

Davidson County North Carolina



HUMAN RESOURCES RESOLUTION

**COUNTY OF DAVIDSON, NORTH CAROLINA
HUMAN RESOURCES RESOLUTION**

**ADOPTED AND APPROVED BY
BOARD OF COUNTY COMMISSIONERS
EFFECTIVE DATE: December 1, 2019**

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APPROVED AND ADOPTED ON: November 12, 2019

HUMAN RESOURCES RESOLUTION
DAVIDSON COUNTY, NORTH CAROLINA

Be it resolved by the Board of County Commissioners of Davidson County that the following policies and procedures shall govern the appointment, classification, salary, promotion, demotion, dismissal and conditions of employment of the Employees of Davidson County.

Be it further resolved that Davidson County is an Equal Opportunity, Affirmative Action Employer, and hires only United States Citizens and lawfully authorized alien workers.

INTRODUCTION

This Human Resources Resolution is designed to provide Employees and management with information about working conditions, benefits, and the policies that govern employment with Davidson County.

All Employees, Supervisors, Managers and Directors are encouraged to read this Employee Resolution carefully, as it is a valuable reference for understanding employment with Davidson County. This Resolution supersedes and replaces any and all prior personnel resolutions and the policies and procedures they contained. It also supersedes and replaces any inconsistent verbal or written policy statements. Unless specifically approved in writing by the County Manager, this Resolution supersedes and replaces any departmental policy that is inconsistent with these policies.

The County may change the policies in this Resolution as deemed necessary in its sole discretion from time to time. The provisions of this Resolution do not create a contract for employment for any specific period. This Resolution does not create contractual obligations with respect to any matters it covers.

Employment at the County for most Employees is “at-will,” which means that Employees and the County have the right to terminate employment at any time for any reason, with or without cause or notice. Only the Board of Commissioners can change at-will employment through a signed, written contract.

It is the intention that this Resolution will provide useful and helpful information to Employees and management. Use of it is encouraged to resolve questions about employment with Davidson County. If there are questions regarding the application of policy to a particular situation, please feel free to contact Human Resources to resolve it.

Receipt of Human Resources Resolution

This is to acknowledge that I have received access to the Davidson County Human Resources Employee Resolution and agree to comply with the policies it contains. I understand that the policies in this Resolution may require changes from time to time and understand that the County reserves the right to revise, delete and add to the provisions of this Resolution at any time.

I understand that this Resolution is not intended to create contractual obligations with respect to any matters it covers. I also understand that the Resolution does not create a contract guaranteeing that I will be employed for any specific time period. I understand that I am an at-will Employee, which means that either the County or I can terminate my employment at any time and for any reason unless the North Carolina Human Resources Act covers me. I understand that if I am in a position covered by the N.C. Human Resources Act that the procedures under that law and relevant policies are applicable to myself. I also understand that only the Board of Commissioners can change at-will employment with the County, in a signed, written contract.

I understand that although this Resolution refers to and generally describes current benefit plans provided by the County, however, the actual benefit plan documents and summary plan descriptions are controlling, and I must refer to these documents in the event of any benefits' issues or questions.

I understand that I am responsible for reading, understanding, and complying with the provisions of this Human Resources Resolution.

EMPLOYEE SIGNATURE: _____

EMPLOYEE PRINTED NAME: _____

DATE OF SIGNATURE: _____

**COUNTY EMPLOYEES SUBJECT TO PROVISIONS OF
N.C. GENERAL STATUTES CHAPTER 126
“THE STATE HUMAN RESOURCES ACT” AND ELECTED OFFICIALS**

Certain provisions of the State Human Resources Act [N. C. General Statutes Chapter 126] and policy/administrative rules adopted by the N.C. State Human Resources Commission cover Employees of the Davidson County Departments of Health and Social Services. That law and the administrative rules implementing it cover the following areas of employment: disciplinary action and dismissal; recruitment and selection; classification and compensation; and grievances and appeals. Employees of the Departments of Health and Social Services are not subject to the following Chapters of this policy: XI - Disciplinary Action, Suspension, and Dismissal; XII - Grievance Procedure/Discrimination, Harassment, Retaliation Complaint Procedure. Such Employees may not be subject to all provisions of this Resolution.

Employees of Davidson County Departments of Health and Social Services are otherwise covered by and governed by the policies found in this Human Resources Resolution. If there is a conflict between any policy in this Resolution and a relevant provision of the State Human Resources Act or a provision of any administrative rules adopted by the N. C. Human Resources Commission, the State Human Resources Act or administrative rule shall control.

The Davidson County Sheriff and the Register of Deeds are elected officials and as such, are not subject to the provisions of this Resolution. The employees of the Sheriff’s Office and the Register of Deeds Office are subject to provisions of this Resolution as determined by the Sheriff and the Register of Deeds.

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CHAPTER I

ORGANIZATION OF HUMAN RESOURCES SYSTEM

Purpose

The purpose of this Resolution is to establish a human resources system that will allow the County to recruit, select, develop and maintain an effective and responsible work force. This Resolution is adopted under the authority of Chapter 153A and Chapter 126 of the General Statutes of North Carolina.

Definitions Used in This Chapter

At-Will Employee - All County Employees are considered at-will Employees for the length of their service with the County, except for Employees of the Departments of Health and Social Services.

General County Employee - A County Employee assigned to a department not subject to the North Carolina Human Resources Act.

Regular Full-time Employee - This is an Employee who has completed at least twelve (12) months of continuous County service. A regular full-time Employee is eligible to use vacation accrual after completing three (3) continuous months of County service.

Intern - An intern is an individual coming to County service as an educational opportunity. Interns are not Employees and are not paid, although they may be reimbursed for expenses.

Coverage

All Employees in the County's service shall be subject to this Resolution, unless exempted elsewhere.

The following officials and Employees are exempt from the provisions of this Resolution:

- Elected officials
- County Manager
- County Attorney

Employees of the North Carolina Agricultural Extension Service shall be subject to the provisions of this Resolution except for Chapters IV, V, VI, and VIII.

The Supervisors of Elections and all Employees of the Davidson County Board of Elections are subject to the provisions of this Resolution as determined by the Davidson County Board of Elections.

The Sheriff and the Register of Deeds are exempt from the provisions of this Resolution. Employees of the Davidson County Sheriff's Office and the Davidson County Register of Deeds office are subject to the provisions of this Resolution at the discretion of the Sheriff and the Register of Deeds.

Responsibility of Board of Commissioners

The Board of Commissioners shall establish personnel policies and rules including the classification and

pay plan and shall:

- Make and confirm the appointment of the County Manager
- Approve the appointment of Department Directors by the County Manager consistent with this Human Resources Resolution
- Make and confirm such other appointments when required by law

Responsibility of County Manager

The County Manager shall be responsible to the Board of Commissioners for the administration of the personnel program. Except for Department Directors, County officers, Employees and agents who are elected by the people or whose appointment is otherwise provided by law, the County Manager shall be permitted to appoint, suspend, and remove all County officers and Employees, without first securing the approval of the Board of Commissioners. The County Manager shall appoint, suspend, and remove all Department Directors, subject to the Board of Commissioners approval. The County Manager shall make appointments, dismissals and suspensions in accordance with G.S. 153A-82 and Chapters IV, V, and XI of this Human Resources Resolution.

Responsibility of Human Resources Director

The County Manager shall appoint a Human Resources Director who shall assist in the preparation and maintenance of the position classification plan and the pay plan, and perform such other duties in connection with modern Human Resource programs and activities as the Manager shall require, such as:

- Apply, interpret, and administer this Human Resources Resolution and the policies adopted thereunder, as directed by the County Manager;
- Establish and maintain records of all persons in the County service, setting forth each officer and Employee, class title of position, pay or status history and other relevant employment data in compliance with GS 153A-98;
- Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the County;
- Encourage and exercise leadership in the development of effective human resources administration within the various County departments, and to make available the facilities of the Human Resources' office to this end;
- Investigate, upon request of the County Manager, the operation and effect of this Resolution and of the policies made thereunder, and report his/her findings and recommendations to the Manager;
- Make such recommendations to the Manager regarding improvement of the human resources functions, as well as any improvements or revisions to the human resources system, as he/she may consider appropriate;
- Issue and publish any necessary administrative directives, supplements, interpretations, and necessary prescribed forms and reports for any personnel matters for the proper functioning, maintenance, and documentation of the policies and procedures established by and in accordance with this Resolution.

- Assist Department Directors in screening and interviewing all applicants for vacancies and/or new positions approved by the Board of County Commissioners.

All matters dealing with Human Resources shall be sent to and dealt with by the Human Resources Director or his/her designee.

Responsibility of Employees

Understand and comply with this Human Resources Resolution and all written County and applicable departmental policies. If an Employee is unsure about a policy or procedure, it is the Employee's responsibility to request/obtain clarification from the Human Resources Director, Department Director, or Supervisors as appropriate.

Equal Employment Opportunity Statement

Davidson County is committed to providing equal employment opportunity for all Employees and applicants on the basis of merit and without regard to race, color, religion, sex, age, national origin, disability, military service or other protected status. Every effort will be made to ensure that every term, condition or privilege of employment with Davidson County, including recruitment, selection, training, promotion, transfer, and benefits, are administered in conformance with Federal statutes and regulations governing equal employment opportunity. Davidson County will not condone, permit or tolerate any form of unlawful discrimination, harassment or retaliation by or against our Employees.

CHAPTER II

CONDITIONS OF EMPLOYMENT WITH DAVIDSON COUNTY

Definitions Used in This Chapter

Business Casual Attire - Appropriate business casual dress typically includes slacks or khakis, dress shirt or blouse, open-collar or polo shirt, optional tie or seasonal sport coat, a dress or skirt no shorter than one inch (1") above the knee, a tailored blazer, knit shirt or sweater, and loafers or dress shoes that cover all or most of the foot.

Conflict of Interest - Situation created when the interests or concerns (actual or potential) of an individual may be seen as competing with the interests or concerns of the County. In addition, the individual's judgment or conduct might be affected, or might reasonably appear to be affected.

Flip Flops - A flip flop consists of a flat sole that is held loosely on the foot by a straight flap or Y-shaped strap that passes between the big toe and the second toe to the sides of the foot. Sandals consist of a sole that is held firmly on the foot by straps or thongs that pass over the instep and are secured at the ankles. A sandal may have flat soles or it may have heels.

FLSA Workweek - For the purpose of determining when overtime work has been performed, the workweek for Davidson County begins at 12:00 am Sunday and runs through 11:59 pm on Saturday.

Immediate Family - For the purpose of this Resolution, "immediate family" shall be defined as wife, husband, mother, father, guardian, son, daughter, brother, sister, grandchildren and grandparents, aunts, uncles, nieces, and nephews as well as the various combinations of half, step, in-law, and adopted relationships that can be derived from those set out above.

Secondary Employment - Employment that includes self-employment, contractual work, or providing services to an employer other than the County which results in compensation, profits, commissions, or other benefits.

Work Appropriate Attire - Due to the type of work involved, Employees may be required to wear uniforms, clothing that deviates from the Business Casual Attire definition, special protective equipment, or attire that identifies them as an Employee of Davidson County.

Workweek - Davidson County's basic workweek is forty (40) hours per week.

Hours of Work

The standard hours of work for all Employees of the various departments of the County shall be from 8:00 am until 5:00 pm. Monday through Friday. Exceptions may be made by Department Directors and approved by the County Manager when alternative schedules facilitate the provision of County services. Department Directors shall work those hours necessary to ensure the satisfactory performance of their departments.

Employees are expected to be in their positions of duty and ready to begin their work at 8:00 am, except where an exception to the normal schedule has been made. If the Employee is more than 30 minutes late,

this will be charged as vacation leave. (It is the responsibility of the Department Director to see that this time is accounted for properly.) Consistent tardiness will result in disciplinary action or dismissal.

When the activities of a particular department require some other schedule to meet work needs, the County Manager may authorize a deviation from the normal schedule.

Gifts and Favors

No official or Employee of the County shall accept any gift, whether in the form of a service, loan, thing or promise from any person, firm or corporation, who in the Employee's knowledge, is interested directly or indirectly in any manner whatsoever in business dealings with the County.

No official or Employee shall accept any gift, favor or thing of value that may tend to influence that Employee in the discharge of duties.

No official or Employee shall grant in the discharge of duties any improper favor, service or thing of value.

All County Employees shall refuse gratuities in the form of money.

Restriction on Political Activity of County Employees

Every Employee of Davidson County has a civic responsibility to support good government by every available means and in every appropriate manner. Any Employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and Laws of the United States of America and by the Constitution and Laws of State of North Carolina.

While on duty, no Employee of Davidson County shall:

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

Employees subject to the North Carolina Human Resources Act and Employees in certain federally aided programs are subject to the Hatch Act as amended in 2013. This Federal Act prohibits candidacy for elective office in a partisan election by Employees in positions that are financed by Federal funds.

Any violation of this section shall subject such Employee to appropriate disciplinary action, up to and including dismissal.

Secondary Employment

Employment with Davidson County will take precedence over other occupational interests of Employees. This includes any and all outside employment for salaries, wages, or commission and all self-employment. Such secondary employment must not conflict with an Employee's work with Davidson County.

All current secondary employment (as of the date of approval of this Resolution) must be reported to the Employee's Department Director, who will review such employment and approve or deny its continuation. The Department Director will forward to Human Resources all instances of approved secondary employment.

New requests for approval of secondary employment shall be made to the Employee's Department Director, who will review such employment and approve or deny the request. The Department Director will forward to Human Resources all instances of approved secondary employment.

The Department Director shall report any potentially conflicting employment to the County Manager. Conflicting outside employment will be deemed detrimental personal conduct and shall subject such Employee to disciplinary action, up to and including dismissal from employment.

Limitation of Employment of Relatives

The employment of close relatives within the service of the County, within the same department or unit/section of a division, at the same time, is to be avoided.

- Two (2) members of an immediate family shall not be employed full time or part time within the same department or unit/section or division of a department, if such employment will result in one supervising a member of his/her immediate family member, or where one member occupies a position of influence in the position, salary administration, management, or personnel considerations. This will apply to all Employees employed after the adoption of this section.
- For the purposes of this Resolution, the term "immediate family" shall be understood to refer to that degree of closeness of relationship that would suggest that problems might be created within the work unit or that the public's philosophy of fair play in providing equal opportunity for employment to all qualified individuals may be violated. For the purpose of this Resolution, "immediate family" shall be defined as wife, husband, mother, father, guardian, son, daughter, brother, sister, grandchildren and grandparents, aunts, uncles, nieces, and nephews as well as the various combinations of half, step, in-law, and adopted relationships that can be derived from those set out above.
- The Board of Commissioners shall approve the appointment by the Sheriff or the Register of Deeds of a relative by blood or marriage of nearer kinship than first cousin as required by Chapter 153A-103(1) of the North Carolina General Statutes.

Any exceptions to this policy require Department Director justification/recommendation and County Manager approval. In no case will exceptions be made when an Employee is in the Supervisory chain-of-command of an immediate family member or has any influence over the other's employment, salary, or any other personnel consideration.

Substance Abuse

Davidson County will not tolerate the unlawful manufacture, distribution, possession, or use of controlled substances or illegal drugs, and the misuse of alcohol is prohibited for all Employees.

The policy and procedures pertaining to Substance Abuse are contained in Chapter X, Substance Abuse.

An Employee charged and convicted of a DWI shall forfeit all rights to driving a County owned vehicle during the entire duration of his/her license revocation, even though he/she may have been granted driving privileges.

Dress Code for County Employees

The general dress code for Davidson County Employees is “business casual” attire. Some County Employees, due to the nature of their work, may be required to wear uniforms or other clothing that differs from business casual attire. For these specific positions, the Department Director may establish a dress code that best suits the required daily or occasional duties of the position. Due to safety reasons, at no time are flip flops (or sandals with no ankle strap) allowed as acceptable attire during work hours.

Many departments recognize Friday as dress-down day. For dress-down days and days of inclement winter weather, tasteful and appropriate jeans, sneakers, and Davidson County logo tee shirts and sweatshirts are acceptable. (Tee shirts and sweatshirts with logos other than Davidson County are not acceptable.)

It is the responsibility of Supervisors to inform Employees of appropriate attire for the workplace. An Employee who comes to work dressed inappropriately shall be required to leave and return with appropriate clothing; time spent for this shall be charged to vacation leave.

Should an Employee repeatedly have problems with appropriate work clothes, the Supervisor should consult Human Resources regarding disciplinary action.

Davidson County Social Media Policy

Purpose

This policy is intended to ensure that Davidson County’s social networking sites are secure and appropriately used and managed. It is, therefore, designed to protect Davidson County Employees and ensure consistency. This policy is not meant to address one particular form of social media, rather social media in general, as technology will inevitably change and new tools will emerge.

Scope

This policy applies to Employees, contractors, consultants, temporaries, and others conducting business on behalf of Davidson County.

Throughout this policy, any reference to “Employees” shall also refer to any person conducting business on behalf of Davidson County.

Role of Social Media

Social media facilitates interactive information sharing, interoperability, and collaboration to a large, loyal user base. As a result, they are increasingly important as outreach and communication tools for government entities including at the local level.

In order to make use of these communication outlets, the County Manager's Office will work with Information Technology (IT) department and Department Directors to carefully choose which types of social networks make the most sense for the type of information that needs to be disseminated. Emphasis will be given to tools that provide more information across multiple outlets to the broadest audience.

The application of social media within Davidson County must at all times be professional and used in a way that maintains the security of the network and minimizes risk.

Implementation of New Social Media

Every department should have a clear communication strategy and should take the time to determine if and how social media fits into this strategy. Persons designated by the Department Director should direct this activity and, in doing so, should consider the following questions when determining whether use of social media is appropriate:

- Who is the media meant to reach? Is this my target audience?
- What is the department attempting to communicate? Can it be effectively communicated using this media?
- Does the department want to elicit feedback from citizens? What media is best suited to allow for the type of interaction desired?
- Who is responsible for managing the department's account? Will this person represent the department appropriately? Have they been properly trained in the use of social media?
- What are the department's responsibilities regarding collection and records retention including preservation of social media content? What does the records retention schedule require for these records? How will we collect and store the media content?

When a department decides to use a form of social media that is deemed beneficial to its mission it should first establish Employee boundaries for using the service. It is important for department Supervisors to communicate expectations of appropriate usage for the media within the workplace.

The Assistant County Manager will direct this activity. The Assistant County Manager will consult with IT to determine the best method to archive the content. Any Davidson County social networking usage implemented prior to this Resolution should be reviewed by the Assistant County Manager to make sure it is brought into compliance with these guidelines.

In summary, the Assistant County Manager will:

- Request account creation for social media site from IT
- Consult with IT to ensure social media material is archived including providing a list of all social media URLs and contact information

- Consult with IT on the best archival method for the content; if one cannot be provided, another communication outlet will be used
- Review social media Web sites for policy compliance and notify IT of any necessary deactivations or removals

Davidson County IT will be responsible for creating the social media accounts and will maintain a list of all social networking application domain names in use, the names of all Employee administrators of these accounts, as well as, the associated user identifications and passwords currently active within their respective departments.

The IT department will:

- Create generic departmental email account(s)
- Create all social media accounts to ensure password security guidelines are met in accordance with the Davidson County IT Policy
- Maintain a list of social media domains, active account logins and passwords
- Change passwords if Employee is removed as administrator in order to maintain Davidson County control
- Deactivate accounts where unauthorized password changes have occurred
- Determine if an archive method for the social media outlet requested is feasible and, if possible, provide the Assistant County Manager with archive method options
- Review social media Web sites for policy compliance and notify Assistant County Manager of any necessary deactivations or removals
- Perform deactivations or removals of accounts if any Davidson County social media Web site is found to not comply with this policy as instructed by the Assistant County Manager

With the approval from the Chief Information Officer (CIO) and Assistant County Manager, a County department may use social media sites in order to market services to the public. Those departments will follow County policy in the administration of these sites, and appoint a staff member(s) to act as the site administrator. In order to obtain approval, departments will need to submit to the Assistant County Manager and CIO a suggested URL for the site, the name and contact information for the staff member who will be administering the site, and the method that will be used for posting information to these sites. These departments will need to coordinate directly with IT to develop and document their data archiving process for these social media sites.

Acceptable Use

All use of social networking sites by those conducting business on behalf of Davidson County should be consistent with applicable state, federal, and local laws, regulations, and policies including all information technology security policies. This includes the Davidson County IT Policy and Information Technology Acceptable Use Policy and any applicable Records Retention and Disposition Schedules or policies, procedures, standards, or guidelines officially announced by the NC Department of Cultural Resources. All usage shall be governed by these policies as well as the guidelines in this policy.

Separation of Personal and Professional Social Media Accounts

Employees should be mindful of blurring their personal and professional lives when administering their personal and any County social media sites.

Personal Use

Employees are allowed personal social networking sites. These accounts should not be visited or administered during their working hours with Davidson County. These sites must remain personal in nature and be used to share personal opinions or non-work related information. This helps ensure a distinction between sharing personal and department views. Employees should be mindful that inappropriate usage of social media can be grounds for disciplinary action up to and including termination. In addition, Employees should never use their Davidson County e-mail account or password in conjunction with a personal social networking site.

Professional Use

All department-related communication through County social media outlets should remain professional in nature and should always be conducted in accordance with Davidson County's policies, practices, and expectations. Employees must not use the County's social networking sites for political purposes, to conduct private commercial transactions, or to engage in private business activities. Employees should be mindful that inappropriate usage of social media can be grounds for disciplinary action.

