair and impartial hearing to either party.

804.H. All decisions rendered by the Personnel hearing officer in accordance with the appeal and grievance provisions of this Personnel Policies and Procedures Manual shall be considered final; and no appeal from said decisions shall be entertained or considered by any body of Lincoln County, whether elected or appointed.

805. APPEAL TO DISTRICT COURT

805.A. The decision of the Hearing Officer may be reviewable in District Court:

1. where the decision is arbitrary or capricious and is not supported by substantial evidence;
2. where the decision is made in violation of applicable constitutional provisions or is otherwise illegal; or
3. where the decision is in excess of the statutory authority or jurisdiction of the Hearing Officer.

805.B. Appeal of the decision of the Hearing Officer to District Court shall be filed within thirty (30) days of the final adverse decision.

806. INFORMAL COMPLAINTS

An employee may address complaints regarding working conditions and other work-related problems. The informal complaint should not represent petty or minor differences due largely to routine office conflicts nor office "politics," but should reflect major conflicts related to matters of major equity, fairness and/or a written reprimand.

806.A. Procedures

1. An employee may discuss any non-grievable action, such as written reprimands or working conditions with the employee's immediate supervisor in an attempt to work out a solution.
2. If the employee is not satisfied with the proposed solution, the employee may address the problem with either the respective Elected Official or County Manager, as appropriate.

806.B. Decision

1. The decision of the respective Elected Official or County Manager will be final.
2. An employee who receives a written reprimand and is dissatisfied with the decision of the respective Elected Official or County Manager may submit a written response to the reprimand. The response must be submitted within ten (10) days of the decision of the respective Elected Official or County Manager.

900. CLASSIFICATION OF POSITIONS

901. CLASSIFICATION PLAN

The Human Resources Director shall develop, maintain, and administer the County's Classification Plan. The plan shall consist of position descriptions for all classified positions in existence at any one time as listed in the Compensation Plan. Position descriptions shall be classified and grouped so as to provide correlation with respect to duties, authority, responsibility, and labor market dictates.

902. POSITION DESCRIPTIONS

902.A. Contents

The Personnel Department shall maintain the official written description of the duties, responsibilities, authority, educational, and experience requirements of each position in the Classification Plan. Each description shall identify the assigned classification, title, characteristics of the classification, example of duties, education and experience requirements, and any knowledge, abilities, skills or licenses required to perform the essential duties of the respective position.

902.B. Procedures

1. The respective Elected Officials/Director/Road Superintendent shall provide the Human Resources Director with a comprehensive description and/or information relating to duties for each position in their respective departments.
2. The respective Elected Officials/Director/Road Superintendent shall notify the Human Resources Director of significant change in duties, responsibility, authority, or work assignments for positions under their supervision.
3. The Human Resources Director shall investigate and audit the actual or suggested duties and shall recommend a final job description and classification for the position, either by allocation to an appropriate class and salary grade.
4. If the creation of a new classification is necessary, it shall be presented to the County Manager, who shall make a recommendation and present it to the Board of County Commissioners for final decision.
5. Any class specifications and position descriptions in existence at the time of adoption of these Personnel Policies and Procedures shall remain in effect until amended or repealed by the proper procedure. The establishment of new or revised classes, or the abolishment of existing classes shall be recommended by the County Manager and approved by the Board of County Commissioners.
6. No person may be appointed or promoted in any capacity in the classified County service until a position has been properly assigned to the appropriate class.
7. When a class specification or job description is revised or otherwise changed, a full-time Classified or Probationary employee in that class or position shall continue employment in the revised class or position with the same status in effect prior to the revision.

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1000. MISCELLANEOUS

1001. EMPLOYEE RECORDS

1001.A. Personnel Files and Retention

The Elected Official/Director/Road Superintendent is responsible for maintaining a current and accurate file on each employee under the direction of such Elected Official/Director/Road Superintendent. The official personnel file shall be maintained in the County Manager's Office.

1001.B. Information Included in Each Employee File

The following information is required to be maintained within each employee's personnel file:

1. name of employee, in full;
2. home address including zip code;
3. date of birth, if under 19;
4. sex;
5. occupation (job classification);
6. daily and weekly hours of work; and
7. regular hourly rate of pay.

1001.C. The following must also be maintained and filed in each employee's personnel file:

1. employee's anniversary date (day, month and year employee reported to employment);
2. documentation regarding the employee's status - reprimands, commendations, legal actions, resignations, and such other documentation that is relevant;
3. relevant medical information that may affect the health and welfare of other employees. Medical information must be kept in a separate file.
4. All employees hired after November 6, 1986, must have on file an Employee Eligibility Verification. (I-9)

1001.D. Confidentiality

Personnel files will be maintained as confidential and information will be revealed to only those persons employed by the County who have a reasonable "need to know."

1001.E. Public Records

Salary ranges, position classifications, and basic employment information shall in all cases be made available to the public on request at reasonable times.

1002. SAFETY

The County will set up and enforce such safety standards and rules as are deemed necessary for safe operations. Employees will be expected to abide by County safety rules and procedures and consistent violation of same will result in disciplinary action.