Terms of Service

Employees should be aware of the Terms of Service (TOS) of the particular form of media. Each form of social media has its own unique TOS that regulates how users interact using that particular form of media. Any Employee using a form of social media on behalf of a County department should consult the most current TOS in order to avoid violations.

Scheduled Postings

Each social media outlet that is put in use must have a monthly schedule for posting content. Any outlet that is made available and is not regularly updated will be discontinued or deactivated. IT will alert the Assistant County Manager before discontinuing the account.

Social media outlets that are not regularly updated serve no purpose and waste County resources.

Content of Posts and/or Comments

Employees using social media to communicate on behalf of Davidson County should use discretion before posting or commenting. Once these comments or posts are made they can be seen by anyone and may not be able to be "taken back." Consequently, communication should never include:

- Vulgar, obscene, or abusive language
- Personal attacks of any kind, or offensive terms targeting individuals or groups
- Endorsement of non-department related commercial products, services, or entities
- Endorsement of political parties, candidates, or groups

- Copyright violations
- Confidential or non-public information

Employees should always consider whether it is appropriate to post an opinion, commit oneself or one's department to a course of action, or discuss areas outside of one's expertise. If there is any question or hesitation regarding the content of a potential comment or post, it is better not to post. Screening any communication made on a social media site will be the responsibility of the Department Director, CIO or Assistant County Manager.

Both the Assistant County Manager and CIO or designee will regularly review Davidson County's social media Web sites. If any of these sites do not comply with this policy, the Davidson County social media Web site in question will have its account discontinued, deactivated, or removed and will no longer be linked through the Davidson County Web site.

The department site administrator will either moderate any social media accounts that allow comments or efforts will be made to disallow all comments from the public.

Posts and Comments Are Public Records

Like e-mail, communication via Davidson County social networking Web sites is a public record. This means that both the posts of the Employee administrator and any feedback by other Employees or non-Employees, including citizens, will become part of the public record. Because others might not be aware of the public records law, the following statement (or some version of it) will be included somewhere on the site:

Representatives of Davidson County local government communicate via this social media site. Consequently, any communication by a County Employee or the general public may be subject to monitoring and disclosure to third parties.

Security

From a security standpoint, persons doing business on behalf of Davidson County should be mindful of how best to prevent fraud or unauthorized access to either the social media site or the Davidson County network. Please refer to the requirements set forth in the Davidson County IT Policy and the Davidson County Acceptable Use Policy.

It is important to note that security related to social media is fundamentally a behavioral issue, not a technology issue. In general, Employees unwittingly providing information to third parties pose a risk to the core Davidson County network.

In order to prevent potential harm, users of social networking sites representing Davidson County should minimize the amount of information an attacker is likely to gain from a successful attack. For example, individual user IDs and passwords must never be duplicated across multiple sites. In this way, if one site is compromised, the attacker cannot also gain access to other sites for which the user is authorized.

Also, a Davidson County Employee must never use any current government domain password as a password on any other site. With this in mind, IT maintains the responsibility to issue usernames and passwords for any social networking site that represents Davidson County.

Records Management and Preservation

Communication through department-related social media is considered a public record under North Carolina's G.S. 132 and will be managed as such. Therefore, the following items apply:

- All comments or posts made are public, not private.
- All social media accounts will be set to not accept private messages. However, in the event that this cannot be done, every effort will be made to encourage users to contact Davidson County via the account administrator's Davidson County e-mail address. For private messages that account administrators do receive, they should be treated as constituent e-mails and therefore, as public records. In this way, all replies to these messages will be issued from their Davidson County e-mail account.
- Agencies should set all privacy settings to "moderated". Comments expressing an opposing viewpoint are to be allowed.
- All social media Web sites will adhere to the public records law and the schedule of collection as determined by the North Carolina State Archives.

Procedures

Any Davidson County sanctioned social media presence will be connected to the Davidson County website. Where possible, county and departmental sites should be branded with the county logo. The "public record" statement must be clearly posted on any County related social media site. This will include the acceptable postings language found under Posts and Comments section of this policy.

Content on social media sites shall follow guidelines of this Social Media Policy.

The Assistant County Manager or Department Director or their designee must approve images and/or video prior to being posted.

Where possible, posts to social media sites should reference links back to the County website page. Departments may request postings to the main County organizational social media site through current procedures of posting on the County website.

Any questions regarding this policy should be addressed to the Davidson County Assistant Manager.

Summary of Information Technology Policy for County Employees

[This is a summary of County IT policy as it pertains to Employees and their use of devices and the Internet. For the full text of the policy go to: [IT Policy](#) & [Online Systems User Agreement](#)]

This policy extends to all County departments and County personnel, and governs all hardware, software, networking, and other systems that support or are connected to the information technology systems managed by the Information Technology Department (IT).

Regardless of funding source, all hardware, software, networking, and support systems are designated to be under the management domain and control of the IT Department.

The County's information technology is considered a resource, available to County Employees to conduct and facilitate their work. It is to be used at all times in a lawful and ethical manner. Unethical uses include but are not limited to the following:

- Unauthorized and time consuming recreational activities, such as shopping or game playing;
- Using computer accounts for work that is not authorized for that account;
- Sending chain letters or unauthorized mass mailings;
- Using the system for personal profit or illegal purposes;
- Personal advertisements or solicitation.

Access and use of the Internet are permitted when used in a manner consistent with the Online Systems User Agreement. The personal use of the Internet by County Employees is permitted during off-duty times. The inappropriate use of the Internet at any time will subject the Employee to disciplinary action. Inappropriate uses include but are not limited to; sending chain email, use for personal profit or illegal purposes, playing games, viewing or downloading obscene or pornographic material.

Any and all activity by an Employee on the Internet is logged and recorded by an IT Department server-based system. An Employee's Internet session or activity can be re-created when necessary to resolve questions regarding the appropriate use of the Internet.

In connection with inquiries into possible abuses, the County reserves the right to examine files, programs, passwords, accounting information, printouts, or other computing material without notice. Employees have no expectation of privacy in their use of County-owned devices or County-provided Internet service.

Direct Deposit of Employee Paychecks

As a condition of employment with Davidson County, every full-time and part-time employee shall have his/her paycheck directly deposited into the bank account of his/her choice. No paychecks shall be issued except as direct deposit. Part-time positions that are considered seasonal are an exception due to the length of time of expected employment.

CHAPTER III
EQUAL EMPLOYMENT OPPORTUNITY -
DISCRIMINATION, HARASSMENT, AND RETALIATION

Purpose

Davidson County strives to provide a workplace that is free from all discrimination, harassment, and retaliation.

Policy

Davidson County is committed to maintaining a work environment free from harassment. The County prohibits harassment of any type within the workplace and will not tolerate harassment of its Employees by anyone, including Department Directors, Supervisors, co-Employees, customers, or vendors. Harassment consists of unwelcome conduct that is based upon race, color, religion, sex, age, national origin, disability, military service and all other forms of protected status.

Coverage

All applicants for County employment and all County Employees are covered by this Policy. Also covered are subcontractors and their Employees, vendors and their Employees, and suppliers and their Employees.

Procedure

The County disapproves all forms of harassment, including but not limited to sexual, racial, disability, national origin, citizenship status, age, veteran, religious, and all other forms of discrimination or harassment of any Employee, whether it is by a co-worker, a Manager, a customer, or a vendor. Sexual advances, requests for sexual favors, sexual or racial jokes, racial, ethnic, national origin, or disability slurs, and other harassing language or conduct have no place in County employment. In addition, physical conduct of a sexual nature will not be tolerated. It is expected that Employees will treat one another with mutual respect and dignity. Harassment, of any type, by any Employee, is grounds for disciplinary action up to and including dismissal. Retaliation against any Employee or applicant for raising, verbally or in writing, opposition to what that person believes to be prohibited discrimination is not tolerated by Davidson County. Retaliation by any County Employee is grounds for disciplinary action up to and including dismissal.

Any Employee who is aware of any instances of discrimination, harassment or retaliation should report the alleged behavior immediately to a non-offending Supervisor, Manager, or to Human Resources.

Supervisors and Managers who receive a discrimination, harassment or retaliation complaint must immediately contact Human Resources.

Any Employee found to have harassed, discriminated or retaliated against another Employee or a customer will be subject to disciplinary action, up to and including dismissal. No Employee will be subject to retaliation for reporting harassment or discrimination. Employees are expected to act responsibly to maintain a respectful working environment and must report knowledge of discrimination or harassment.

Employees and applicants are protected from coercion, intimidation, interference, and discrimination for filing a complaint or assisting in an investigation under the laws and County policies covering these individuals. Periodic reviews will ensure that personnel decisions are in full accord with the principles and spirit of equal employment opportunity law.

The County will reasonably accommodate the religious observances and practices of an Employee or applicant unless such accommodation creates an undue hardship. Any Employee who requires a religious or disability accommodation should first discuss the accommodation with his/her immediate Supervisors. If agreement cannot be reached on an accommodation, the Employee should contact Human Resources.

How to File a Complaint

Employees who believe that they have been discriminated against, retaliated against for reporting alleged discriminatory behavior, or harassed shall file a written grievance in accordance with the complaint procedure set out in [Chapter XII](#).

CHAPTER IV RECRUITMENT AND SELECTION

Definitions Used in This Chapter

Appointing Authority - Any board or position with legal or delegated authority to make hiring decisions.

Demotion/Reassignment Downward - This is the reassignment of an Employee to a position or classification having a lower salary range than the position from which the reassignment is made. Generally, demotion is considered a disciplinary action, while reassignment downward, whether voluntary or involuntary, is not considered a disciplinary action. ([Chapter XI](#))

Minimum Pay Grade Rate - The starting salary of the pay grade that is normally paid an Employee when hired into County service.

Probationary Employee - A person appointed to a regular position who has not completed the probationary period. A probationary Employee is eligible to use vacation accruals after completing his/her first three (3) continuous months of County service. A probationary Employee will not be compensated for any vacation accrual if they resign or are terminated from employment with the County during the probationary period.

Probationary Period - The required period of time an Employee serves before obtaining regular status when entering County service. The length of the probationary period for new hire County Employees, excluding Employees of the Departments of Social Services and Health, is twelve (12) months from the date of employment. Newly-hired employees of Davidson County Departments of Social Services and Health are at-will employees until they have completed twelve (12) continuous months of service from the hiring date. Employees of Davidson County Departments of Social Services and Health who have obtained career status are subject to the provisions of Chapter 25 North Carolina Administrative Code Subsection 11.2002 (a) (4) in that they will serve a probationary period of not less than three (3) months nor more than nine (9) months.

Promotion - This is the reassignment of an Employee to an existing position or classification in the County service having a higher salary range than the position or classification from which the reassignment is made.

Regular Full-time Employee - This is an Employee who has completed at least twelve (12) months of continuous County service.

Safe Driving Record - A safe driving record for the purpose of this policy is one in which a person does not have a conviction for DWI in the five (5) years immediately preceding employment with the County. A safe driving record also precludes any convictions for exceeding the speed limit, careless and reckless driving, or events that constitute a pattern of behavior or any significant conviction for a period of five (5) years immediately preceding employment with the County.

Trainee - A trainee is someone who lacks some portion, either experience or education, of the minimum qualifications for a position. Once hired, the trainee can use the time worked in the position

to meet the minimum qualifications. Trainees are generally hired below the minimum rate for the position and advanced to the minimum rate once they have met the minimum qualifications.

Transfer - This is the reassignment of an Employee from one position or department to another.

Vehicle - All vehicles that are used by the County or that require a CDL to operate, including landfill equipment and Employee-driven motorized equipment.

Equal Employment Opportunity Statement

It is the policy of the County to maintain a systematic and consistent recruitment program to promote equal employment opportunity, and to identify and attract the most qualified applicants for all present and future vacancies. This intent is achieved through consistency in announcing all positions and evaluating all applicants on the same criteria. To avoid discrimination, equal employment opportunities are provided without regard to age, race, color, sex, national origin, religion, marital status, disability, military service and all other forms of protected status.

Recruitment - Responsibility of Human Resources Director

The Human Resources Director shall be responsible for an active recruitment program to meet current and projected manpower needs, through procedures that will assure equal employment opportunities based on reasonable performance related job requirements. To accomplish this, the efforts of the Human Resources Department and all County Departments must be coordinated in a timely manner.

All position announcements shall be posted for a minimum of seven (7) working days at NCWorks.gov. Additional recruiting publicity shall be carried out through media appropriate to the program as determined by the hiring Department Director and the Human Resources Director. Position announcements may be posted "in-house" before posting outside in order to promote from within when appropriate. The hiring Department Director desiring to use such a posting must first seek the approval of the Human Resources Director.

The Human Resources Department is responsible for managing the recruitment and selection process for County Employees and for providing technical advice and assistance to hiring Supervisors as needed.

Responsibility of Department Director/Hiring Official

The Department Director/hiring official shall make a hiring recommendation, taking into account: experience specific to job requirements, skills, education, and responses to interview questions, employment history and references. Based on all of these factors the Department Director/hiring official will provide a justification for the selected candidate. Department Directors may not re-hire a former employee of Davidson County without the review and permission of the Human Resources Department.

Job Advertisements

Recruiting announcements shall include information pertinent to the position/work involved, including at minimum, the title, minimum salary for the grade, key duties, knowledge and skill requirements, physical requirements required with or without accommodations, minimum education and experience standards,

contact person, special certification or licensing requirements, and application closing date. Department Directors are also encouraged to use their special knowledge of their fields to aid in recruiting.

Application for Employment

The standard application form accepted for any and all position listings shall be the Davidson County Application Form and/or the North Carolina State Application Form for vacancies in the Departments of Health and Social Services. No applications for external recruitment may be accepted within a department unless processed through the County Human Resources Department. The Departments of Health and Social Services shall provide the County Human Resources Department with a copy of all applications accepted within the agency immediately following acceptance.

Application Tracking

The Human Resources Department shall be responsible for maintenance of permanent records of all job announcements, including posting and closing dates, all optional referral sources utilized during the recruitment process, and the specifics on the pool of applicants considered for each vacancy.

The specifics shall include an alphabetized listing of all applicants and test scores, when applicable, for each and every job vacancy. To the extent that it is practical, reference to these records shall be made periodically in connection with the County's overall selection procedures, to ensure that equal consideration is given to all qualified applicants.

Qualification Standards

All applicants considered for employment or promotion shall meet the employment standards established by the class specifications relating to the position to which the appointment is being made.

All appointments shall be made on the basis of merit and without regard to age, race, color, sex, national origin, religion, or disability.

Consideration may be given to "Trainee/Work-Against" appointments when there is an absence of qualified applicants from which to make a selection. In this instance, the deficiencies may be eliminated through orientation and on-the-job training, and the class is granted a trainee status by the County Manager (County General Positions) and the North Carolina Human Resources Act "Work-Against" (for all positions subject to the North Carolina Human Resources Act).

Selection

Department Directors shall develop, utilize, and document, on a consistent, routine basis, a selection process that best suits the needs in filling positions within each individual agency/department. All selection methods developed and utilized by the Department Director shall be valid measures of job performance. The Human Resources Department shall provide technical services and assistance in the selection process if requested.

Appointments

Prior to any applicant/new hire officially beginning work, the Department Director shall coordinate with the Human Resources Department regarding the appointment. The Personnel Action Form, original

application for employment, and any additional supporting documents shall be forwarded to the Human Resources Department. Human Resources shall determine if the classification and starting salary are appropriate. The Human Resources Director should review any special requirements or conditions of employment before being issued to the prospective Employee.

Sheriff/Register of Deeds

The Sheriff and Register of Deeds shall have authority over the appointment in their respective departments, with the Human Resources Director determining the classification and salary of new employees.

County Departments Subject to the State Human Resources Act

The Directors of county departments subject to the State Human Resources Act shall have authority over the appointment in their respective departments, with the Human Resources Director determining the classification and salary of new employees.

County Departments Generally

With regard to county departments not specifically exempted, the Department Director, County Manager or his/her designee shall make the final decision on hiring. Department Directors are responsible for making a hiring recommendation to the County Manager or his/her designee. The County Human Resources Director is responsible for determining the classification and salary of new employees.

Probationary Period of Employment

An Employee appointed to a regular position shall serve a probationary period of twelve (12) months. Any Employee serving a probationary period following initial appointment may be dismissed at any time during the probationary period if found to be performing assigned duties unsatisfactorily. A regular Employee serving a probationary period following a promotion shall be reassigned to a lower level position if unable to perform assigned duties of the new job satisfactorily.

No Employee shall remain on probation for more than twelve (12) months. No Employee serving a probationary period following the initial appointment will be eligible to take accrued vacation leave until successful completion of the first three (3) months of service. The leave accrual will be indicated on the payroll check once the Employee has completed the first three (3) months of service. If an initial appointment probationary Employee resigns or is terminated during the probationary period, he/she will not be eligible for compensation for any unused accrued vacation leave.

Employees completing the probationary period in a satisfactory manner will be considered regular Employees unless his/her Department Director (except the Sheriff Department and Register of Deeds) indicates in writing prior to the expiration of the probationary period, for approval by the County Manager, that the Employee:

- Is not performing satisfactory work; and
- Should not be retained in the present position or should be released, transferred or demoted.

Employees of Davidson County Departments of Social Services and Health are subject to the provisions of Chapter 25 North Carolina Administrative Code Subsection 11.2002 (a) (4) in that they will serve a probationary period of not less than three (3) months nor more than nine (9) months. However, newly-hired employees of Davidson County Departments of Social Services and Health are at-will employees until they have completed twelve (12) continuous months of service from the hiring date.

Promotion

Candidates for promotion shall be chosen on the basis of their qualifications and their work records without regard to age, race, color, sex, national origin, religion, marital status, veteran status, disability or any other non-job related factor. The work records for all personnel who apply and meet minimum qualifications for the position shall be carefully examined when openings for positions in higher classifications occur.

Department Directors are encouraged to consider the applications of current Employees for vacancies as far as practical.

If a current County Employee is chosen for promotion, the Department Director shall forward the request and selection justification to the Human Resources Director. When an Employee is promoted to a higher pay grade, the Employee's annual pay shall be increased to the new pay grade minimum or up to five percent (5%), whichever is higher, provided the adjusted annual pay does not exceed the new pay grade maximum.

Department Directors may conduct background investigations, including criminal records checks, prior to approval of promotional or transfer applicants, especially for those positions that handle money or have other fiscal responsibilities.

Demotion

Any Employee whose work in his present position is unsatisfactory or whose personal conduct is unsatisfactory may be demoted provided the Employee shows promise of becoming a satisfactory Employee in another position. Such a demotion shall be preceded by the procedures outlined in Chapter XI. Representative reasons for demotion because of failure in work performance and failure in personal conduct are listed in Chapter XI.

If the demotion is for failure in performance of duties or failure in personal conduct, the Employee shall be provided with written notice citing the recommended effective date and reasons for demotion and appeal rights available to the Employee. An Employee who wishes to accept a position with less complex duties and reduced responsibilities may request a demotion for reasons other than unsatisfactory performance or failure in personal conduct. If approved the Employee's salary will be adjusted.

Transfer

If a vacancy occurs and an Employee eligible for transfer from another department wishes to be considered for the appointment, the Employee must complete the online application for employment through the normal recruiting process during the recruitment period for the position.

Any Employee who has successfully completed a probationary period may be transferred to the same or similar class in a different department without serving another probationary period. The Department Director will make this decision at the time of transfer and a recommendation will be forwarded to the Human Resources Director. Transfer shall not affect an Employee's anniversary date or eligibility for any scheduled salary increase for which the Employee is eligible.

Employee Photo Identification Cards

Purpose: To provide a secure method of identifying those authorized to be present on the premises of Davidson County or to identify those authorized to conduct business on behalf of the County.

The Human Resources Department will issue a photo ID card to all Employees. It should be worn at all times the Employee is on duty. Exceptions may be made by the Supervisor if the wearing of the ID card presents a safety hazard. Employees will be instructed to present the photo ID when conducting business on behalf of the County.

The identification card will display the Employee's name, department, and photo.

There will be a \$5.00 charge for non-secure sensitive cards and \$10.00 for secure sensitive cards to replace a lost, stolen or misplaced card. The Photo Identification Card shall be surrendered upon separation from employment.

Employee identification cards and photos have a 5-year expiration date and must be updated and reissued through the Human Resources Department. Cost of replacement cards due to expiration will not be charged to the employee.

Improper use or misuse of the ID card is subject to disciplinary action up to and including termination of employment. Examples include but are not limited to, allowing unauthorized individuals to use your card or allowing individuals to enter unauthorized areas by using your card.

Operation of County-Owned or Insured Vehicles - Driving Record Check

If the duties of the position occasionally or usually involve or require the operation of County owned/insured vehicles of any type, the Department Director or Human Resources Director shall initiate a driving record check to be completed via the North Carolina Division of Motor Vehicles' Driver License Database through the North Carolina Department of Transportation, prior to employing such person in the position. To be employed, the applicant must possess a safe driving record. A safe driving record is considered one with no DWI convictions, and no significant convictions or events that constitute a pattern of behavior for a period of five (5) years immediately preceding employment with the County. This record will become a part of the Employee's Personnel File.

This driving record check is also required for those persons who choose to drive their own vehicles, rather than use a County-owned vehicle for their work duties.