1002.A. Occupational Safety and Health Act

The New Mexico Environmental Improvement Division, Occupational Safety and Health Unit, is responsible for enforcing the provisions of the Occupational Safety and Health Act of 1970 (OSHA) upon units of local government. This agency has the power to inspect County operations and assure compliance with the Act and will promulgate such rules and procedures for employees as to establish and maintain compliance. Willful and/or repeated violations of County safety rules and procedures will be grounds for disciplinary action.

1002.B. Unsafe Conditions

Unsafe conditions existing in the work environment shall be reported immediately to the supervisor in order that corrective action can be taken. Machinery and/or equipment which is unsafe to operate will be labeled and will not be used until necessary repairs have been made.

1002.C. Personal Protective Equipment

1. Equipment for certain jobs will be prescribed by supervisors and must be worn by employees during the duration of the job which requires protective equipment. Failure to do so, when it has been prescribed, will be grounds for disciplinary action, including dismissal.
2. For jobs requiring personal protective equipment, the required equipment shall be issued to the individual employee and the employee shall be responsible for same until it is returned at the completion of the job.

1002.D. Safety Committee

A safety committee may be selected by the Lincoln County Commission. They will meet quarterly to discuss any injuries or accidents. A safety chairman will be required to check for hazards and to make a report to the committee when it meets.

1003. PERFORMANCE EVALUATION

A supervisor may evaluate an employee under the supervisor's authority on an annual basis or more frequently, as necessary.

1003.A. Special Evaluations.

Performance evaluations may be conducted on a non-scheduled basis if the employee's job performance has changed in a way which may place the employee's continued tenure in jeopardy, such as:

1. a change of employment status;
2. a class change; or
3. demotion or suspension.

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1003.B. Unsatisfactory Evaluation

In the event a classified employee receives an overall evaluation that is unsatisfactory, such employee shall be provided with written information in the evaluation as to specific areas of deficient performance and steps necessary for improvement. Should the employee fail to correct the deficiency within a set time period (not to exceed 90 days), the employee may be subject to disciplinary action, including dismissal. Employees who receive an overall evaluation of unsatisfactory may be re-evaluated at any time within ninety (90) days.

1003.C. Employee Response

1. If an employee disagrees with the evaluation, the employee may write a response which will be placed in the employee's personnel file. Employee written response to the performance and development plan which will be attached to the performance and development plan. The response must be submitted within ten (10) days of the evaluation.

2. Unsatisfactory performance evaluations shall not be grievable.

1004. HOURS OF COURTHOUSE OPERATIONS

The normal hours of Courthouse operations shall be 8:00 AM to 5:00 PM (Monday through Friday) respectively. All offices will remain open over the noon hour. This will be accomplished by staggering the lunch hour of Elected Officials/Directors and employees. Different hours may be established for departments with the approval of the Board of County Commissioners.

1005. COURTHOUSE CLOSING

The County Manager shall be the only authority to release any employee earlier than the regular closing hours of the Courthouse and its departments, or to delay the regular time to report to work due to inclement weather conditions or other unusual circumstances. The County Commission or County Manager or designee has authority in closing due to inclement weather conditions and as to which employees shall be released.

Section 1. Conflict Clause.

Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 2. Severability Clause.

In the event any Section, part or sub-part of this Ordinance shall be determined to be in violation of the Constitution or Statutes of the State of New Mexico by a Court of competent jurisdiction, that Section shall be stricken and be thereafter unenforceable. Such determination shall not invalidate the application or enforcement of the remaining Sections.

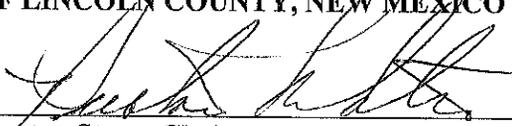
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Section 3. Effective Date and Repeal of Ordinance 2015-04.

This Ordinance shall take effect thirty days after recording in the Public Records of Lincoln County, at which time Ordinance No. 2015-04 is hereby repealed.

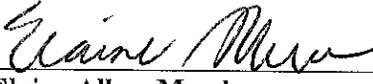
PASSED, APPROVED, and ADOPTED this 21st day of March, 2017.

**BOARD OF COUNTY COMMISSIONERS
OF LINCOLN COUNTY, NEW MEXICO**

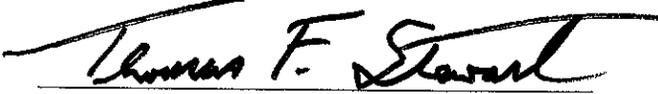


Preston Stone, Chair

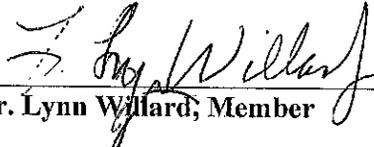
Dallas Draper, Vice Chair



Elaine Allen, Member

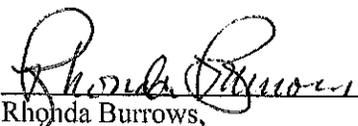


Thomas F. Stewart, Member



Dr. Lynn Willard, Member

Attest:



Rhonda Burrows,
Lincoln County Clerk