CHAPTER V

CLASSIFICATION PLAN

Adoption

The position classification plan, as from time to time approved by the Board of County Commissioners, is hereby adopted as the position classification plan for Davidson County.

Definitions Used in This Chapter

Class - A position or group of positions having similar duties and responsibilities requiring similar qualifications, which can be properly designated by one title indicative of the nature of work performed, and which carry the same salary range.

Position - A group of current duties and responsibilities, assigned by competent authority, requiring the full or part-time employment of one person, but the existence of a position or its identity does not depend upon its being occupied by an Employee.

Position Classification Plan - An approved plan by the Board of Commissioners that assigns classes (positions) to the appropriate pay grade.

Range Revision - When one or more salary grades are assigned a different minimum and/or maximum salary range or when a classification(s) is assigned a new pay grade.

Reclassification - The reassignment of an existing position from one class to another based on changes in job content such as duty, kind, difficulty, required skill and responsibility of the work performed.

Salary Grade - All positions which are sufficiently comparable to warrant one range of pay rates. For the purpose of this definition, the words "grade", "salary range", "level" and "range" are used interchangeably.

Salary Range - The minimum and maximum salary for a given classification.

Salary Range Revision - The raising or lowering of the salary range for one or more specific classes of positions within the classification plan.

Salary Schedule - A listing by grade and step of all the approved minimum, intermediate and maximum salary ranges authorized by the Board of Commissioners for various position classifications of County government.

Allocation of Positions

The County Manager shall allocate each position covered by the classification plan to its appropriate class in the plan upon the recommendations of the Human Resources Director.

Administration of the Position Classification Plan

The County Manager, or the Human Resources Director at the option of the County Manager, shall be responsible for the administration and maintenance of the position classification plan so that it will accurately reflect the duties performed by Employees in the classes to which their positions are allocated. Department Directors shall be responsible for bringing to the attention of the County Manager (1) the need for new positions, and (2) material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classifications of any existing positions. For an existing position, the Human Resources Director shall restudy the position and report the findings and recommendations to the County Manager.

New positions shall be established only with the approval of the Board of Commissioners after which the County Manager, with input from the Human Resources Director, shall either (1) allocate the new position to the appropriate class within the existing classification plan, or (2) recommend that the Board of Commissioners amend the position classification plan to establish a new class to which the new position may be allocated.

When the County Manager (or the Human Resources Director at his/her request) finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the County Manager shall (1) direct that the existing class specification be revised, (2) reallocate the position to the appropriate class within the existing classification plan, or (3) recommend that the Board of Commissioners amend the position classification plan to establish a new class to which the position may be allocated. Any action taken by the County Manager either to revise an existing class specification or to reallocate a position within the existing classification plan shall not be effective until the Board of County Commissioners approves such action.

Amendment of Position Classification Plan

Classes of positions shall be added to and deleted from the position classification plan by the Board of Commissioners based on the recommendation of the County Manager, with input from the Human Resources Director.

CHAPTER VI PAY PLAN AND SALARY ADMINISTRATION

Adoption

The schedule of salary ranges and class titles assigned to salary ranges is adopted as the Davidson County Pay Plan.

In order to implement this policy, the salaries of all current Employees appointed to regular board authorized positions shall be established according to the Pay Plan as adopted by the Board of Commissioners and any later Board approved amendments to the Pay Plan. Other than Employees in work-against or trainee status eligible for pre-determined salary increases contingent on meeting qualification requirements, there is no procedure for granting salary increases other than procedures set forth in this Chapter, without specific Board approval.

Any salary increase, including cost-of-living increases, shall be granted by the Board in any amount and on any date determined by the Board.

Definitions Used in This Chapter

Anniversary Date - This is the date of hire into a regular position. This date will change if an Employee receives a promotion or reclassification increase. Lateral moves do not establish a new anniversary date.

Demotion/Reassignment Downward - This is the reassignment of an Employee to a position or classification having a lower salary range than the position from which the reassignment is made. Generally, demotion is considered a disciplinary action, while reassignment downward, whether voluntary or involuntary, is not considered a disciplinary action. ([Chapter XI](#))

Employment Date - The date an Employee was employed in a full-time budgeted position with benefits. This is the date used for longevity pay.

Full-Time Employee - An Employee appointed for an established full time position approved by the Board of Commissioners who works an average of 30 or more hours on a weekly basis. An Employee working in a full time position is eligible to participate in Employee benefits programs.

General County Employee - A County Employee assigned to a department not subject to the North Carolina Human Resources Act.

Minimum Pay Grade Rate - The starting salary of the pay grade that is normally paid an Employee when hired into County service.

Maximum Salary Rate - The maximum salary authorized for an Employee within an assigned salary grade.

Part-Time Employee with Retirement - An Employee appointed to an established position approved by the Board of Commissioners who works an average of 20 hours or more per week, or 1000 hours or more per year (twelve month period), and less than an average of 30 hours per week is a part time Employee and must participate in the Employee Retirement benefit. A part time Employee with retirement only is not eligible for participation in other County provided benefits.

Part-Time Employee with No Benefits - An Employee appointed to an established part time position approved by the Board of Commissioners who works less than an average of 20 hours per week and less than 1000 hours per year (twelve months). This part time Employee is not eligible to participate in Employee benefit programs.

Pay Plan - A schedule of pay ranges systematized into sequential rates including minimum rate, mid-point and maximum rates for each class assigned to any given salary range.

Pay Status - A person who is appointed to a regularly established position regularly receiving pay or on paid leave. Employees on approved Military Leave, Leave Without Pay, or Family Medical Leave Without Pay will not be considered in pay status.

Regular Position - A position which has been approved by the Board of Commissioners, and in which the duties and responsibilities are required to be fulfilled on a continuous and annually recurring basis, normally requiring full-time employment of an individual. Exceptions to full-time employment are where the recurring duties and responsibilities of a regular position can be routinely accomplished in less than a regular workday and/or workweek.

Promotion - The reassignment of an Employee to an existing position or classification in the County service having a higher salary range than the position or classification from which the reassignment is made.

Regular Full-Time Employee - An Employee who has completed at least twelve (12) months of continuous County service. A regular full-time Employee is eligible to use vacation accruals after completing three (3) continuous months of County service.

Trainee - A trainee is someone who lacks some portion, either experience or education, of the minimum qualifications for a position. Once hired, the trainee can use the time worked in the position to meet the minimum qualifications. Trainees are generally hired below the minimum rate for the position and advanced to the minimum rate once they have met the minimum qualifications.

Transfer - The reassignment of an Employee from one position or department to another.

Workweek - Davidson County's standard workweek is forty (40) hours per week.

Maintenance of the Pay Plan

The Human Resources Director shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial condition of the County and other factors. To this

end, the Human Resources Director shall, from time to time, make comparative studies of all factors affecting the level of salary ranges and shall recommend to the Board of Commissioners such changes in salary ranges as appear to be warranted.

Within-Range Pay Increments

Salary ranges are intended to allow for the recognition of individual performance. The following general provisions shall govern the granting of within-range pay increments.

The minimum of the pay grade established for the class is the normal hiring rate. When unusual circumstances appear to warrant appointment at a higher rate, such an appointment may be made on submission of the Department Director's recommendation and justification with the approval of the County Manager and the Human Resources Director, when it is deemed necessary. Above minimum rate appointments will be based on these factors:

- The applicant's qualifications being significantly higher than the minimum education and training of the class,
- A shortage of qualified applicants available at the minimum rate, and
- The refusal of qualified applicants to accept employment at the minimum rate.

The Department Director will use the established formula and review the recommended salary with the Human Resources Director. The maximum hiring rate shall be the pay grade midpoint. After approval by the County Manager, the salary may be offered to the applicant. It is the Department Director's responsibility to ensure availability of funds.

An Employee's salary may not exceed the maximum of their assigned pay grade.

Employees that are at or near the maximum of their respective salary range and an increase would push the salary above the maximum amount shall receive the complete amount of the increase as a one-time bonus check. The amount will not increase their current salary level. The check will be issued in the same pay period increases are instituted.

Anniversary Dates

The anniversary date shall be one year from the date of hire in a regular Board authorized position. In the event of promotion or reclassification, wherein salary increases are granted, the anniversary date shall be one year from the effective date of the action. In the event of class pay grade adjustments, cost-of-living adjustments, and related increases, the anniversary date will not change.

Salary of Trainee

An applicant hired or an employee promoted to a position in a higher class who does not meet all the established requirements of the position shall be appointed to a rate in the pay plan below the minimum of the pay grade rate established for the position. Employees subject to the North Carolina Human Resources Act will be designated "Trainees" in accordance with the rules and regulations established by

the North Carolina Human Resources Commission. All other county employees shall be designated "Trainees" based upon recommendations of the Department Director with the approval of the Human Resources Director.

An employee will remain in the trainee status until the Department Director certifies that the trainee is qualified to assume full responsibility of the position and the proper documentation is provided to the Human Resources Director for approval. The Department Director shall review the progress of each employee in a trainee status at the end of six (6) months of employment or more frequently as necessary to determine when the trainee is qualified to assume the full responsibilities of the position.

When the proper documentation has been provided to the Human Resources Director certifying the trainee is fully qualified, he/she shall be moved to the minimum rate of the class. No county employee shall remain in a "trainee" status more than one year unless a longer period is required for an employee covered under the North Carolina Human Resources Act.

Pay Rates in Promotion, Demotion, Transfer, and Reclassification

When an Employee is promoted, demoted, transferred or reclassified, the rate of pay for the new position shall be established in accordance with the following rules:

- When an Employee is promoted to a higher pay grade, the Employee's annual pay shall be increased to the new pay grade minimum or up to five percent (5%), provided the adjusted annual pay does not exceed the new pay grade maximum.
- When a demotion occurs and the Employee is transferred involuntarily or voluntarily to a position in a lower annual pay range, the Employee's annual pay will be reduced to:
 - Where the annual pay would have been in that range as calculated by the Human Resources Department, or
 - If recommended by the Department Director and approved by the County Manager, to the new pay grade minimum. When circumstances merit the County Manager may make an exception to this provision.
- When a lateral transfer occurs and results in a position being assigned to another position in the same pay grade, the annual pay of the affected Employee will not change.
- When a position is reclassified to a higher pay grade, the Employee's annual pay shall be increased to the new pay grade minimum or up to five percent (5%), whichever is higher, provided it does not exceed the new pay grade maximum. If the position is reclassified to one in a lower pay grade, the annual pay shall not be changed. If it is above the new pay grade maximum, it shall be maintained at that level until the pay grade range exceeds the Employee's annual pay.

Pay Ranges in Salary Range Revisions

When the Board of Commissioners approves a change in a salary range for a class of positions, the salaries of Employees whose positions are allocated to that class shall be affected as follows.

- General across the board pay increases granted by the Board of Commissioners and

implemented by the Budget ordinance for a particular year shall only apply to regular Employees eligible to receive benefits, except as provided below.

- When a class of position is assigned to a higher pay range, Employees in that class may receive up to a five percent (5%) increase or an increase to the minimum step of the new range, whichever is higher.
- When a class of position is assigned to a lower pay range, the annual pay of the Employees in that class will remain unchanged. If this assignment to a lower pay range results in an Employee being paid at a rate above the maximum established for the new class, the annual pay of the Employee shall be maintained at that level until such time as the Employee's pay range is increased above the Employee's current annual pay.

Pay for Part-Time Work

Compensation for any Employee appointed for part-time service shall be computed on an hourly basis. Said Employees will be covered by Workers Compensation and Social Security but will receive no additional fringe benefits. The annual pay of Employees in part-time (less than an average of 20 hours per week), call-basis, relief, or any other non-Board authorized positions shall be established according to the following:

- The annual pay of Employees who meet the minimum qualifications of the class to which appointed shall be at least the pay grade minimum.
- The initial pay of Employees who do not meet the qualification standards of the class to which appointed shall be less than the pay grade minimum. When the Employee meets the standards, his/her annual pay shall be increased to the pay grade minimum.
- Employees shall be eligible for other pay increases in accordance with this Resolution.

Hours of Work and Overtime Compensation

It is the policy of Davidson County to abide by all applicable sections of the Fair Labor Standards Act along with the Fair Labor Standards Amendments of 1985. Under such implementation, Davidson County will properly record all applicable overtime accrued for each covered Employee.

This policy shall be applicable to all Employees of Davidson County who are covered under FLSA provisions to the extent applicable to Davidson County.

Employees are expected to work during all assigned periods exclusive of bona fide breaks, mealtimes or unscheduled hours, etc. Employees are not to perform work during mealtimes or to work unscheduled hours, unless they receive approval from their immediate Supervisors. At the discretion of management and based upon the need to provide services, Employees may be required to work beyond forty (40) hours in a workweek. Employees who work unscheduled hours shall advise their immediate Supervisors of the excess hours worked as soon as practical.

It is the policy of Davidson County that non-exempt Employees will be paid at one and one-half times their regular rate of pay for hours worked over forty (40) in a workweek (overtime pay).

For non-exempt employees in emergency service departments, Department Directors may compensate overtime work with time and a half paid time off for each hour of overtime worked in a workweek. This compensation is known as compensatory time. Compensatory time is not available for non-

emergency service departments. Department Directors shall report all compensatory time awarded and compensatory time used. Department Directors shall notify Human Resources when compensatory time is used to compensate overtime work.

Emergency service Employees other than law enforcement officers may accumulate no more than 120 hours of compensatory time. Once an Employee is close to reaching this maximum, the Employee and their Supervisor should work on reducing the bank of compensatory hours. Once an employee accumulates 120 hours of overtime, he/she must be paid time and a half for all overtime worked until the accumulated compensatory time is reduced below 120 hours.

An Employee with accumulated compensatory time who leaves County employment for any reason shall be paid out for all accumulated compensatory time at the rate of pay the Employee is currently using.

FLSA exempt Employees may not receive compensatory time for working beyond forty (40) hours in a single workweek. Department Directors may, with advance approval of the County Manager, award compensatory time to exempt Employees only if they are working beyond fifty (50) hours in a workweek due to a project with time constraints or an emergency. The amount of compensatory time that may be awarded shall not be in excess of one-half the hours worked beyond fifty.

On Call Pay for Non-Exempt Employees

Any non-exempt Employee who is required to be on call such that his/her movements are restricted and subject to being called to return to work shall be compensated at the rate of one hour of paid time off per eight (8) hours of on call time. If the Employee is called and returns to work, the on call compensation ceases for the period of work. Persons in an FLSA exempt status are not eligible for this pay provision.

Call Back Pay for Non-Exempt Employees

Any non-exempt County Employee will be guaranteed a minimum payment of two (2) hours' wages for being called back to work outside of normal working hours. Persons in an FLSA exempt status are not eligible for this pay provision.

Payroll Deductions

Federal and State income taxes, Social Security tax, and retirement contributions shall be payroll deducted as authorized by law and the County Commissioners. The Board of Commissioners must approve any other payroll deduction.

Payroll Procedure

All Employees shall be paid on a bi-weekly basis except those Employees on an hourly or day-rate basis who may be paid otherwise.

Effective Date of Salary Adjustments

Annual pay adjustments are effective with the first full pay period of July following Board approval of the adjustment. The County Manager will approve pay adjustments, including retroactive adjustments as necessary.

In - Band Pay Adjustment

The County Manager has the authority to approve an “in-band” pay adjustment of up to 5% for an employee within a particular pay classification (post initial hiring) during the first fiscal year. This adjustment should be based on either internal/external equity issues, approved (by the Davidson County Board of Commissioners) career progression development and/or increased job duties that do not warrant a complete change in job classification. Any other salary changes are to be approved via the annual budget development process, and the “in-band” adjustments during that time will be accompanied (by the submitting department) with the appropriate business case (equity/workload issues) substantiating the request and “offsetting” budget adjustment designed to cover the difference in the cost of the approved salary change.

CHAPTER VII
HOLIDAYS, LEAVE, AND ADVERSE WEATHER

Definitions Used in This Chapter

Family/Medical Leave Act (FMLA or FML) - The Family/Medical Leave Act is a federal law that provides unpaid leave for an employee to use for birth of a child, adoption of a child, or the serious health condition of the employee, a spouse, a child or a parent.

Pay Status - A person appointed to a regularly established position regularly receiving pay or on paid leave. Employees on approved Military Leave or Leave Without Pay, will not be considered in pay status.

Probationary Employee - A person appointed to a regular position that has not completed the probationary period. A probationary Employee is not eligible to take vacation leave during the first three (3) months of employment, and will not be compensated for any vacation accrual if they resign or are terminated from employment with the County during the full probationary period.

Serious Health Condition - This is an illness, injury, impairment, or physical or mental condition that involves either inpatient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider.

Holidays

Paid Holidays Observed

The following holidays, and such others as the Board of Commissioners may designate, shall be observed by County offices and shall be counted as hours worked:

| | | |
|------------------------|------------------|------------------------|
| New Year's Day | Independence Day | Thanksgiving Day |
| Martin Luther King Day | Labor Day | Day after Thanksgiving |
| Good Friday | Veteran's Day | Christmas (3 Days) |
| Memorial Day | | |

All Employees appointed to a regularly established position shall receive these holidays with pay, provided the Employee is on pay status the day before and the day after the holiday. Pay status, for the purposes of this policy, includes pre-approved leave without pay. Employees on FMLA leave receive holiday pay while in FML status. An Employee who is terminating his/her employment with Davidson County must work the day after the holiday in order to receive holiday pay. Employees specifically assigned to the Davidson County Schools who observe school closures, will not be required to work the day before and the day after a holiday in order to receive holiday pay under this policy, except if terminating employment.

Part-time Employees, including call basis Employees, are not eligible for holiday pay.

In order for new Employees to be eligible for holiday pay in their initial pay period, a full-time Employee must have worked a full regularly scheduled workday before and after the holiday. This will apply to all

Employees terminating employment with Davidson County who must be on payroll status the day before and the day after in order to be paid for the holiday.

Employees may wish to be away from work on certain days for religious observances or other recognized holidays. Department Directors should attempt to arrange the work schedule so that an Employee may be granted annual leave when it is requested because the day is a major religious observance or recognized holiday for that Employee. A request for annual leave for this purpose should be denied only when it would create an emergency situation that cannot be prevented in any other manner.

Employees will receive paid time off for a holiday consistent with their regularly scheduled shifts. Employees that work 7.5 hours will receive 7.5 hours of pay for a holiday, while employees that work 8, 10 or 12 hour shifts will receive 8, 10 or 12 hours of paid time off for a holiday.

Effect of Holidays on Other Types of Paid Leave

Holidays that occur during vacation, sick or other paid leave period of any officer or Employee of the County shall not be charged as vacation, sick, or other paid leave.

Holidays - When Work Required

Exempt Employees required to perform work on a regularly scheduled holiday shall be granted paid time off for all hours worked on a holiday up to eight (8) hours. This time shall be taken off within the same pay period as earned unless otherwise granted by the Department Director or his/her designee. The applicable Supervisor must approve the Employee's use of this time off.

A non-exempt Employees required to perform work on a regularly scheduled holiday shall be paid at his/her normal hourly rate for hours worked plus the hours for the employee's normal shift of holiday pay.

This provision is limited to persons required to work on a scheduled holiday.

Vacation Leave

Vacation Leave - Initial Appointment Probationary Employees

Employees serving a probationary period following initial appointment shall not be permitted to take vacation leave until successful completion of the first three (3) months of the probationary period.

Vacation Leave - Manner of Accumulation

| <u>Years of Service</u> <u>(Based upon 40 hrs/week)</u> | <u>Hours Earned</u> <u>Per Pay Period</u> | <u>Days Earned</u> <u>Per Year</u> |
|--|--|---------------------------------------|
| Less than 3 years | 3.08 hours | 10 days |
| 3 but less than 6 years | 3.69 hours | 12 days |
| 6 but less than 9 years | 4.62 hours | 15 days |
| 9 but less than 20 years | 5.54 hours | 18 days |
| 20 years or more | 6.46 hours | 21 days |

For the purpose of earning and accruing vacation leave, the twelve (12) calendar month period between January 1st and December 31st is established as the leave year.

A new Employee with five or more years of North Carolina government service, at the state, County or municipal level, will accrue no less than 8 hours per month of vacation leave during the first year of employment with Davidson County.

Vacation Leave - Approval/Manner of Taking Leave

Vacation leave earned by an Employee shall be taken only upon prior approval of the immediate Supervisor or Department Director. Vacation leave must be taken in increments of at least fifteen (15) minutes. Vacation leave shall not be granted to a newly appointed Employee before the completion of three (3) months of satisfactory, continuous County service. A request for vacation leave should be denied only when it would create an emergency situation that cannot be prevented in any other manner.

Vacation Leave - Maximum Accumulation

Vacation leave may accumulate from year to year to a maximum of 240 hours annually. On January 1 of each year, any vacation hours in excess of the maximum (240) will be transferred to sick leave. This sick leave may be used like any other accumulated sick leave.

Employees are cautioned not to retain excess accumulation of vacation leave until late in the calendar year. Due to the necessity to keep all County functions in operation, large numbers of Employees cannot be granted vacation leave at any one time. If an Employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the Employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation.

However, upon recommendation by the Department Director and County Manager and upon approval of the Board of Commissioners, an Employee who, for the convenience of the County, has been unable to take vacation leave and is faced with that leave transferring to sick leave, may be paid for leave in excess of 240 hours in lieu of it transferring to sick leave.

Previous Leave Credit

Any Employee who separates in good standing and is reinstated within one (1) year may receive previous credit time for the purpose of accruing vacation leave. The total months of previous verified service time will be recognized at the beginning of re-employment.

Vacation Leave - Terminal Pay and Repayment of Vacation Leave

All full-time regular Employees who are separated shall be paid for vacation leave not to exceed a maximum of twenty-five (25) days or 200 hours and shall be calculated to the nearest one-hundredth (1/100) of an hour and paid in the payroll period following his/her final payroll check. Any vacation leave owed the County shall be deducted from the Employee's final compensation. Employees dismissed or resigning shall be paid their accrual of vacation as recorded in the Finance Department effective on their last day of employment.

Employees must work the entire resignation notice period and may not take vacation or sick leave. Any exception regarding sick leave requires a Doctor's statement and/or must be recommended by the applicable Department Director and approved by the County Manager. If an Employee fails to give at least a two (2) week advance notice of resignation, they will not be eligible to be paid for accrued vacation leave.

Any exception regarding vacation leave during the last two weeks of employment requires approval of the Department Director and County Manager. A probationary Employee who resigns or is dismissed shall not be compensated for any vacation leave accrued at time of separation.

Vacation Leave - Payment for Accumulated Vacation Leave Upon Death

The estate of an Employee who dies while employed by the County shall be entitled to payment for all of the accumulated vacation leave credited to the Employee's account, not to exceed a maximum of twenty-five (25) days or 200 hours.

Sick Leave

Sick leave with pay is a privilege of County employment granted by the Board of Commissioners. Sick leave may be taken in fifteen (15) minute increments. An Employee may be granted sick leave if the absence is due to:

- Sickness or bodily injury that may prevent an Employee from performing his/her regular duties.
- Medical/Dental appointments.
- The actual period of temporary disability caused or contributed to by pregnancy, miscarriage, childbirth, and recovery therefrom. Since there is no certainty as to when disability actually begins and ends, a doctor's certificate shall be required verifying the Employee's period of temporary disability recognized as sick leave.
- Quarantine due to a contagious disease in the Employee's immediate family or exposure to a contagious disease when continuous work might jeopardize the health of others.
- Death in the Employee's immediate family, not to exceed three (3) days, for any one occurrence. The Department Director may authorize additional use of sick leave, under exceptional circumstances, up to ten (10) days. Immediate family is defined as wife, husband, mother, father, brother, sister, children, grandparents, grandchildren, plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.
- Sick leave may also be used when illness or a medical appointment of an Employee's spouse, child, or parent requires the presence of the Employee.

Notification of the desire to take sick leave should be submitted to the Employee's Supervisor prior to the leave, or not later than one (1) hour after the beginning of a scheduled workday. Such notice shall include the nature of the absence and the expected duration.

Any absence(s) while on sick leave that meets the definition for the Family Medical Leave Act will be designated as such (see [Family and Medical Leave](#) policy, later in this Chapter).

Sick Leave - Manner of Accumulation

Each regular Employee, occupying an established budgeted position, shall earn sick leave at a rate of 8 hours per month which is 96 hours per calendar year based upon a 40 hour-week work schedule. Employees working a schedule less than 40 hours per week will earn sick leave in a pro-rated amount according to their weekly hours of work.

At the time of separation, any sick leave owed the County shall be deducted from the Employee's final compensation.

Sick Leave - Maximum Accumulation

There is no maximum accumulation of sick leave. Sick leave may accumulate as long as the Employee works for Davidson County.

Sick Leave - Physician's Certificate

The Employee's Department Director or County Manager may require a statement from the physician, or other acceptable proof, that the Employee was unable to report for work to the end that there will be no abuse of sick leave privileges.

Leave - Retirement Credit for Accumulated Sick Leave

Sick leave earned monthly is allowed as creditable service at time of retirement to Employees who are members of the N.C. Local Governmental Employee's Retirement System. One month of credit is allowed for each twenty (20) days of unused sick leave at retirement, and an additional month for any part of twenty (20) days left over.

Sick Leave - Transfer From Other Agencies/Entities

Any person that was employed by a State agency or university, a County, or a Municipality of North Carolina within one year immediately prior to his/her employment with Davidson County will have his/her accumulated sick leave transferred in accordance with this provision and with the Local Government Retirement System, G.S. 128-26(e). Only that amount of accumulated sick leave corresponding to eight (8) hours per month will be accepted in a transfer from other agencies/entities. Any sick leave accumulated above that amount will not be accepted in a transfer.

Sick Leave - Return to Employment with Davidson County

Any former employee of Davidson County who returns to work with the County within one year of separation will have any accumulated sick leave from his/her prior County employment reinstated.

Sick Leave - Separated Employees

Employees who retire or resign and are not reinstated with Davidson County within a one (1) year period shall lose all sick leave credits. No Employee shall be paid for any accrued sick leave at separation.

Inability to Return to Work Due to Serious Health Condition

Once FMLA has been exhausted should an Employee be unable to return to work due to their own serious health condition, then the Employee may be granted up to an additional 12 weeks (based on the Employee's regular work schedule) of accrued sick leave with pay (not shared leave).

The County Manager and Human Resources Director must review and approve each situation and the following conditions and requirements will apply:

- The request must be due to the Employee's own serious health condition;
- Employee must have exhausted their FMLA leave and have remaining accrued sick leave hours;
- Employee must present to Human Resources the treating physician's current statement of:
 - (1) Inability to return to work due to the Employee's own serious health condition, or;
 - (2) Inability to specify a return to work date due to the Employee's own serious health condition;
- Employee will be allowed to use up to an additional 12 weeks (based on the Employee's regular work schedule) of accrued sick leave hours once FMLA has been exhausted;
- Employee will not be eligible for Shared Leave;
- Employee's payroll status will be changed to "temporary" and the Department can begin recruiting to fill the open position;
- All accrued sick leave hours granted under this section will be paid in the normal bi-weekly payroll period(s); normal deductions for benefits and taxes will apply;

Any remaining accrued sick leave hours will be subject to the provisions of Leave - Retirement Credit for Accumulated Sick Leave as stated above.

Vacation Leave Accrual

Upon successful completion of the twelve-month probationary period, a full-time Employee will accrue annual leave based on the approved aggregate years of North Carolina government service. A probationary employee who has successfully completed three (3) months of service will have his/her leave accumulations released for his/her use. Additionally, a new County Employee with five or more years of North Carolina government service will accrue no less than 8 hours per month of annual leave during the first year of employment.

Family and Medical Leave Policy

Purpose

To define Davidson County's policy and procedures with regard to Family and Medical Leave.

General

Davidson County is an employer subject to the provision of the federal Family and Medical Leave Act [FMLA] of 1993 and the regulations issued by the U.S. Department of Labor. If at any time it is determined that the terms of this policy violate or differ from the provision of said Act or said regulations then, in that event, the Act or Regulations shall control County Policy.

Eligibility

Employees who have been employed for at least twelve (12) full months and for at least 1,250 hours during the twelve (12) months preceding the start of a Family/Medical leave (hereafter FML) are eligible for this leave. Employees will be returned to the same or to an equivalent position upon their return from leave.

The County Manager, after consultation with the Employee's Department Director in accordance with the provisions of Leave Without Pay policy of this Chapter, must review any request for family or medical leave by an Employee that is not eligible. Ineligible Employees are not entitled to any family or medical leave under the terms of FMLA.

If Family/Medical leave is granted, the Employee must first use and apply all of his or her compensatory time, accrued sick leave, and accrued vacation leave, in this order (unless applicable law dictates otherwise due to the FML situation), to the Family/Medical leave period. If accumulated paid leave and all donated Voluntary Shared Leave has been exhausted, the remainder of the Family/Medical leave will consist of unpaid leave. The total cumulative of leave taken under this category shall not exceed twelve (12) weeks in any consecutive twelve (12) month period.

Use of Family/Medical Leave (FML)

An eligible Employee may be granted a total of twelve (12) weeks of Family/Medical Leave during any twelve (12) month period. This twelve (12) month period is measured backward from the date leave is used.

Employees may request and use Family/Medical leave only for the following purposes:

- The birth of the Employee's child in order to care for such child;
- The placement of a child with the Employee for formal adoption or foster care;
- Care for the Employee's spouse, child or parent who has a serious health condition; or
- A serious health condition that renders the Employee unable to perform the functions of his or her job.

Child Bonding Time

An Employee can take continuous Family/Medical leave for the birth or placement of a child. If the Employee takes only a portion of their twelve weeks (instead of the full twelve weeks) and returns to work, and then requests to use the remainder of their twelve weeks as intermittent Family/Medical leave child bonding time, the following restrictions to the remaining weeks for using intermittent Family/Medical leave for child bonding will apply:

- The intermittent leave request must be scheduled and approved 30 days in advance;
- The intermittent leave request must be for a minimum of 1 full week (not as individual days);
- The intermittent leave request for a particular week is not required to be approved if it creates or will create a hardship for the department.
- These restrictions DO NOT apply if the request is due to a child with a serious health condition. In that situation, Human Resources will follow the normal protocol for full and intermittent Family/Medical leave approvals.

- Family/Medical leave for birth/placement and child bonding expires 12 months after the date of birth/placement.
- Both mothers and fathers have the same right to take Family/Medical leave for the birth/placement of a child and for child bonding. If both parents of a new child/adopted/foster child are employees of Davidson County, they will only have a total of twelve (12) weeks of Family/Medical leave to share for this event.

The entitlement to leave, continuous or intermittent for the birth or placement of a child for adoption or foster care will expire twelve (12) months from the date of the birth or placement.

Application For FML

An Employee requesting Family/Medical Leave must complete an "Application for Family and Medical Leave" and return the completed form to the Human Resources Department. The completed application must state the reason for the leave, the anticipated duration of the leave, and the starting and ending date of the leave.

Notice of Intent to Take FML

An Employee intending to take Family/Medical Leave because of an expected birth or placement for adoption or foster care or because of a planned medical treatment, must submit an application and notice for leave at least thirty (30) days before the leave is to begin unless such notice is not practicable under the circumstances. In all other instances the Employee must give notice and application to his or her immediate Supervisor as soon as practicable as the necessity for leave arises.

Medical Certification of FML

An application for Family/Medical Leave based on the serious health condition of the Employee, or a "Medical Certification Statement" completed by the applicable health care provider must also accompany the Employee's request for Family/Medical leave. The certification must state the date on which the health condition commenced, the probable duration of the condition, and the appropriate medical facts regarding the condition.

If the Employee is needed to care for a spouse, child or parent, the certification must so state along with an estimate of the amount of time the Employee will be needed. If the Employee has a serious health condition, the certifications must state that the Employee cannot perform the functions of his or her job. Davidson County may require addition medical certification as authorized by law.

Benefits Coverage During FML

During a period of Family/Medical Leave, an Employee will be retained on the Davidson County Employees' health plan and under the same conditions that applied before leave commenced. To continue health coverage, the Employee must continue to make any required contributions that he or she was required to make to the plan before taking leave. Failure of the Employee to pay his or her share of the health insurance premium may result in loss of coverage.

An Employee is not entitled to accrual of any seniority or employment benefits that would have accrued if not for the taking of the leave. An Employee who takes Family/Medical Leave will not lose his seniority or employment benefits that accrued before the leave began.

Applications Forms

The FML application and other necessary documents and information for the Family/Medical Leave process are available by contacting the Human Resources Department. The application form may also be downloaded from the Employee Center, Employee Forms section on DCNet.

Restoration to Employment

An Employee eligible for Family/Medical leave will be restored to his or her position or to a position with equivalent pay, benefits, and other terms and conditions of employment. Davidson County cannot guarantee that an Employee will be returned to his or her original job.

Return From FML

An Employee returning from Family/Medical leave must provide a return-to-work release from the applicable health care provider to the Human Resources Department prior to their return to work.

Failure to Return From FML

The failure of an Employee to return to work upon the expiration of a Family/Medical leave of absence will subject the Employee to immediate separation unless an extension of leave is granted.

Request For an Extension of Leave Following Expiration of FML

An Employee who requests an extension of leave due to the continuation or recurrence of her/his own serious health condition, or of the serious health condition of the Employee's spouse, child or parent, must submit a request for an extension, in writing, to the Employee's Department Director. A physician's note/return to work date should accompany the extension request, if available. Extensions of up to two (2) weeks may be requested. This written request should be made as soon as the Employee realizes that she or he will not be able to return at the expiration of leave period. The Department Director shall forward the extension request to the County Manager along with a recommendation to approve or disapprove. The County Manager shall make the final decision on the request.

Privacy Issues and Certifications

Under the Americans With Disabilities Act, an employer must keep information concerning a disabled Employee's medical condition confidential. The information must be maintained in separate medical files, and access to the files must be restricted to those who have specific need for the information. Thus, an employer must keep confidential a written certification verifying an Employee leave request based on a condition that would also allow the Employee protection under the ADA. Employers must be careful not to inquire into possible future effects of an Employee's "serious health condition" during the certification process. For example, if a written certification verifies that an Employee has cancer, the employer may not inquire into whether the Employee's illness is terminal. Supervisors are not to discuss leave requests or medical conditions with Employees.

Someone in each department, knowledgeable about leave policies and the ADA, shall be designated as responsible for processing leave requests to the Human Resources Department.

The Employee's Supervisor should only be told that the Employee will be taking leave and will return at a specified date.

Adverse and Emergency Weather Conditions - Leave Policy

In the event of projected or actual adverse weather the County Manager will at the earliest time consult with the Chairman of the Board of County Commissioners, to assess and confer on the existing weather conditions and the projected weather forecast to arrive at a decision on whether regular County offices will be open, closed or operate on a delayed opening or early closing.

Announcements will be made at or before 6:00 A.M. on television stations WGHP-TV Channel 8, WXII-TV Channel 12, WFMY-TV Channel 2, News 14 Carolina (for Time Warner Cable subscribers), and on radio station WLXN AM-14.40 in Lexington, as well as on the Davidson County Web Page advising County personnel on the status of business hours.

The announcement shall state whether County offices will be open, closed, or have a delayed opening. Should the message contain information regarding a delayed opening, please continue to monitor the source for additional or updated information due to potential changes in weather or road conditions. The sites listed above will be updated as soon as possible with any change in opening status due to changing conditions.

The County Manager, the Chairman of the Board of County Commissioners, and the Clerk to the Board are the only three people allowed to contact the media with the status of business hours.

Davidson County Government utilizes an Emergency Notification system through **Code Red**. The **Code Red** system will alert Employees during emergent situations by providing critical instructions for ensuring Employee safety. An example may be during adverse weather situations where Employees are informed about work schedule changes. It is highly recommended that all Employees register in order to receive these alerts.

The registration link is <https://public.coderedweb.com/CGE/BFA85004B914> or this can be found in DCNet under the Employee Center. If you need assistance, please contact Human Resources.

In an adverse weather condition, the County Manager may advise each department Director to select a skeletal staff to keep offices open. The Department Director is to use discretion on what staff to use on the skeletal crew. Department Directors are requested to pre-plan their skeletal staff and prearrange their own adverse weather transportation, as their attendance is required.

If the decision to close is made prior to the start of an Employee's scheduled reporting time, the Employee will be paid for his/her shift, up to a maximum of eight (8) hours.

If there is a delayed opening and the Employee reports at the delayed opening schedule of his/her shift, they will be paid for the difference between the start of the regular schedule and the delayed opening, not to exceed eight (8) hours.

Employees taking additional time by not reporting at the delayed starting time, but arriving at a later time will need to take vacation leave or leave without pay for the time between the delayed opening and the actual time they arrived. Such Employees will be paid from the regular opening time to the delayed opening time.

If the decision to close is made during the Employee's scheduled shift and the Employee remains at their work station until the County is officially closed, then the Employee will be paid for the remainder of their shift, not to exceed eight (8) hours. If the Employee chooses to leave before the County is officially closed, the Employee will not be paid for hours not worked until the closing and will have to take vacation time or leave without pay.

Employees who feel that it is unsafe to either report to work or stay after they have arrived will take vacation pay if available, or leave without pay, and will not be paid for time not worked.

Each Employee is to be made aware of his/her options if he/she decides conditions exist that render attempted arriving at or remaining at work unsafe. Employees may use vacation time for hours missed as a result. If accumulated leave is unavailable, the time not worked is leave without pay. Employees should know that there would not be any disciplinary action for choosing not to travel to work or for leaving early if they feel conditions are unsafe.

This plan does not apply to emergency departments. Emergency departments are identified as those that are continuously operated 24 hours a day, every day.

In the Event of a State of Emergency

In the event of an emergency, as defined by NCGS 166A-19.3.6, the Chairman of the Board of Commissioner's may choose to declare a state of emergency. Declaration of a state of emergency will entitle both non-exempt and exempt Employees to the payment of overtime, outside their normally scheduled hours, at a rate of time and one-half. This shall be limited to those whose job activities are performing services as a response effort directly related to the emergency. This shall also be applicable when Employees are deployed to an area where a state of emergency exists in another North Carolina County or through an Emergency Management Assistance Compact (EMAC) response existing throughout the United States and its territories. Associated cost with the emergency, e.g. travel, lodging, and meals shall also be reimbursable. Overtime reimbursement eligible services must be provided at the direction of the applicable Department Director and approval of the County Manager and/or the Board of Commissioners. Additionally, if the state of emergency event falls during a holiday in which offices were already scheduled to be closed, those Employees performing emergency service activities will receive holiday pay and will be compensated overtime pay at a rate of time and one-half for all hours worked in addition to the holiday pay.

Leave Without Pay

Leave without pay is an administrative decision and may be granted by the County Manager, upon recommendation of the Department Director and Human Resources Director for the following:

- Leave without pay may only be granted when the Employee has taken all his/her vacation accrual.
- Leave without pay cannot be granted if the request for leave qualifies for FML.

- Leave without pay may be requested by probationary Employees who are not eligible to take annual leave or are not eligible to apply for FML and the request is under the guidelines of amount of time of FML. However, the Employee's probationary period will be extended by that time.
- Regular Employees who are not eligible for FML may request leave without pay and the request is under the guidelines of FML.
- The Department Director may approve leave without pay for up to forty hours (40) per calendar year. Additional leave without pay must be approved by the County Manager and Human Resources Director. The Human Resources Director shall from time to time monitor Employees' leave without pay status during the year.
- An Employee may request leave without pay to attend school for up to one (1) year. The Department Director and the County Manager must approve the request. Employee must use all his/her accrued vacation leave before going on leave without pay status. Request for leave without pay to attend school must be a requirement of the Employee's position or will better equip the Employee to perform his/her assigned duties of their position. Educational reimbursement is not applicable. Employee and Department Director must have a full understanding of the leave and the Employee's return to County employment before the leave is granted.

Failure to report for duty at the expiration of any leave without pay period shall be considered a voluntary resignation.

An Employee is not entitled to accrual of any seniority or employment benefits that would have accrued if not for the taking of leave without pay.

Note: Departments that employ School Nurses and SRO's have separate policies for Leave Without Pay. Please also refer to your department's policy.

Employee Leave for Involvement in Children's Schools

The County shall provide all parents, guardians or any person standing in the place of a parent of a school-aged child four (4) hours of unpaid leave to attend or otherwise be involved in activities at the child's school. Employees must have at least four hours of accrued annual leave to use this opportunity.

These four (4) hours are subject to the following conditions:

- The leave shall be mutually agreed upon time between the employer and Employee;
- The Employee shall provide his/her Supervisors with a written request at least three working days before the time desired for the leave; and
- The Supervisors may require the Employee to furnish written verification from the child's school that the Employee attended or was otherwise involved at the school during the time of the leave.
- If approved the request shall be granted as vacation leave.

Workers' Compensation Leave

Sickness or Disability Covered by Workers' Compensation

An Employee absent from duty because of sickness or disability covered by the Workers' Compensation Laws shall be eligible for the following benefits:

- An Employee may elect to use accumulated vacation or sick leave for the first seven calendar days of sickness or disability covered by Workers' Compensation.
- If sickness or disability continues beyond seven days and the Employee's claim is compensable, the Employee shall receive from the Workers' Compensation Insurance carrier, compensation equal to 2/3 of their wage loss subject to the maximum per week set forth by law.
- The County will continue to pay the County portion of his/her medical and life insurance premiums for the entire covered period.
- The Employee covered under Workers' Compensation will continue to accrue sick and vacation leave for a period of sixty days.
- The Employee shall be responsible for his/her continued payments for other benefit programs in which he/she has elected to participate.
- Upon returning to work following an absence of an approved Workers' Compensation claim, the Employee may purchase credit for the period of time he/she received Workers' Compensation benefits from the Local Government Retirement System as outlined in the Employee Resolution for Retirement Benefits.
- The County has established guidelines for utilizing the benefits under workers' compensation, which include a managed care network of authorized physicians and specialists as well as approved pharmacies where workers' compensation prescriptions may be filled. [WC Managed Care and Pharmacies 2019](#)

Military Leave

Each regular Employee occupying an officially budgeted position who is a member of the National Guard or Armed Forces Reserve will be allowed ten (10) workdays of military training leave annually with partial compensation. If the compensation received while on military leave is less than the salary that would have been earned during this same period as an active Employee, then the Employee shall receive partial compensation equal to the difference in the base salary earned as a reservist or a guardsman and the salary that would have been earned during this same period as a County Employee. The effect will be to maintain the Employee's salary at the normal level during this ten (10) workday period.

If such military duty is required beyond this ten (10) workday period, the Employee shall be eligible to take accumulated vacation leave or be placed on leave without pay status.

While taking military leave with partial pay or without pay, the Employee's leave credits and other benefits shall continue to accrue as if the Employee physically remained with the County during this period. Employees who are guardsmen and reservists have all job rights specified in the Uniformed Services Employment and Reemployment Rights Act.

Civil Leave (Court)

A County Employee called for jury duty or as a court witness for the Federal or State government, or a subdivision thereof, is entitled to a leave with pay for the period of absence required. He/she is entitled to regular compensation plus fees received for jury duty.

Educational Improvement Reimbursement

An Employee may receive reimbursement for one course at a time taken outside of the working hours that will better equip the Employee to perform assigned duties. Such reimbursement is subject to the prior recommendation of the Department Director and the prior approval of the County Manger.

(For information on the County's Continuing Education program, see [Chapter IX](#) of this Resolution.)

CHAPTER VIII
EMPLOYEE BENEFITS
EMPLOYEE ASSISTANCE PROGRAM
SHARED LEAVE

Definitions Used in This Chapter

Employment Date - The date an Employee is employed in a full-time budgeted position with benefits. This is the date used for longevity pay.

Full-Time Employee - An Employee appointed for an established full-time position approved by the Board of Commissioners who works an average of 30 or more hours on a weekly basis. An Employee working in a full-time position is eligible to participate in Employee benefits programs.

Part-Time Employee with Retirement - An Employee appointed to an established position approved by the Board of Commissioners who works an average of 20 hours or more per week, or 1000 hours or more per year (twelve month period), and less than an average of 30 hours per week is a part-time Employee and must participate in the Employee Retirement benefit. A part-time Employee with retirement only is not eligible for participation in other County provided benefits.

Part-Time Employee with No Benefits - An Employee appointed to an established part-time position approved by the Board of Commissioners who works less than an average of 20 hours per week and less than 1000 hours per year (twelve-month period). This part-time Employee is not eligible to participate in Employee benefit programs.

Pay Status - A person who is appointed to a regularly established position regularly receiving pay or on paid leave. Employees on approved Military Leave, Leave Without Pay, or Family Medical Leave Without Pay will not be considered in pay status.

Employee Benefits

Insurance Benefits

The County may provide both hospitalization and life insurance under the group insurance program to all Employees occupying budgeted positions who work at least 30 hours per week. Employees shall be enrolled in the programs in accordance with the provisions of the insurance contracts and on the first day of the month following a thirty (30) day waiting period. The employer paid premiums for ten month Employees who are employed in accordance with school schedules will be paid for the entire twelve months. Deductions shall be allowable, at the option of the Employee, to provide hospitalization and life coverage for dependents in accordance with the provisions of the insurance contracts.

Unemployment Insurance

Davidson County Employees who are laid off or separated from the County service may apply for unemployment compensation through the local office of the Division of Workforce Solutions (DWS). The Division of Workforce Solutions (DWS) will determine eligibility for unemployment insurance.

Social Security

The County, to the extent of its lawful authority and power, shall contribute to social security benefits for its eligible Employees in accordance with the provisions of the Social Security Act.

Retirement Benefits

Each Employee in a budgeted position working a minimum of 1000 hours per year, as a condition of employment, must join the Local Government Employees' or Law Enforcement Officers Retirement System upon employment. Employees must contribute, through payroll deduction, six percent (6%) of the gross salary each month to the system. The County contributes an actuarially determined percentage of the gross payroll each month to the system.

Death Benefit

If an Employee dies before age 70 while still in active service, after one year as a contributing member of the Retirement System, the Employee's beneficiary will receive a single lump sum payment. This payment will equal the highest twelve (12) months' salary in a row during the 24 months before death, but no more than \$50,000. This benefit is also paid if Employee dies within 180 days after the last day for which Employee is paid a salary, provided Employee has not withdrawn their contributions. This benefit is in addition to any other benefits to which Employee may be entitled through the Retirement System.

Law Enforcement Officers' Separation Allowance

The County shall provide a special separation allowance to qualified officers who retire early or who leave service early, and who meet all of the following qualifications:

- The officer must have completed 30 years or more of creditable service, or have attained 55 years of age and completed five or more years of creditable service;
- The officer must not yet be age 62; and
- The officer must have completed at least five years of continuous service as a law enforcement officer immediately prior to service retirement.

The separation allowance ceases when the officer reaches age 62 or when the officer dies. The separation allowance ceases the first day the officer becomes employed, in any capacity, by another North Carolina Local Governmental Employees Retirement System employer, except that a local government employer may employ retired officers in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System, and doing so shall not cause payment to cease to those officers under the provisions of G.S. 143-166.42.)

Supplemental Retirement Income Plan Available to Law Enforcement Officers

All law enforcement officers automatically become a member of the Supplemental Retirement Income Plan on the date of hire, provided the officer has the full power of arrest with the primary duty of enforcing criminal laws.

Benefits/Other – Fixed

Davidson County, as the employer, provides the following additional benefits to its Employees:

- Workers' Compensation - Provides coverage to all full and part-time Employees to cover medical expenses and loss time from work due to work related injuries.

Benefits/Other – Flexible

Additional deductions/benefits may be allowed, at the option of the Employee, under the provisions of the insurance contracts, Deferred Compensation Program, and other programs in which the County may authorize Employee participation and payroll deduction.

30 Year Employees - Retirees/Continued Benefits

- The Employee Group Health Plan allows an Employee under age 65 that was hired prior to June 30, 2009, who meets the requirements for Early Retirement (Reduced Benefits) under the North Carolina Local Government Employees' Retirement Plan, to remain on the Employee Group Health insurance after retirement until the retiree reaches age 65.
- Any Employee retiring from Davidson County Government may keep the same coverage, at his/her expense, which has been in effect for at least one (1) year prior to retirement, or reduced health coverage at the time of retirement. Employees may not add or increase health coverage at the time of retirement.
- As with all benefits not mandated by Federal or State Law, the County reserves the right to change, modify or discontinue this policy through action, whenever so determined by the Board of County Commissioners.

Employee Recognition

All full-time Employees eligible for benefits with Davidson County, when they attain five, ten, fifteen, twenty, twenty-five, or thirty or more years of continuous service as of January 1st, shall be recognized annually in December. Elected officials' eligibility shall be calculated as of the date of election or appointment. The years of service will be adjusted in the same manner as the Longevity.

Longevity Pay

Longevity will be applicable to all regular status full-time Employees who are eligible to participate in the Local Government or Law Enforcement Retirement Systems with Davidson County. Longevity pay is determined using these rules:

- At least 3 years' continuous service in a full-time Board authorized position with the County;
- A service year is 12 completed months of service;
- Service months will be calculated through December 31st of each calendar year;
- Adjustments will be made in increments of whole months for leave without pay, including Family and Medical Leave Without Pay;
- Longevity pay will be subject to income tax withholdings, Social Security and Local Government or Law Enforcement Retirement;
- Funding for longevity will be determined on an annual basis;

- Persons retiring after July 1 each year will receive a full longevity check for that year, regardless of when they retire, payable in the same payroll period as their final vacation payout. This is only applicable to Employees who retire and not to Employees who leave County service for any other reason.
- If an employee is paid longevity and leaves prior to December 31, their longevity is deducted from their last check.

Longevity pay is based on years of continuous County service. Payment based on that service will be determined as follows:

| Years of Continuous Davidson County Service | Amount |
|--|-------------------|
| 3 - 9 years | \$35.00 per year |
| 10 - 19 years | \$50.00 per year |
| 20 - 29 years | \$75.00 per year |
| 30 years or more | \$100.00 per year |

Christmas Bonus

Employees with full benefits will receive a Christmas Bonus under the following guidelines:

- Employees are paid \$1.00 per month of service with a maximum of \$100.00 for the bonus.
- Employees with a hire date of September 30th and prior will be eligible for the bonus.
- Employees hired October 1st and later will not be eligible for the bonus for that calendar year.
- Service calculations will be made through December 31st of that year. Employees with six months of service and less will receive \$15.00. For purposes of this calculation Employees with a hire date of July 1st through September 30th will be considered to have six months or less of service and will receive \$15.00.
- Employees with more than six months and less than twenty-five months of service will receive \$25.00. For purposes of this calculation, Employees with a hire date of January 1st of the previous year through June 30th of the current year will be considered to have more than six months and less than 25 months of service and will receive \$25.00.
- Employee hire dates will be verified and the bonus will be given in whole dollar amounts.

Retiree Health Benefits

After retirement, Employee health insurance will continue to be paid if the retiree has met the following conditions:

- Was hired prior to June 30, 2009 (Retiree Benefits discontinued per Board Approval effective July 1, 2009).
- At least twenty years of service in North Carolina state and/or local government, of which the last ten years must have been consecutive with Davidson County government.
- The retiree must be 55 years of age or older.
- If a retiree becomes employed by another employer and is eligible for health insurance with that employer, he or she is ineligible for coverage under this provision then or in the future.
- The plan's Third Party Administrator will actuarially establish the premium for retirees, or if the current plan is changed to an indemnity one, the indemnity plan's insurance carrier will establish it.

The County portion of the premium for retirees will be based on its contribution to the premium of regular Employees. Contribution levels for total service will be as follows:

| | |
|------------------|---------|
| 30 years or more | 100% |
| 25 - 29 years | 66 2/3% |
| 20 years | 33 1/3% |

This will not apply to coverage for dependents.

Employee Assistance Program

Davidson County recognizes that a wide range of personal or medical issues could affect an Employee's job performance. Examples of such issues include alcoholism, other drug dependencies, marital or family distress, emotional instability and financial or legal problems. These problems can result in deterioration of job efficiency.

In many instances, the Employee will overcome such personal or medical issues independently and the effect on job performance will be negligible. In other instances, normal Supervisory assistance will serve either as motivation or guidance, by which such issues can be resolved, so the Employee's job performance will return to a satisfactory level. In some cases, neither the efforts of the employer nor Supervisors have the desired effect on resolving the Employee's issues, or unsatisfactory performance persists over a period of time, either constantly or intermittently.

The purpose of the Employee Assistance Program is to help the Employee deal effectively with his/her issue(s) and to restore that Employee to satisfactory job efficiency. This Program is designed to identify the problem at the earliest possible stage, motivate the Employee to seek help, and direct the Employee to the appropriate assistance.

Davidson County believes it is in the best interest of the Employee, the Employee's family, and the County to provide an Employee service that deals with such difficult issues.

Personal or medical issues that affect work performance and attendance are legitimate concerns of management. Management recognizes that these personal or medical issues could be successfully treated, provided they are identified early and referral is made to the appropriate treatment resource.

Davidson County considers the moral stigma often associated with some personal or medical issues, particularly alcoholism, to be both outdated and mistaken. Realistic acceptance of these conditions as being treatable will help overcome this stigma and accelerate referral to diagnosis and treatment.

No Employee will have his or her job security or promotional opportunities jeopardized for participating in the program.

Strict confidentiality is essential and will be maintained. The pertinent information and records of Employees with behavioral/medical problems will be preserved in the same manner as all other medical records.

Employees are encouraged to use the Employee Assistance Program voluntarily when they need professional help or guidance. If an Employee has not sought help independently for a personal or medical issue, it will be the responsibility of the Supervisors to follow a procedure which will ensure

that no Employee with a personal or medical issue will fail to have the benefit of diagnosis and treatment.

It is the Employee's responsibility to cooperate in the designated treatment or rehabilitation plan. After reasonable opportunity for progress, discipline may occur unless there is noticeable improvement in job performance.

Since Employee's work performance can be affected by the problems of an Employee's spouse or other dependents, the program is available to the families of our Employees as well.

Implementation of this policy will not require or result in any special regulations, privileges, or exemptions from the standard administrative practices applicable to job performance.

Procedure for Using EAP

Any Employee of Davidson County may use the Employee Assistance Program on a self-referral basis by contacting the program director at 1-336-293-4169.

When an Employee's job performance begins to decline, Supervisors will:

- By means of continued observation, be alert to changes in the work and behavior pattern of all personnel under their supervision, not attempt to determine or diagnose the problems of the Employees, and will never attempt to counsel with the Employee relative to a personal issue.
- Document or record particular instances in which an Employee's job performance or behavior fails to meet minimum established standards, or in which their individual pattern seems to be changing or deteriorating.
- Conduct a corrective interview with Employees when the documented record of their unsatisfactory performance warrants it. At the end of the interview, inform the Employee that the services of the Employee Assistance Program are available.

The interview should include the following:

- Review with the Employee each instance that is recorded;
- Explain precisely why the level of job performance is considered unsatisfactory;
- Allow the Employee to give reasons for his/her actions or failure;
- Make suggestions for corrections as they apply to job performance;
- Write a report of the interview for any future use.

If the Employee's performance continues to deteriorate, the Supervisor may conduct a second interview. Conclude with a strong recommendation that the Employee use the services of the Employee Assistance Program on a confidential basis. Also inform the Employee that failure to improve his/her job performance could result in disciplinary action.

Voluntary Shared Leave Policy

Purpose

Some prolonged medical conditions may cause Employees to exhaust all available leave and be placed on leave without pay. Such Employees forced to go on leave without pay could be without income at the most critical point in their work life. Fellow Employees may wish to voluntarily donate some of their vacation/sick leave so as to provide assistance to a fellow County Employee in such a situation. This policy is an opportunity for Employees to assist another Employee affected by a medical condition that requires absence from duty for a prolonged period of time resulting in possible loss of income due to lack of accumulated leave.

Policy

In cases of prolonged medical condition an Employee may apply for or be nominated to become a recipient of leave transferred from the sick or vacation leave accounts of another County Employee. If an Employee has had previous random absences for the same condition that has caused a high level of absences, or if the Employee has had a previous, but different, prolonged medical condition within the last twelve months, the Department Director may recommend an exception to the 20-day period. The intent of this policy is to allow one Employee to assist another in case of a prolonged medical condition that results in exhaustion of all earned leave.

Definitions Used in This Policy

Medical Condition - The medical condition of an Employee or their spouse, parents, children, or other dependents that is likely to require an Employee's absence from duty for a prolonged period of at least 20 consecutive workdays.

General Guidelines

- Leave must be donated on a one-to-one basis.
- Individual leave records are confidential and only individual Employees may reveal their donation or receipt of leave. The Employee donating leave cannot receive any form of remuneration for the leave donated.

Eligibility

- The recipient must have successfully completed the probationary period and is a regular full-time Employee prior to the date of the request for donation. Participation in this program shall be based on the Employee's past compliance with leave rules.
- Non-qualifying conditions: The policy will not ordinarily apply to short-term or sporadic conditions or illnesses. This would include such things as sporadic, short-term recurrences of chronic allergies or conditions; short-term absences due to contagious diseases; or short-term, recurring medical or therapeutic treatments. These examples are illustrative, not all inclusive; each case must be examined and decided based on its conformity to policy intent and must be handled consistently and equitably.

Application Procedure

- (a) By letter or application to Human Resources, a recipient shall apply or be nominated by a fellow Employee to participate in the program.
- (b) Application for participation should include name, job title, department, and estimated length of time needed to participate in the program. A doctor's statement must be provided to Human Resources.
- (c) The Privacy Act makes medical information confidential. When disclosing information on an approved recipient, only a statement that the recipient has a prolonged medical condition (or the family member) needs to be made. If the Employee wishes to make the medical status public, the Employee must sign a release to allow the status to be known.
- (d) Human Resources shall review the application and determine if it should go forward. If so, the shared leave process will be implemented.

Recipient Guidelines

- (a) A prospective recipient may make application for voluntary shared leave at such time as medical evidence is available to support the need for leave beyond the Employee's available accumulated leave.
- (b) Participation in this program is limited to a total of 1,040 hours, either continuously or if for the same condition on a recurring basis. However, management may grant Employee continuation in the program, month by month, if management would have otherwise granted leave without pay.
- (c) Subject to the maximum of 1,040 hours, the number of hours of leave an Employee can receive is equal to the projected recovery of treatment period, less the Employee's combined vacation and sick leave balance as of the beginning of the recovery or treatment period. The Employee must exhaust all available leave before using donated leave.
- (d) At the expiration of the medical condition, any unused leave in the recipient's donated leave account will not continue; the recipient's leave balance shall be zero.
- (e) If a recipient separates due to resignation, death, or retirement from County Government, participation in the program ends.

Donor Guidelines

- (a) The minimum amount to be donated is 8 hours.
- (b) An Employee donating leave to a qualified recipient under this policy may donate up to a maximum of 40 hours per calendar year, but may not reduce his/her vacation or sick leave balances below 40 hours of each type accrual.
- (c) A donor may not donate leave during a resignation notice period.

Leave Accounting Procedures

- (a) A centralized system of leave accountability will accurately record leave donations and recipient's use.
- (b) Such accounts shall provide a clear and accurate record for financial and management audit purposes.
- (c) All leave donated shall be credited to the recipient's Voluntary Shared Leave balance and deducted from the donor(s) sick or vacation leave accounts as the hours are consumed.

Voluntary Shared Leave available in the recipient's sick leave account will be charged according to the Human Resources Employee Resolution. Once leave has ended, any unused Voluntary Shared Leave hours will be credited back to the donor

- (d) Leave transferred under this program will be available for use on a current basis, beginning on the date of the adoption of this policy.
- (e) Each approved medical condition shall stand alone and the Human Resources Department shall notify the donor and the recipient.

CHAPTER IX

TRAINING AND DEVELOPMENT

Purpose

Davidson County believes that training is essential to providing quality services to the people it serves. The County also believes in assisting Employees who wish to progress in their careers with the County.

Policy

Davidson County will provide training opportunities to all Employees. It will also provide assistance to those Employees wishing to acquire education and skills useful to the County and to the Employee's career. Some Employee training will be mandatory, to enable the County to ensure compliance with applicable laws. Other training and education will be at the Employee's election to assist the Employee in career planning and career development.

Coverage

This policy covers all Employees. The County Manager and the County Attorney are not covered by this policy.

Training For Employees and Supervisors

Mandatory Training

Within twelve (12) months of hire, all Employees must complete the following training:

- Sexual Harassment and other forms of harassment
- Fire extinguisher training
- Drug and Alcohol Awareness
- Defensive Driving (for driving positions and safety sensitive positions)

Within one year of being appointed or promoted to a Supervisory position, all Supervisors must attend training on basic employment law, including at a minimum the Fair Labor Standards Act, Title VII of the 1964 Civil Rights Act, the Family/Medical Leave Act and the Americans with Disabilities Act. This training will include both an explanation of each law's basic requirements, along with information on Davidson County processes for complying with each law.

Elective Training

Based upon input from Department Directors and Employees, the County will make available training on topics of interest and value to the County and Employees.

The County will provide training from available sources, including County staff, resources available in the County, and any other suitable resource available to the County.

The Department of Human Resources will maintain records of all training, mandatory and elective, attended by each Employee.

Career Development, Tuition Reimbursement

Definitions Used in This Policy

Career Development Training - Courses taken on Employee's time as part of a career development program.

Approved Course - This is an educational program that will either improve the Employee's ability to perform in the present job, or help prepare the Employee for a job with the County that will demand a higher level of responsibility and/or skill.

Satisfactory Completion of the Course - The receipt of a C or better, a P (Pass) or better, or an S (Satisfactory) or better for courses under these grading systems

Purpose

Davidson County believes in encouraging and supporting the development and career interests of its Employees. To that end, Davidson County will reimburse Employees for tuition and books for courses taken that benefit both the Employee and the County.

Reimbursement For Career Development Training Expense

When Employees enter into a career development/training program with the prior approval of the Department Director and the County Manager, they may be reimbursed for expenses such as tuition and books upon successful completion of the course within the limits established by the County's career development reimbursement policy. This reimbursement is limited to one course per semester. Prior to approval of any course taken as career development, funds must be available in order to approve the training.

Eligibility: Employees and Courses

Full-time Employees that have completed the initial probationary period are eligible for this program. Employees in probationary, and part-time status are not eligible for career development reimbursement.

Any accredited high school, business school, community college, technical institute, college, university, correspondence school, or other educational source approved by the Department Director and County Manager is eligible for selection.

Academic courses which are audited are not eligible for career development reimbursement.

Approved Courses

The determination by the Department Director and the County Manager on whether to provide reimbursement shall be based on the Employee being enrolled in an educational program that will either improve the Employee's ability to perform in their present job, or help prepare the

Employee for a job with the County which will demand a higher level of responsibility and/or skill.

Financial Assistance

The County shall reimburse an eligible Employee for tuition, registration fees, textbooks, and laboratory fees (*as set forth in IRS publication 970 chapter 11*) upon presentation of required documentation. Costs will be reimbursed at one-half of the costs up to a maximum total County reimbursement of \$1,000.00 for any Employee per semester (\$500 per quarter), subject to approval of the budget ordinance. An Employee may receive no more than eight thousand dollars (\$8,000.00) in the aggregate for tuition reimbursement during employment with the County.

An Employee must receive a C or better, a P (Pass) or better, or an S (Satisfactory) or better for courses under these grading systems in order to receive reimbursement.

Reimbursement shall not be authorized for transportation costs, graduation fees, examination fees, and supplies.

An Employee will certify to the Finance Department on the career development reimbursement application the amount and kind of other financial assistance received for tuition, registration fees, textbooks or laboratory fees. If such funds are received, the County will reimburse only the amount not paid by other sources in accordance with our reimbursement payment policy.

Application and Reimbursement Procedures

Employees who wish to participate in this program may obtain applications from the Human Resources Department or download from these links:

[Application Form](#)

[Request for Reimbursement](#)

Pre-audit applications must be submitted to the Department Director and County Manager prior to enrollment in the course. If an Employee enters into an educational program prior to approval and subsequently approval is denied, the Employee will assume all financial responsibility for expenses incurred.

Applications must be reviewed, recommended, and approved by the applicant's Department Director and approved by the County Manager. The Employee shall receive reimbursement of approved academic costs upon submitting the completed request for reimbursement, evidence of satisfactory completion of the course, and receipts documenting academic costs. Request for reimbursement must be submitted within thirty (30) days of completion of the course.

An Employee who voluntarily resigns from County employment must repay or have deducted from salary any tuition reimbursement paid under the following conditions:

- The Employee will be required to pay back 100% of the education reimbursement received during the last 12 months of employment.
- The Employee will be required to pay back 50% of the education reimbursement received during the time period of 12 to 24 months prior to leaving County.

- Reimbursements received more than 24 months in advance of leaving County employment will not need to be paid back.
- Each reimbursement will be subject to the pay back clause.
- An Employee will only be allowed to collect \$8,000 in aggregate for tuition reimbursement during employment with the County.

The County Manager may review or make an exception to the continuing work rule when in the best interest of the County. Exceptions may include the following: Involuntary termination, voluntary separations due to major health issues, disability or retirement.

Budgeted Funds / Fund Availability

It is the responsibility of each Department Director to include the budgeted funds for this training in each year's budget planning. Each Department Director has the authority to restrict the amount of budgeted funds available for each year.

Career Development

Supervisors are strongly encouraged to meet and discuss with each Employee her/his career goals. Supervisors are also strongly encouraged to develop, together with Human Resources, career development opportunities for Employees such as acting/interim appointments, mentoring, shadowing, and assignment to work on a project.

CHAPTER X
SUBSTANCE ABUSE POLICY,
INCLUDING ZERO TOLERANCE POLICY
FOR DAVIDSON COUNTY TRANSPORTATION SYSTEM

Davidson County Substance Abuse Policy

Purpose

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

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

Applicability

This Drug and Alcohol Testing Policy applies to all County Employees when performing County duties with the exception of election poll workers.

Definitions Used in This Chapter

Accident - An occurrence of a workplace injury resulting in medical treatment of an Employee in a safety sensitive position beyond basic first aid. An occurrence associated with the operation of a vehicle by an Employee in an identified safety sensitive position, if as a result:

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

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

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

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

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

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

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

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

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

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

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

Employee - An individual who works part-time or full-time (including interns) for Davidson County Government (except election poll workers) including an applicant or transferee who is being considered for hire.

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

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

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

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

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

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

Limit of Quantization - For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

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

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

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

Non-Negative Test Result - A urine specimen that is reported as adulterated, substitute, invalid, or positive for drug/drug metabolites.

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

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

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

Prohibited Drug - Identified as marijuana, cocaine, opiates, amphetamines (including ecstasy), or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

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

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

Vehicles - All vehicles that are used by the County or that require a COD to operate, including landfill equipment and Employee-driven motorized equipment.

Safety Sensitive Position - A position where the duties involve such a great risk of injury to others that even a momentary lapse of attention can have disastrous consequences. Employees who drive to carry out their regular duties on a regular basis are considered safety sensitive.

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

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

- Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
- Fails to remain at the testing site until the testing process is complete
- Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations
- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of providing a specimen
- Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
- Fails or declines to take a second test the employer or collector has requested
- Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the “shy bladder” or “shy lung” procedures
- Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process)
- If the MRO reports that there is verified adulterated or substituted test result
- Failure or refusal to sign the necessary testing form
- In the case of a directly observed collection, fails to follow the observer's instructions or otherwise interferes with the collection process
- Possesses or wears a prosthetic or other device that could be used to interfere with the collection process
- Admits to the collector or MRO that the test has been adulterated or that a substitute specimen was given

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

Verified Positive Test - A drug test result reviewed by a Medical Review Officer and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

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

Education and Training

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

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

Prohibited Substances

Prohibited substances addressed by this policy include the following: Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana; amphetamines (including methamphetamine and ecstasy), opiates (including heroin), phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all covered Employees be tested for marijuana, cocaine, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), and phencyclidine as described in Section Hof this policy. Illegal use of these five drugs is prohibited at all times and thus, covered Employees may be tested for these drugs anytime that they are on duty.

- 1) Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates mental functioning, motor skills, or judgment may be adversely affected must be reported to a County Supervisor and the Employee is required to provide a written release from his/her doctor or pharmacist indicating that the Employee can perform his/her job functions.
- 2) Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food) or any other substances such that alcohol is present in the body while performing safety sensitive job functions is prohibited. An alcohol test can be performed

on a covered Employee under 49 CFR Part 655 just before, during, or just after the performance of safety sensitive job functions. Under Davidson County Government authority, an alcohol test can be performed any time a covered Employee is on duty.

Prohibited Conduct

All covered Employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.

Each Employee is prohibited from consuming alcohol while performing job functions or while on-call to perform job functions. If an on-call Employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The Employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.

The County shall not permit any Employee to perform or continue to perform functions if it has actual knowledge that the Employee is using alcohol.

Each Employee is prohibited from reporting to work or remaining on duty requiring the performance of functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.

No covered Employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

No Employee shall consume alcohol within eight (8) hours prior to the performance of job functions. *Department Directors may specify a longer period for positions designated as safety sensitive.*

Davidson County Government, under its own authority, also prohibits the consumption of alcohol at all times the Employee is on duty, or anytime the Employee is in uniform.

Consistent with the Drug-free Workplace Act of 1988, all Davidson County Employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including its premises and vehicles.

Drug Statute Conviction

Consistent with the Drug Free Workplace Act of 1998, all Employees are required to notify the Davidson County Government management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action up to and including dismissal after review with Human Resources and the Department Director.

Testing Requirements

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49CFR part 40 as amended. All Employees shall be subject to testing prior to employment (pre-

employment) and for reasonable suspicion. Employees in safety sensitive positions shall be subject to testing following an accident and random testing as defined in this policy, and return to duty/follow-up.

A drug test mandated by this policy can be performed any time an Employee is on duty; a reasonable suspicion and random test can be performed just before, during, or after the performance of a job function. Under Davidson County Government authority, an alcohol test can be performed any time a covered Employee is on duty; just before, during, or after the performance of a job function.

In cases of reasonable suspicion, post-accident and random testing, all covered Employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with Davidson County Government. Any Employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline.

Drug Testing Procedures

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

The panel used for testing is the DOT Look-Alike and includes these drugs: 6-Acetyl Morphine, Amphetamines, Cocaine, HYC/HYM, MDMA, Marijuana Metab, Oxycodone, and PCP (phencyclidine). After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification specimen. Analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the Employee to notify the Employee of the non-negative laboratory result and provide the Employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the Employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to the Davidson County Human Resources Representative. If a legitimate explanation is found, the MRO will report the test result as negative to the designated Human Resources Representative and no further action will be taken.

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

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

If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be cancelled. If the split specimen is not available to analyze the MRO will direct Davidson County to retest the Employee under direct observation.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so requested by the Employee through the Medical Review Officer. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year.

Observed Collections

Consistent with 49 CFR part 40, as amended, collection under direct observation (by a person of the same sex) with no advance notice will occur if:

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

- All follow-up-tests; or
- All return-to-duty tests

Alcohol Testing Procedures

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

An Employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in this policy. Even though an Employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the Employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences as described in this policy. An alcohol concentration of less than 0.02 will be considered a negative test.

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

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

Pre-Employment Testing

All applicants shall undergo urine drug testing prior to becoming a County Employee.

All offers of employment for positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform job functions unless the applicant takes a drug test with verified negative results.

A non-covered Employee shall not be placed, transferred or promoted into a covered position until the Employee takes a drug test with verified negative results.

If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and approved treatment plan. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.

If a pre-employment/pre-transfer test is canceled, Davidson County Government will require the applicant to take and pass another pre-employment drug test.

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

Applicants are required to report previous DOT covered employer drug and alcohol test results. Failure to do so will result in the employment offer being rescinded. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must provide Davidson County Government proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

Reasonable Suspicion Testing

All County Employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the Employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the Employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more Supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an Employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. Human Resources is to be consulted prior to referring an Employee for testing. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a job function. However, a reasonable suspicion alcohol/drug test may be performed any time the Employee is on duty. All reasonable suspicion testing for alcohol will be by BAT (breath).

Davidson County shall be responsible for transporting the Employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation that might endanger the physical safety of those present. The Employee shall be placed on administrative leave pending disciplinary action. An Employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified by this policy.

A written record of the observations that led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the Supervisor making the observation. This written record shall be submitted to the Human Resources Department.

When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the Employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a Supervisor in his/her chain of command, the Employee shall be referred to the Employment Assistance Program (EAP) for an assessment. Davidson County shall place the Employee on administrative leave in accordance with the provisions in this policy. Testing in this circumstance would be performed under the direct authority of the Human Resources Department. Since the Employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered Employee from testing under Federal authority or the associated consequences specified in this policy.

Post-Accident Testing (Safety Sensitive Positions Only)

All covered Employees will be required to undergo urine and breath testing if they are involved in an accident with a vehicle that results in a fatality. This includes all surviving covered Employees that are operating the vehicle at the time of the accident and any other whose performance cannot be completely discounted as a contributing factor to the accident.

In addition, a post-accident test will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility, or one or more vehicles incurs damage, unless the operator's performance can be completely discounted as a contributing factor to the accident.

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

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

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

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

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

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

Random Testing (Safety Sensitive Positions Only)

All safety sensitive employees will be subject to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety sensitive employees. The County maintains two pools of safety sensitive employees: those employees subject to FTA regulations (Transportation employees and all CDL drivers and dispatchers) and all other County employees deemed safety sensitive. Employees in the FTA coverage group will be tested for drugs and alcohol. All other employees deemed safety sensitive will be subject to random drug tests only. The selection of these Employees shall be made by a scientifically valid method of randomly generating an Employee identifier from the appropriate pool of covered Employees.

The dates for administering unannounced testing of randomly selected covered Employees shall be spread reasonably throughout the calendar year and days of the week.

The number of covered Employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations for those safety sensitive Employees subject to random testing by Federal regulations. The current random testing rate for drugs of covered employees in Davidson County is fifty (50) percent of the number of covered Employees in the pool. The random testing rate for alcohol of covered employees in Davidson County is ten percent of the number of covered Employees in the pool.

Each covered Employee shall be in a pool from which the random selection is made. Each covered Employee in the pool shall have an equal chance of selection each time the selections are made. Covered Employees will remain in the pool and subject to selection, whether or not the Employee has been previously tested. There is no discretion on the part of management in the selection.

Covered County Employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of other covered Employees that are included solely under County authority.

Random tests can be conducted at any time during a covered Employee's shift for drug testing. Alcohol random tests can be performed just before, during, or just after the performance of a safety sensitive duty. However, under the County's authority, a random alcohol test may be performed any time the covered Employee is on duty. Testing can occur during the beginning, middle, or end of a covered Employee's shift.

Employees are required to proceed immediately to the collection site upon notification of their random selection.

When an Employee being placed, transferred, or promoted from one position to another position considered as "safety sensitive" submits a drug test with a verified positive result, the Employee shall be subject to disciplinary action as described in this policy.

Return-To-Duty Testing

Davidson County will terminate the employment of any Employee who tests positive or refuses a test as specified in this policy. However, in the rare event an Employee is reinstated with court order or other action beyond the control of Davidson County, the Employee must complete the return-to-duty process prior to the performance of job functions. All Employees who previously tested positive on a drug or alcohol test or refused a test must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional (SAP) before returning to work. For an initial positive drug test a Return to Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP/EAP will recommend a course of rehabilitation unique to the individual. The SAP/EAP will recommend the return-to-duty test only when the Employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undo concerns for public safety.

Follow-Up Testing

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

Result of Drug/Alcohol Test

Any Employee that has a verified positive drug or alcohol test will be removed from his/her position and will be terminated. The terminated Employee will be informed of any known SAP/EAP educational/rehabilitating programs available.

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

A positive drug and/or alcohol test will also result in disciplinary action as specified herein.

After receiving notice of a verified positive drug test result, a confirmed alcohol test result, or a test refusal, the Human Resources Director will contact the Employee's Supervisor to have the Employee cease performing any job function. The Employee shall be referred to a SAP/EAP and will be terminated.

Refusal to submit to a drug/alcohol test shall be considered a positive test result and shall result in termination. A test refusal includes the following circumstances:

- A covered Employee who consumes alcohol within eight (8) hours following involvement in an accident without first having submitted to post-accident drug/alcohol tests.
- A covered Employee who leaves the scene of an accident without a legitimate explanation prior to submission to drug/alcohol tests.
- An Employee who provides an insufficient volume of urine specimen or breath sample without a valid medical explanation. The medical evaluation shall take place within 5 days of the initial test attempt.
- A verbal or written declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test within the specified period.
- An Employee whose urine sample has been verified by the MRO as substitute or adulterated.
- An Employee fails to appear for any test within a reasonable time, as determined by the employer, after being directed to do so by the employer.
- An Employee fails to remain at the testing site until the testing process is complete.
- A covered Employee fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations.
- An Employee fails to permit the observation or monitoring of a specimen collection.
- An Employee fails or declines to take a second test the employer or collector has directed you to take.
- A covered Employee fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures.
- An Employee fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process).
- Failure to sign the required Substance/Alcohol Testing forms.
- Failure to follow the observer's instructions during an observed collection.
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- Admission to the collector or MRO that the specimen is adulterated or was substituted.

An alcohol test result of 0.02 to 0.039 BAC shall result in the removal of the Employee from duty for eight hours or the remainder of the workday, whichever is longer. The Employee will not be allowed to return to duty for his/her next shift until he/she submits to an alcohol test with a result of less than 0.02 BAC. Any safety sensitive employee with this result will be subject to discipline up to and including dismissal, following review by the Human Resources Director and the Department Director. If a non-safety sensitive Employee has an alcohol test result of 0.02 to 0.039 two or more times within a six month period, the Employee will be removed from duty and referred to SAP/EAP for assessment and treatment consistent with this policy.

In the instance of a self-referral or a management referral, disciplinary action against the Employee shall include:

- Mandatory referral to a SAP/EAP for assessment, formulation of a treatment plan, and execution of a return to work agreement.
- Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from County employment. Compliance with the return-to-work agreement means that the Employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the judgment of the SAP/EAP the Employee is cooperating with his/her SAP/EAP recommended treatment program; and, the Employee has agreed to periodic unannounced follow-up testing as defined in this policy.
- Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination.
- A self-referral or management referral to the SAP/EAP that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline.
- Periodic unannounced follow-up drug/alcohol test conducted as a result of a self- referral or management referral which results in a verified positive shall be considered a positive test result.
- A Voluntary Self -Referral does not shield an Employee from disciplinary action or guarantee employment with the County.
- A Voluntary Referral does not shield an Employee from the requirement to comply with drug and alcohol testing.

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

Grievance and Appeal

The consequences for a positive test or test refusal are not subject to arbitration. Employees may exercise their right to present a grievance in accordance with the Davidson County Employee Resolution, Chapter XII.

Proper Application of Policy

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

Information Disclosure

Drug/alcohol testing records shall be maintained by the Davidson County Human Resources Director and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested Employee.

The Employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Employees have the right to gain access to any pertinent records such as equipment calibration

records, and records of laboratory certifications. Employees may not have access to SAP/EAP referrals and follow-up testing plans.

Records of a verified positive drug/alcohol test result shall be released to the Human Resources Director, and other appropriate County management personnel only on a need to know basis.

Records will be released to a subsequent employer only upon receipt of a written request from the Employee.

Records of an Employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.

Records will be released to the National Transportation Safety Board during an accident investigation.

Information will be released in a criminal or civil action resulting from an Employee's performance of job duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.

Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Davidson County or the Employee.

If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken.

In cases of a contractor or sub-recipient of a state department of transportation, records may be released when requested by such agencies that must certify compliance with the regulation to the FTA.

Safety Sensitive Job List

Safety Sensitive Position - A position where the duties involve such a great risk of injury to others that even a momentary lapse of attention can have disastrous consequences. Employees who drive to carry out their regular duties on a regular basis are considered safety sensitive.

- Bus Drivers
- Any person that is required as a condition of employment with Davidson County to have a Commercial Driver's License
- Garage Mechanics
- Truck Drivers
- Heavy Equipment Operators
- Light Equipment Operators

- Nurses
- Law Enforcement Detention Officers and Deputy Sheriffs
- Emergency Medical Technicians
- 911 Operators/Telecommunicators
- Construction Inspectors
- Fire Marshals
- Fire Inspectors

Note: The above list is subject to change as needed due to changes in job responsibilities/functions.

Contacts

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

Davidson County Human Resources Director

Name: Kathy Cashion

Title: Davidson County Human Resources Director (DER)

Address: 913 Greensboro Street, Lexington, NC 27292

Telephone Number: (336) 242-2919

Medical Review Officer

Name: J. Sloan Manning, MD

Title: MRO

Address: 280C Charlois Blvd., Winston Salem, NC 27114

Telephone Number: (336) 718-1140

Substance Abuse Professional

Name: PrimeCare

Contact: Susan Grimmer

Title: Toxicology Supervisor

Address: 1399 Westgate Center Dr., Winston-Salem, NC 27103

Telephone Number: (336) 760-5632

Employment Assistance Program

Davidson County EAP

Contact: Melissa Snapp, LPC, LCAS

Telephone Number: (336) 293-4169

Quest Diagnostics

1777 Montreal Circle

Tucker, GA 30084

Telephone Number: (770) 934-9200

Collection Site

Novant Health – Occupational Medicine

Thomasville Medical Occupational Center

207 Old Lexington Road, Thomasville, NC 27360

Telephone Number: (336) 474-8199

Note: The names of contact individuals (above) are subject to change as needed due to change in personnel and service providers/vendors.

ZERO TOLERANCE DRUG AND ALCOHOL PROGRAM AND TESTING POLICY FOR THE DAVIDSON COUNTY TRANSPORTATION SYSTEM *pertaining strictly to the Davidson County Transportation System*

Purpose

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

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

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

Applicability

This Drug and Alcohol Testing Policy applies to all safety sensitive Employees (full- or part-time) when performing safety sensitive duties. DCTS Employees that do not perform safety sensitive functions are also covered under this policy under the sole authority of DCTS. See Attachment A for a list of Employees and the authority under which they are included.

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

Definitions Used in This Section

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

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

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

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

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

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

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

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

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

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

Covered Employee Under Company Authority - An Employee, applicant, or transferee that will not perform a safety sensitive function as defined by FTA but is included under the County's own authority. (See Attachment A).

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

Department of Transportation (DOT) - For the purposes of Drug and Alcohol regulatory oversight, DOT is the department of the federal government which includes the Federal Transit Administration, Federal Railroad Administration, Federal Highway Administration, Federal Motor Carriers' Safety Administration, Pipeline & Hazardous Materials Safety Administration, United States Coast Guard, and the Office of the Secretary of Transportation.

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

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

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

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

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

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

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

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

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

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

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

Non-Negative Test Result - A urine specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites.

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

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

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

Prohibited Drug - Identified as marijuana, cocaine, opiates, amphetamines (including ecstasy), or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

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

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

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

Safety Sensitive Functions - Employee duties identified as:

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

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

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

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

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

- Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
- Fails to remain at the testing site until the testing process is complete
- Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations
- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of providing a specimen
- Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
- Fails or declines to take a second test the employer or collector has requested
- Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the " shy bladder" or "shy lung" procedures
- Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
- If the MRO reports that there is verified adulterated or substituted test result
- Failure or refusal to sign Step 2 of the alcohol testing form
- In the case of a directly observed collection, fails to follow the observer's instructions or otherwise interferes with the collection process
- Possesses or wears a prosthetic or other device that could be used to interfere with the collection process
- Admits to the collector or MRO that the specimen has been adulterated or substituted.

Vehicle - A bus, electric bus, van, automobile, railcar, trolley car, trolley bus, or vessel. A public transit vehicle used for public transportation or for ancillary services.

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

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

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

Education and Training

Every covered Employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered Employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work

environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

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

Prohibited Substances

Prohibited substances addressed by this policy include the following:

- Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy
- Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all Employees covered under FTA authority be tested for marijuana, cocaine, amphetamines (including methamphetamine and ecstasy), opiates (including heroin), and phencyclidine as described in this policy. Employees covered under company authority will also be tested for these same substances. Illegal use of these five drugs is prohibited at all times and thus, covered Employees may be tested for these drugs anytime that they are on duty.

Legal Drugs - The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a DCTS Supervisor and the Employee is required to provide a written release from his/her doctor or pharmacist indicating that the Employee can perform his/her safety sensitive functions.

Alcohol - The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety sensitive job functions is prohibited. A random or reasonable suspicion alcohol test can only be performed on a covered Employee under 49 CFR Part 655 just before, during, or just after the performance of safety sensitive job functions. Under DCTS authority, a non-DOT alcohol test can be performed any time a covered Employee is on duty.

Prohibited Conduct

All covered Employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.

Each covered Employee is prohibited from consuming alcohol while performing safety sensitive job functions or while on-call to perform safety sensitive job functions. If an on-call Employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered Employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.

The Transit Department shall not permit any covered Employee to perform or continue to perform safety sensitive functions if it has actual knowledge that the Employee is using alcohol.

Each covered Employee is prohibited from reporting to work or remaining on duty requiring the performance of safety sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.

No covered Employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

No covered Employee shall consume alcohol within four (4) hours prior to the performance of safety sensitive job functions.

DCTS, under its own authority, also prohibits the consumption of alcohol at all times the Employee is on duty, or anytime the Employee is in uniform.

Consistent with the Drug-free Workplace Act of 1988, all DCTS Employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

Drug Statute Conviction

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

Testing Requirements

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49CFR part 40 as amended. All Employees covered under FTA authority shall be subject to testing prior to performing safety sensitive duty, for reasonable suspicion, following an accident, and random as defined in this policy, and return to duty/follow-up. All Employees covered under company authority will also be subject to testing for reasonable suspicion, post-accident, random, and return to duty/follow-up using non-DOT testing forms.

A drug test can be performed any time a covered Employee is on duty. A reasonable suspicion and random alcohol test can be performed just before, during, or just after the performance of a safety sensitive job function. Under DCTS authority, a non-DOT alcohol test can be performed any time a covered Employee is on duty.

All covered Employees will be subject to urine drug testing and breathe alcohol testing as a condition of ongoing employment with DCTS. Any safety sensitive Employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in this policy.

Drug Testing Procedures

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

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

The test results from the HHS-certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the Employee to notify the Employee of the non-negative laboratory result, and provide the Employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the Employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to the DCTS Drug and Alcohol Program Manager (DAPM). If a legitimate explanation is found, the MRO will report the test result as negative to the DAPM.

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

Any covered Employee who questions the results of a required drug test under this policy may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the Employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The Employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the Employee. DCTS will ensure that the cost for the split specimen is covered in order for a timely analysis of the sample, however DCTS will seek reimbursement for the split sample test from the Employee.

If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled. If the split specimen is not available to analyze the MRO will direct DCTS to retest the Employee under direct observation.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than one year for testing if so requested by the Employee through the Medical Review Officer, or by the employer, by the MRO, or by the relevant DOT agency.

Observed Collections

Consistent with 49 CFR part 40, as amended, collection under direct observation (by a person of the same sex) with no advance notice will occur if:

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

Alcohol Testing Procedures

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device that is also approved by NHSTA. If the initial test indicates an alcohol

concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct Employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the Employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

An Employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in this policy. Even though an Employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the Employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in this policy. An alcohol concentration of less than 0.02 will be considered a negative test.

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

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

Pre-Employment Testing

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

All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety sensitive functions unless the applicant takes a drug test with verified negative results.

An Employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the Employee takes a drug test with verified negative results.

If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be referred to a Substance Abuse Professional. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.

When an Employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the Employee shall be subject to disciplinary action.

If a pre-employment test is canceled, DCTS will require the applicant to take and pass another pre-employment drug test.

In instances where a FTA-covered Employee does not perform a safety sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool, the Employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety sensitive job functions.

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

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

Reasonable Suspicion Testing

All DCTS FTA covered Employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered Employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the Employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more Supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an Employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety sensitive job function. However, under DCTS's authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered Employee is on duty. A reasonable suspicion drug test can be performed any time the covered Employee is on duty. All Employees covered under the sole authority of DCTS will also be subject to non-USDOT reasonable suspicion testing procedures modeled off the provisions in 49 CFR Part 40.

DCTS shall be responsible for transporting the Employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation that might endanger the physical safety of those present. The Employee shall be placed on administrative leave pending disciplinary action described in this policy. An Employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in this policy.

A written record of the observations that led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the Supervisor making the observation. This written record shall be submitted to DCTS Management.

When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the Employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a Supervisor in his/her chain of command, the Employee shall be referred for assessment and treatment consistent with this policy. DCTS shall place the Employee on administrative leave in accordance with the provisions set forth in this policy. Testing in this circumstance would be performed under the direct authority of the DCTS. Since the Employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered Employee from testing under Federal regulation.

Post-Accident Testing

FATAL ACCIDENTS - All covered Employees will be required to undergo urine and breathe testing if they are involved in an accident with a transit vehicle regardless of whether or not the vehicle is in revenue service that results in a fatality. This includes all surviving covered Employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident.

NON-FATAL ACCIDENTS - A post-accident test of the operator will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage, unless the operator's performance can be completely discounted as a contributing factor to the accident.

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

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

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

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

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

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

Random Testing

All covered Employees will be subject to random, unannounced testing. The selection of Employees shall be made by a scientifically valid method of randomly generating an Employee identifier from the appropriate pool of safety sensitive Employees. Employees covered under company authority will be selected from a pool of non-DOT covered Employees.

The dates for administering unannounced testing of randomly selected Employees shall be spread reasonably throughout the calendar year, day of the week, and hours of the day.

The number of Employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates established by Federal regulations for those safety sensitive Employees subject to random testing by Federal regulations. The current random testing rate for drugs established by FTA equals twenty-five percent of the number of covered Employees in the pool and the random testing rate for alcohol established by FTA equals ten percent of the number of covered Employees in the pool.

Each covered Employee shall be in a pool from which the random selection is made. Each covered Employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the Employee has been previously tested. There is no discretion on the part of management in the selection.

Covered transit Employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety sensitive Employees that are included solely under DCTS authority.

Random tests can be conducted at any time during an Employee's shift.

Employees are required to proceed immediately to the collection site upon notification of their random selection.

Return-To-Duty Testing

DCTS will terminate the employment of any Employee that tests positive or refuses a test as specified in this policy. However, in the rare event an Employee is reinstated with court order or other action beyond the control of the transit system, the Employee must complete the return-to-duty process prior to the performance of safety sensitive functions. All covered Employees

who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work.

For an initial positive drug test a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the Employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety.

Follow-Up Testing

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

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

Result of Drug/Alcohol Test

Any covered Employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety sensitive position, informed of educational and rehabilitation programs available, referred to a Substance Abuse Professional (SAP) for assessment, and will be terminated.

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

Refusal to submit to a drug/alcohol test shall be considered a positive test result and a direct act of insubordination and shall result in termination and referral to an SAP. A test refusal includes the following circumstances:

- Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer
- Fails to remain at the testing site until the testing process is complete
- Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations

- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of providing a specimen
- Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure
- Fails or declines to take a second test the employer or collector has requested
- Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the " shy bladder" or "shy lung" procedures
- Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process)
- If the MRO reports that there is verified adulterated or substituted test result
- Failure or refusal to sign Step 2 of the alcohol testing form
- In the case of a directly observed collection, fails to follow the observer's instructions or otherwise interferes with the collection process
- Possesses or wears a prosthetic or other device that could be used to interfere with the collection process
- Admits to the collector or MRO that the specimen has been adulterated or substituted.

An alcohol test result of 0.02 to 0.039 BAC shall result in the removal of the Employee from duty for eight hours or the remainder of the workday, whichever is longer. The Employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to an alcohol test with a result of less than 0.02 BAG.

In the instance of a self-referral or management referral, disciplinary action against the Employee shall include:

- Mandatory referral for an assessment by an employer-approved counseling professional for assessment formulation of a treatment plan, and execution of a return to work agreement;
- Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from DCTS employment.
- Compliance with the return-to-work agreement means that the Employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the Employee is cooperating with his/her recommended treatment program; and, the Employee has agreed to periodic unannounced follow-up testing as described in this policy: however, all follow-up testing performed as part of a return-to-work agreement required under this policy is under the sole authority of DCTS and will be performed using non-DOT testing forms.
- Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. All tests conducted as part of the return to work agreement will be conducted under company authority and will be performed using non-DOT testing forms.
- A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the discipline defined in this policy.

- Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the discipline defined in this policy.
- A Voluntary Referral does not shield an Employee from disciplinary action or guarantee employment with DCTS.
- A Voluntary Referral does not shield an Employee from the requirement to comply with drug and alcohol testing.

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

Grievance and Appeal

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

Serious disciplinary action imposed by this policy may be grieved through the Davidson County Grievance Procedure ([Chapter XII](#)).

Proper Application of Policy

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

Information Disclosure

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

The Employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered Employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.

Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need to know basis.

Records will be released to a subsequent employer only upon receipt of a written request from the Employee.

Records of an Employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.

Records will be released to the National Transportation Safety Board during an accident investigation.

Information will be released in a criminal or civil action resulting from an Employee's performance of safety sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.

Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its Employees.

Records will be released if requested by a Federal, state or local safety agency with regulatory authority over DCTS or the Employee.

If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken.

In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

Effective January 01, 2015, all Employees of the Davidson County Transportation System will adhere to the attached Zero Tolerance Drug and Alcohol Program and Testing Policy. All other County Employees of Davidson County Government continue to adhere to the Davidson County Substance Abuse Policy.

Effective January 1, 2015, this addendum to the Substance Abuse Policy, Zero Tolerance Drug and Alcohol Program and Testing Policy, for the Employees of the Davidson County Transportation System supersedes and has authorization over any previous policy, documents, statements which reference or impact the policy or practice related to the Davidson County Substance abuse Policy.

Contacts

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

DCTS Drug and Alcohol Program Manager

Name: Richard Jones

Title: Transportation Manager

Address: 945 North Main Street, Suite B, Lexington, NC 27292

Telephone Number: 336-242-2252

Medical Review Officer

Name: Dr. Steven Merlin / Substance Abuse Consultants

Title: Principal

Address: 3031 Scotsman Rd. Suite 17, Columbia SC 29223

Telephone Number: 803-419-1023

Substance Abuse Professional

Name: Leroy Glen, Jr.

Title: SAP

Address: 1001 North Fairfax Street, Suite 201, Alexandria VA 22314-1535

Telephone Number: 336-896-9990

HHS Certified Laboratory Primary Specimen

Name: Alere Toxicology Services

Address: 450 Southlake Boulevard, Richmond VA 23236

Telephone Number: 804-378-9130

HHS Certified Laboratory Split Specimen

Name: Alere Toxicology Services

Address: 450 Southlake Boulevard, Richmond VA 23236

Telephone Number: 804-378-9130

Note: The names of contact individuals (above) are subject to change as needed due to change in personnel and service providers/vendors.

Attachment A

| <u>Job Title</u> | <u>Job Duties</u> | <u>Testing Authority</u> |
|------------------|--|--|
| Route Supervisor | Operates LTVs, passenger vans, and minivans during revenue and non-revenue services. | Federal Transit Authority NCDOT/PTD DCTS Davidson County HR |
| Route Driver | Operates LTVs, passenger vans, and minivans during revenue and non-revenue services. | Federal Transit Authority NCDOT/PTD DCTS Davidson County HR |
| Mechanic | Performs repairs and preventative Maintenance on LTVs, passenger vans, and minivans during non-revenue services. | Federal Transit Authority NCDOT/PTD DCTS Davidson County HR |

CHAPTER XI

DISCIPLINARY ACTION, SUSPENSION, AND DISMISSAL

Note: Employees of the Departments of Health and Social Services are not covered by this Chapter.

Definitions Used in This Chapter

Active Written Warning - A written warning is active for a period of eighteen (18) months after being issued. After eighteen (18) months of satisfactory job performance as documented by a satisfactory performance evaluation, the written warning shall become inactive and is not to be used as the basis for any human resources action from that point forward. Active written warnings, however, may be used after 18 months to establish a pattern of misconduct, negligence, and/or unsatisfactory performance. Any additional active written warning received during the 18-month period will extend the active period of the initial warning by the full period of the subsequent warning(s). Serious disciplinary actions (i.e., suspension without pay, demotion, dismissal) shall not be expunged.

At-Will Employee - All County Employees are considered at-will employees for the length of their service with the County, except for those employees of the Departments of Health and Social Services.

Current Unresolved Incident - A current act of unsatisfactory job performance, or detrimental personal conduct for which no disciplinary action has previously been taken.

Demotion - Demotion is an involuntary movement from a higher-level position to a lower level position for disciplinary reasons with a corresponding permanent reduction in pay. The salary of an Employee demoted to a position in a class with a lower pay range shall be adjusted to the maximum of the new pay range or to 5% below the former salary, whichever is lower.

Disciplinary Suspension Without Pay - A disciplinary suspension without pay shall be of a length determined appropriate based on the circumstances, but in any case not less than eight (8) hours or more than ten (10) consecutive work days.

Dismissal - Dismissal is a decision to terminate the Employee for cause in accordance with this policy.

Pre-Disciplinary Conference - A pre-disciplinary conference is a meeting between the Department Director or his/her designee, an HR representative as an observer, and the Employee who may be subject to disciplinary action up to and including dismissal. The conference is not adversarial and no other third parties may be present. A pre-disciplinary conference must be held before the County may demote, suspend without pay, or dismiss an Employee.

Serious Disciplinary Action - Suspension without pay, demotion, and dismissal shall be considered serious disciplinary actions. A written warning is not considered a serious disciplinary action.

Written Warning - A written warning is a disciplinary action that may be used as a first step in the disciplinary process based on unsatisfactory job performance or minor conduct issues.

Policy

It is the policy of Davidson County to encourage fair, efficient, and equitable solutions for problems arising out of the employment relationship. The purpose of this policy is to set and maintain standards of performance and conduct within the County, and in doing so, ensure that all Employees are treated fairly and consistently. It is designed to help and encourage all Employees to achieve and maintain satisfactory standards of performance and conduct.

All Employees are responsible for acquainting themselves with performance criteria for their particular job, along with rules, procedures, and standards of conduct established by their department, and maintain standards of performance and conduct suitable and acceptable to the work environment.

Coverage

This policy shall apply to all County Employees who have successfully completed the initial probationary period.

Basis for Disciplinary Action

Matters constituting grounds for disciplinary action include, but shall not be limited to, the following major categories:

- Unsatisfactory Job Performance
- Detrimental Personal Conduct

Unsatisfactory Job Performance

Work-related performance that fails to satisfactorily meet job requirements as set out in the relevant job description, or as directed by the Department Director or his/her designee, is deemed unsatisfactory job performance. The following are examples of unsatisfactory job performance:

- Continued inaccurate work;
- Continued untimely work;
- Poor quality of work;
- Insufficient quantity of work;
- Irregular attendance; abuse of leave policies.

Note: The above are intended to be examples, not an exhaustive list, of the types of unsatisfactory job performance.

Detrimental Personal Conduct

Detrimental personal conduct includes, but is not limited to, behavior of such a serious detrimental nature that the functioning of the County may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of the federal, state, or local government may be or have been violated. Detrimental personal conduct is intentional behavior, rather than inadvertent or negligent behavior. The following are examples of detrimental personal conduct:

- Fraud or theft;
- Communication or acts of threats or violence in the workplace;
- Request or acceptance of gifts in exchange for favors;
- Harassment of another Employee(s) and/or the public on the basis of sex or any other legally protected class status;
- Retaliation against an Employee for using the County's grievance procedure or engaging in protected activity, as defined by equal employment laws;
- Reporting to work under the influence of alcohol or drugs or partaking of such while on duty;
- Falsification of official County records, including falsification of information on an application for initial hire, transfer or promotion;
- Insubordination, defined as the willful failure or refusal to carry out a reasonable order from an authorized Supervisor(s);
- Conduct for which no reasonable person should expect to receive a prior warning.

Note: The above are intended to be examples, not an exhaustive list, of the types of conduct considered to be detrimental personal conduct.

Procedure for Implementing Disciplinary Action

Before taking any disciplinary action, the Supervisor or Department Director shall discuss the proposed disciplinary action with Human Resources Department management personnel. Supervisors and Department Directors shall have Human Resources review any letter of disciplinary action, including a written warning, before it is discussed with and provided to the Employee. No regular, full-time Employee may be disciplinarily demoted, suspended without pay or terminated until after a pre-disciplinary conference and with the review and approval of the County Manager or his/her designee.

Discipline for Unsatisfactory Job Performance

Discipline for unsatisfactory job performance requires that the Employee should be notified of the deficiency and provided an opportunity to correct the deficiency and improve performance prior to the initiation of disciplinary action. The following process should be considered and, where appropriate, used to address unsatisfactory performance:

Depending on the circumstances, prior to taking formal disciplinary action for unsatisfactory performance, the Supervisor should discuss the performance with the Employee and work with the Employee to correct the deficiency. If informal discussion does not correct the performance, then formal disciplinary action should be considered.

A Department Director may discipline any Employee under his/her supervision for unsatisfactory job performance at any time. The first step of discipline for unsatisfactory job performance is the issuance of a written warning.

If an Employee has an active written warning, further disciplinary action for unsatisfactory job performance may be disciplinary suspension without pay or demotion. After an Employee has two active disciplinary actions of any kind for unsatisfactory job performance, the next disciplinary action may be dismissal.

Written Warning

Before issuing a written warning for unsatisfactory job performance, the Supervisor must show a current unresolved incident of unsatisfactory job performance.

Disciplinary Suspension Without Pay

The following guidelines should be used, where appropriate, before a disciplinary suspension without pay for unsatisfactory job performance is imposed:

- a current unresolved incident of unsatisfactory job performance; **and**
- at least one prior active warning or other disciplinary action for unsatisfactory job performance, detrimental personal conduct, or negligence in the performance of duties; **and**
- a pre-disciplinary conference.

A disciplinary suspension without pay must be at least a minimum of 8 hours and a maximum of one workweek for unsatisfactory performance.

Demotion

The following guidelines should be used, where appropriate, before a demotion for unsatisfactory job performance is imposed:

- a current unresolved incident of unsatisfactory job performance; **and**
- at least one prior active warning or other disciplinary action for unsatisfactory job performance, detrimental personal conduct, or negligence in the performance of duties; **and**
- a pre-disciplinary conference.

Dismissal

The following guidelines should be used, where appropriate, before a dismissal for unsatisfactory job performance is imposed:

- a current unresolved incident of unsatisfactory job performance; **and**
- at least two prior active warnings or other disciplinary actions for unsatisfactory job performance, detrimental personal conduct, or negligence in the performance of duties; **and**
- a pre-disciplinary conference; **and**
- the County Manager concurs with the proposed action of dismissal.

Note: The Human Resources Department is available to assist Supervisors and Department Directors with investigating potential disciplinary action, reviewing precedent for taking (or not taking) disciplinary action, and developing disciplinary documents.

Discipline for Detrimental Personal Conduct and Negligence in the Performance of Duties

Discipline imposed for detrimental personal conduct or negligence in the performance of duties does not require prior notice that the conduct is prohibited or that it may lead to disciplinary action. Depending on the severity of the occurrence, the Employee's employment history with the County, and precedential actions with similar occurrences, the County may impose serious disciplinary action up to and including dismissal without the requirement of any prior existing disciplinary action or notice that the conduct is prohibited.

Note: As an example of the type of negligent performance that this policy addresses, a County Employee who is determined to be at fault in an accident in a County vehicle while on the job may be disciplined for negligence in the performance of duties. The severity of the discipline imposed should be based on the degree to which the Employee was responsible for the accident, the severity of the damage to the vehicles involved, whether there were any injuries to the Employee or other persons, and whether or not the Employee has had previous accidents in a County vehicle.

Prior to imposing demotion, suspension without pay or dismissal, there must be a pre-disciplinary conference for detrimental personal conduct or negligence in the performance of duties, in accordance with this Policy. Before an Employee can be dismissed for detrimental personal conduct or negligence in the performance of duties, the County Manager or his/her designee must have reviewed the circumstances and have approved the dismissal.

Human Resources is available to assist Supervisors and Department Directors with considering potential disciplinary action for detrimental personal conduct or negligence in the performance of duties, reviewing any precedent for taking (or not taking) disciplinary action, and developing disciplinary documents.

The Pre-Disciplinary Conference

Where serious disciplinary action is proposed on any basis, a pre-disciplinary conference must take place. A pre-disciplinary conference shall be held in accordance with these requirements:

- The Department Director considering serious disciplinary action must discuss the recommendation with Human Resources. If Human Resources determines, based on the available information, that serious disciplinary action should go forward, the County Manager or his/her designee may approve conducting a pre-disciplinary conference.
- The Department Director must provide the Employee with written, advance notice of the date, time, location and reasons for the pre-disciplinary conference. This notice should inform the Employee that his/her attendance at the pre-disciplinary conference is not mandatory, but that this conference is the Employee's opportunity to provide information to be used in the County's decision.

Persons in attendance at the pre-disciplinary conference are:

- The Employee;
- The Department Director or his/her designee;
- A representative from Human Resources.

Note: Neither party may be represented by or have in attendance anyone other than those persons set out above.

The Department Director or his/her designee, during the conference, shall give to the Employee oral or written notice of the recommendation for disciplinary action including the specific reasons for the proposed disciplinary action, and a summary of the facts supporting the recommendation for disciplinary action.

Department Director or designee shall then give the Employee an opportunity to respond with information regarding the recommended disciplinary action, offer facts that are different from those offered by management, and offer facts in support of the Employee's position. The Employee has the opportunity to respond, but is not required to respond if he/she chooses not to do so.

Note: This meeting is not a hearing. The primary purpose is to give the Employee an opportunity to respond to the reasons for proposed discipline.

Following the conference the County shall:

- Place the Employee on administrative leave pending a decision;
- Review and consider the response of the Employee and make a decision on the recommended disciplinary action;
- Communicate the decision not earlier than the start of the next business day after the conference. The decision should be communicated within a reasonable period of time, generally not in excess of 10 calendar days.

If the County's decision is to take disciplinary action, it shall provide the Employee with a letter setting out:

- The specific reasons for the disciplinary action taken;
- The effective date of the disciplinary action; and
- The Employee's right to appeal this action through the County's Grievance Procedure, if applicable.

The effective date of the disciplinary action shall be no sooner than the date of the written notice of the action.

Right to Appeal Action through the County's Grievance Procedure

Any regular Employee subject to this policy who has been demoted, suspended without pay, or dismissed has the right to appeal the action through the County's Grievance Procedure. In addition to the specific reasons for the disciplinary action, the letter of demotion, suspension without pay, or dismissal shall include the time limit for filing a grievance, a copy of the County's Grievance Procedure, and information on a contact person within Human Resources. The time for filing a grievance as a result of serious disciplinary action does not start until the Employee receives a written notice of his/her appeal rights. Grievances filed after the ending date of the filing period set out in the grievance procedure of this Resolution shall be dismissed and not processed.

For more information on the grievance procedure, see [Chapter XII](#).

Special Provision: Failure to Meet or Maintain Required Conditions of Employment

An Employee may be suspended, demoted, transferred, or dismissed for causes relating to employment qualifications and standards that are not met or maintained. Representative of such conditions of employment are requirements concerning residency, certifications or licenses, education and training levels, physical/mental condition, or any other condition stipulated in an employment or subsequent agreement.

Required Credentials

By statute, regulation, and County policy, some duties assigned to County positions may be performed only by persons who are duly licensed, registered, or certified as required by relevant law or policy. These requirements are specified in the list of qualifications for classifications in the County's Position Classification plan.

Obtaining and Maintaining Credentials

Employees in such classifications are responsible for obtaining and maintaining current, valid credentials as required by law, rule or regulation. Failure to obtain or maintain the required credentials constitutes a basis for immediate termination without prior warning, consistent with dismissal for detrimental personal conduct or negligence in the performance of duties. An Employee who fails to obtain or maintain required credentials may be terminated without warning following a pre-disciplinary conference. An Employee who has completed the probationary period and is terminated on this basis shall be given a written letter of dismissal with the specific reason for the termination and written notice of the right of appeal.

Falsification of Credentials

Falsifying employment credentials or other documentation in connection with securing employment shall be grounds for immediate dismissal.

Non-Disciplinary Suspension

During the investigation, hearing, or trial of an Employee on any criminal charge, or during required substance abuse screenings, the County Manager may suspend the Employee for the duration of the proceedings as a non-disciplinary action. In such cases, based upon the circumstances involved, the County Manager may:

- Relieve the Employee temporarily of all duties and responsibilities and allow the Employee no compensation or leave privileges for the period of suspension. If the suspension is ended by full reinstatement of the Employee, the County Manager may authorize full or partial recovery of pay and benefits for that period of suspension. At the discretion of the County Manager or the Human Resources Director, the Employee may be placed on paid administrative leave during the suspension period. If the suspension is ended by a disciplinary suspension, then demotion, transfer, or dismissal, procedures as stated in this Chapter shall be applied, and there shall be no recovery of pay and benefits for the period of the non-disciplinary suspension without pay; or
- Assign the Employee new duties and responsibilities and allow the Employee to receive such compensation as is in keeping with the new duties.

During the course of any civil trial or internal investigation, the County Manager or his/her designee may place the Employee on leave with pay during the pendency of the proceedings or investigation. Such leave shall not be considered a disciplinary suspension. As an alternative, based on the circumstances involved, the County Manager may authorize the Employee to be relieved of current duties and responsibilities and reassigned temporary duties as directed by the Department Director. Such action shall not be considered as a disciplinary action.

CHAPTER XII
GRIEVANCE PROCEDURE / DISCRIMINATION, HARASSMENT,
RETALIATION COMPLAINT POLICY

Note: Employees of the Departments of Health and Social Services are not covered by this Chapter.

Purpose

The grievance procedures outlined herewith establish policies and procedures in employment and personnel management providing for an adequate and fair hearing of grievances for each individual, without regard to age, race, color, sex, national origin, religion, or disability, where the grievance is based upon denial of equal employment opportunity or discrimination. These procedures also relate to all other phases of employment for Employees of Davidson County.

Policy

Every Employee shall have the right to present his/her problem or grievance in accordance with these procedures free from interference, coercion, restraint, discrimination, penalty or reprisal. This includes any cause for dissatisfaction outside the Employee's control or anything connected with his/her job that he/she thinks or feels is wrong. Every Employee will be allowed such time off from his/her regular duties as may be necessary and reasonable as determined by the Department Director and/or County Manager for the processing of a grievance under these procedures without loss of pay, vacation or of other time credits.

Applicability/Coverage

These grievance procedures apply to departments and Employees of Davidson County, with the exception of Employees of the Departments of Health and Social Services.

Definitions Used In This Chapter

At-Will Employee - All County Employees are considered at-will Employees for the length of their service with the County, except for those Employees of the Departments of Health and Social Services.

Grievance - A grievance shall be defined as a complaint or dispute of an Employee relating to his/her employment, including but not limited to:

- working conditions relevant to safety and health;
- decisions of the County relative to disciplinary suspension without pay, demotion, or dismissal;
- or
- separation from employment with the County due to unavailability.

Days - Whenever used in this procedure, “days” shall mean calendar days, not working days. If a deadline for appealing or taking any action under this procedure falls on a weekend or holiday, the deadline shall move to the next business day for the County.

Grievant - A grievant is either a current or former Employee who has timely filed a grievance under this procedure that is within the authority of the procedure to deal with.

Grievability Determination - When the question of whether or not an Employee has a grievable issue cannot be satisfactorily resolved at the department level, the Employee may make a request for a ruling on grievability from the Director of Human Resources, who shall respond in writing within two complete working days of the request. The decision of the Human Resources Director shall be conclusive and final and there shall be no further appeal.

Non-Grievable Issues: Non-grievable issues include:

- The negotiation of wages, salaries, or fringe benefits;
- Any work activity accepted by the Employee as a condition of employment;
- Operating and/or organizational changes adopted by the County for the efficient and economical operation of County services, including but not limited to hours of work, licenses and certifications, residency requirements, work assignments including temporary assignments, and other specified conditions of employment;
- Denial of promotion or transfer (unless due to illegal discrimination, harassment, or retaliation);
- Disciplinary actions of less severity than suspension without pay, demotion, or dismissal (such as written warnings, etc.)

Non-grievable complaints may, however, be provided for management review through the “open door” policy outside the scope of this grievance procedure.

Open Door Policy - This practice is an informal and discretionary first step in the grievance procedure by which any Employee may bring an issue to his/her Supervisor’s attention verbally and without documentation. Many problems may be resolved by an informal meeting at which an opportunity for discussion of issues is permitted. Grievants are therefore encouraged to first discuss their complaints with the person closest to the problem. The Open Door Policy is informal and optional. It may be bypassed by the Grievant’s choice. No negative consequences shall occur when an Employee chooses to utilize the Open Door Policy.

Grievance Procedure - Disciplinary and Non-Discrimination Issues

An Employee who has a grievance regarding discipline or another issue that does not allege discrimination may choose to begin the effort to resolve this issue by using the Open Door Policy. This step is at the grievant’s choice and is not mandatory.

If use of the Open Door Policy does not resolve the Employee’s issue, then the Employee may begin the formal grievance procedure.

Filing a Grievance

An Employee or former Employee shall begin the grievance process by filing a written grievance request with the Human Resources Director within fifteen (15) days of the occurrence or decision the Employee is grieving. After determining that the grievance is a grievable issue and that it has been filed in a timely fashion, the Human Resources Director shall forward to the Employee’s Department Director all information received relating to the grievance.

Step One: Review by Employee's Department Director

The Department Director shall make a decision within ten (10) days and shall notify the Employee in writing. The Employee shall sign and date a copy of the Department Director's response to acknowledge receipt. This copy shall be sent to the Human Resources Department as part of the record of the grievance. *Note: Should the Employee's grievance be with the Department Director, the grievance should go directly to the Human Resources Director.*

Step Two: Meeting with and Decision by County Manager

If the grievance is not resolved to the satisfaction of the Employee during Step 1 the Employee may appeal to the County Manager within five (5) days after receipt of the department Director's response. The County Manager (or his/her designee) shall meet with the Employee as soon as possible to discuss the grievance. The County Manager shall provide a written decision to the grievant within ten (10) days of meeting with him/her. The decision of the County Manager is the final decision for the County and may not be appealed further.

Note: During the grievance process, neither the County nor the grievant may be represented by an attorney or any other person.

Discrimination/Harassment/Retaliation Complaint Procedure

Purpose

The policy is established to make clear to all County Employees, at all levels, that discrimination as prohibited by these policies, and harassment on any basis, retaliation for raising an issue of discrimination or harassment (or participating in a grievance or investigation), whether based on discrimination, harassment, or any other basis is strictly prohibited.

Policy

Davidson County prohibits discrimination on the basis of race, color, religion, gender, age, national origin, disability, military service or other protected status. Davidson County prohibits harassment on any of the above bases. Davidson County prohibits retaliation by any County Employee against any other County Employee for raising an issue of discrimination or harassment, or participating in any grievance, complaint or investigation based on any kind of allegation. If the County finds that an Employee has committed harassment or retaliation, the County will discipline that Employee up to and including dismissal.

Coverage

All County Employees, full time and part-time, including those Employees who are still in the probationary period may use this complaint policy.

Filing a Discrimination, Harassment or Retaliation Complaint and Steps in Complaint Policy

To file a complaint of discrimination, harassment or retaliation, an Employee may file a complaint with the Human Resources Director or with a Supervisor who is not the subject of the complaint. Any

management person who receives such a complaint must transmit that complaint to the Human Services Director. The Director will review the complaint and see that the complaint is investigated. The investigation will result in a written report to the County Manager or his/her designee, and the complaining Employee.

If the report does not resolve the matter to the complainant's satisfaction, the complainant may request a meeting between complainant, the County Manager and anybody the County Manager thinks needs to be in the meeting. The purpose of this meeting is to allow the complainant to discuss his/her complaint and to try to resolve it.

This is final step of this process for most County Employees.

General Provisions For The Grievance Procedure And The Discrimination / Harassment / Retaliation Complaint Process

No Conflict with County Policies, Ordinances or Applicable Statutes

No decision or determination of any grievance at any level in this procedure shall in any way conflict with County policies, ordinances, or applicable statutes.

Education

The Director of Human Resources shall include as part of the County's new Employee orientation program such instruction as may be needed to acquaint all new Employees with this process.

No Retaliation

It is prohibited for any Employee of Davidson County to retaliate, whether directly or indirectly, against any County Employee who has participated in any way in a grievance in this procedure. Any person who has been found to have retaliated in any way against a County Employee for his/her participation in any form in a grievance under this procedure shall be subject to disciplinary action up to and including dismissal.

Report to County Manager

On an annual basis, at a date to be established by the County Manager, the Director of Human Resources shall provide a report to the County Manager on grievance activity in the County during the previous calendar year. The County Manager and the Director of Human Resources shall establish the content of the report. A copy of the report shall be made available to the Davidson County Board of Commissioners.

Whistle Blower Policy

It is the policy of Davidson County that all Employees are encouraged to report verbally or in writing to their Supervisor, program Manager, Department Director or to the County Manager evidence of activity by a Davidson County Department Employee that constitutes:

- A violation of State or federal law, rule or regulation;
- Fraud;
- Misappropriation of department resources;
- Substantial and specific danger to the public health and safety; or
- Gross mismanagement, a gross waste of monies, or gross abuse of authority.

It is the also the policy of Davidson County that Employees shall be free of intimidation or harassment when reporting on matters of public concern, including offering testimony to or testifying about such matters.

Protection from Retaliation

No person, including the County Manager or any other Employee of Davidson County exercising Supervisory authority shall discharge, threaten or otherwise discriminate against an Employee of Davidson County regarding that Employee's terms, conditions, or privileges of employment because the Employee reported either verbally or in writing any activity as described above unless the Employee knows or has reason to believe that the report is inaccurate or false.

CHAPTER XIII
SEPARATION FROM COUNTY EMPLOYMENT AND
REINSTATEMENT

Types of Separation

All separations of Employees from positions in the service of the County shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, reduction in force, disability, retirement, dismissal, death or other.

Resignation

A minimum of two (2) weeks' notice is required of all resigning personnel. Such notice should be given to the Department Director. In the case of Department Directors or the County Manager, a four (4) week notice is expected. Failure to do so will result in forfeiture of accumulated annual leave.

Reduction in Force

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each Employee's past performance, organizational needs, and if necessary, seniority in determining those Employees to be retained. Employees who are laid off because of reduction in force shall be given at least two (2) weeks' notice of anticipated lay-off. The implementation of a reduction in force will be administered in accordance with the Davidson County Reduction in Force Policy, as from time to time amended. (See below)

Disability

An Employee may be separated for disability when the Employee cannot perform the essential duties because of a physical or mental impairment. The Employee or the County may initiate action for disability separation, but in all cases consideration for disability separation shall be supported by medical evidence as certified by a licensed physician. The County may require a physical and/or mental examination at its expense and by a physician of its choice. In accordance with the Americans With Disabilities Act, before an Employee is separated for disability, a reasonable effort shall be made to identify reasonable accommodation in order to keep the Employee working; or in the alternative, to locate positions within the County's service for which the Employee may be suited.

Dismissal

Any Employee may be dismissed from employment with Davidson County.

Death

All compensation due in accordance with this Policy will be paid to the estate of a deceased Employee. The date of death shall be recorded as the separation date for computing compensation due.

Reduction In Force Policy

Introduction

For reasons of curtailment of work or lack of funds, or other valid reasons, Davidson County may separate Employees. Consideration shall be given to the quality of each Employee's past performance, organizational needs, and if necessary, length of service with the County in determining those Employees to be retained. No regular Employee shall be separated while there are probationary, or trainee Employees serving in the same class in the same department unless the regular Employee is not willing to transfer to the position held by the non-status Employee.

Determining the Scope of the Reduction

Budgetary restrictions, consolidation or abolishment of function or organizational units, curtailment of work or activities, or other reasons may result in the need to abolish a position(s) or to so substantially redesign a position(s) that the incumbent does not qualify for the revised responsibilities, thus effectively abolishing the position, or that the resulting reclassification results are such that the incumbent would not reasonably be considered a candidate for the new position. When this happens, the County Manager shall examine the organizational and program scope of operations of the department to determine the need to designate a "layoff unit". Then the County Manager will determine the necessary reallocation, reassignment (transfer), and/or abolishment of positions.

In considering the above, the following factors are among those that may be considered in this determination:

- Economy and efficiency in service
- Legal mandates for programs
- Impact on overall program objectives
- Funding sources and budget guidelines
- Possible redistribution of available resources
- Organization structure
- Composition of the work force
- Equal employment and affirmative action considerations

Once the above factors have been identified, the County Manager, after discussion with the Board of Commissioners, shall designate the necessary reallocation, reassignment, and/or abolishment of positions.

All planning efforts dealing with the abolishment of position(s) shall reflect a review process identifying the reasons for the results of the specific organizational program and/or position changes.

Employee Coverage and Exemptions

The reduction in force policy covers all regular Employees.

For purposes of this policy, the term regular Employee means a person who has satisfactorily completed a prescribed probationary period of twelve months duration in a regular position in a department or who entered department employment with regular status.

Re-Employment with Davidson County

Any person who has separated from Davidson County in good standing, and who provided adequate notice of separation, and who returned all property issued by the County is eligible for re-employment as a new employee. Such a person may have accumulated sick leave reinstated (see Chapter VII - Sick Leave - Re-employment with Davidson County).

Persons who have been terminated from Davidson County employment for reasons of detrimental personal conduct are permanently ineligible for re-employment with Davidson County. Persons terminated from Davidson County employment for reasons of documented unsatisfactory job performance are ineligible for re-employment with Davidson County for at least twelve months from the date of termination. Subsequent to the twelve-month period, such a person may apply for employment with Davidson County.

Department Directors may not re-hire a former employee of Davidson County without the review and permission of the Human Resources Department.

CHAPTER XIV

PERSONNEL RECORDS AND REPORTS

Definitions Used in This Chapter

Employee - As used in this Chapter, "Employee" includes former Employees of Davidson County.

Personnel File - An Employee's personnel file consists of any information in any form gathered by Davidson County with respect to that Employee and, by way of illustration but not limitation, relating to his application, selection or nonselection, performance, promotions, demotions, transfers, suspension and other disciplinary actions, evaluation forms, leave, salary, and termination of employment.

Personnel Records Maintenance

The Human Resources Director will maintain such personnel records as are necessary for the proper administration of the personnel system. The County shall maintain in personnel records only information that is relevant to accomplishing personnel administration purposes.

The following information with respect to each County Employee is a matter of public record:

- Name
- Age
- Date of original employment or appointment to County services
- The terms of any contract by which the Employee is employed whether written or oral, past and current, to the extent that the County has the written contract or a record of the oral contract in its possession.
- Current position
- Title
- Current salary
- Date and amount of each increase or decrease in salary
- Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification
- Date and general description of the reasons for each promotion
- Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the County. If the disciplinary action was a dismissal, a copy of the written notice of the final decision setting forth the specific acts or omissions that are the basis of the dismissal.
- The office to which the Employee is currently assigned

Access to Personnel Records

Any person may have access to the information listed above for the purpose of inspection, examination, and copying, during the regular business hours, subject only to such rules and regulations for the

safekeeping of public records as the Board of Commissioners may adopt. Access to such information shall be governed by the following provisions:

- All disclosures of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information:
- Name of Employee
- Information disclosed
- Date information was requested

This information must be retained for a period of two years.

Upon request, records of disclosure shall be made available to the Employee to whom it pertains.

An individual examining a personnel record may copy the information; any available photocopying facilities may be provided and a reasonable cost may be assessed to the individual.

Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.

Confidential Information

All other information contained in a Davidson County Employee's personnel file, other than the information listed above as a matter of public record will be maintained as confidential and shall be open to public inspection only in the following instances:

- The Employee or his/her duly authorized agent may examine all portions of his/her personnel file, except: letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.
- A licensed physician designated in writing by the Employee may examine the Employee's medical record.
- A County Employee having Supervisory authority over the Employee may examine all material in the Employee's personnel file.
- By order of a court of competent jurisdiction, any person may examine such portion of an Employee's personnel file as may be ordered by the court.
- An official of any agency of the State or Federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such information is deemed by the official having custody of such records to be inspected to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the Employee or for the purpose of assisting in an investigation of the Employee's tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- An Employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.

- The County Manager, with concurrence of the Davidson County Board of Commissioners, may inform any person of the employment or non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a County Employee and the reasons for that personnel action. Before releasing the information, the Manager shall determine in writing that the release is essential to maintaining public confidence in the administration of County services or to maintaining the level and quality of County services. This written determination shall be retained in the office of the Manager, is a record available for public inspection and shall become part of the Employee's personnel file.

Records of Former Employees

The provisions for access to records apply to former Employees as they apply to current Employees.

Remedies of Employees Objecting to Material in File

An Employee who objects to material in his/her file may place in his/her file a statement relating to the material he/she considers to be inaccurate or misleading.

Penalty for Permitting Access to Confidential File by Unauthorized Person

Any public official or Employee who knowingly and willfully permits any person to have access to any confidential information contained in an Employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars.

Penalty for Examining and/or Copying Confidential Material Without Authorization

Any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court, but not in excess of five hundred dollars.

Destruction of Records Regulated

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G. S. 121-5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined not less than ten dollars nor more than five hundred dollars as provided in G. S. 132-3.

CHAPTER XV
IMPLEMENTATION OF HUMAN RESOURCES RESOLUTION

Conflicting Policies Repealed

All policies, ordinances or resolutions that conflict with the provisions of this Human Resources Resolution are hereby repealed.

Separability

If any provision of this Human Resources Resolution or any rule, regulations or order thereunder or the application of such provision to any person or circumstances is held invalid, the remainder of this Employee Resolution and the application of such remaining provisions of this Employee Resolution of such rules, regulations or orders to persons or circumstances other than those held invalid will not be affected thereby.

Violations of Human Resources Resolution Provision

An Employee violating any of the provisions of this Human Resources Resolution or other policies shall be subject to disciplinary action, in addition to any civil or criminal penalty, which may be imposed for the violation of the same.

APPENDIX

ADDITIONAL POLICIES RELEVANT TO DAVIDSON COUNTY EMPLOYMENT

There are additional policies outside of the Human Resources Resolution that govern the daily activities of employees. This list is not all inclusive:

1. [Davidson County Cell Phone Policy](#). This policy is maintained by the County Manager's Office and administered by the Human Resources Department. You may access the policy via the hyperlink above.
2. [Davidson County Vehicle Policy](#). This policy is maintained by the County Manager's Office and administered by Safety and Human Resources. You may access the policy via the hyperlink above.
3. [Davidson County Travel Policy](#). This policy is maintained by the County Manager's Office and administered by the Finance Department. You may access the policy via the hyperlink above.

Violations of Policies

Violations of these policies are subject to procedures as set out in Chapter XI of the Human Resources Resolution.