

MCDOWELL COUNTY GOVERNMENT PERSONNEL POLICY MANUAL



Adopted February 1, 2023

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ARTICLE I. GENERAL PROVISIONS

Section 1.01 Purpose

This policy manual is hereby adopted by the McDowell County Board of Commissioners by resolution. The purpose is to establish a personnel system which will recruit, select, develop, and maintain an effective and responsible work force and to promote understanding, cooperation, fair treatment and efficiency. This policy is established under the authority of Chapter 153A, Article 5, and Chapter 126, Article 3 of the General Statutes of North Carolina.

The policies included herein shall apply to all employees of the County unless otherwise noted. No Department of the County may establish rules, operating procedures, etc., that are inconsistent or in conflict with these policies, except in the event State or Federal Law requires further or different procedures.

All employees will be provided with a copy of The Policy upon employment and at other such times as deemed appropriate by the County Manager. Employees will be required to sign a statement indicating receipt of a copy of the manual. Other policy statements either adopted in this manual or policies adopted subsequent to adoption of this manual may require an employee's signature.

In addition, The Policy will be maintained in each County department's office and will be available to all employees. Extra copies will be available in the Finance Office.

Throughout the manual the personal pronoun "his" or "he" is used to refer to County employees. Such reference is intended to refer to both males and females and does not imply gender preference or discrimination.

Unless otherwise protected by the North Carolina State Personnel System or State HumanResources System, Employees of the County are "at will", which means they may be terminated for any lawful reason, with or without notice, at the discretion of the County. Nothing in this policy creates an employment contract (for a definite or indefinite term) between the County and its employees. No person has the authority to grant any employee any contractual rights of employment or any other right or benefit not enumerated in this policy.

Section 1.02 Policy of At-Will Employment

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Section 1.03 Persons Subject to Policy

This policy manual applies to all McDowell County employees except as provided below:

- (a) Elected officials (Board of County Commissioners, Sheriff and Register of Deeds); and
- (b) The County Manager is exempt from provisions which relate to the hiring, disciplinary action, dismissal, or any other provisions that conflict with his or her Employment Agreement.
- (c) Part-time and temporary employees shall be exempt from all the provisions except Article III Section 9, Article IV Sections 1, 2, 6, and 8, and Article VI Sections 3 and 5. Part-time employees shall not be exempt from Article VII, VIII, and IX. Temporary employees shall not be exempt from Article VII Section 4.
- (d) Employees of the Department of Social Services, with the exception of the Director of Social Services, shall be exempt from Article IV, Section 3 and any section in direct conflict with rules and regulations of the Office of State Human Resources; and
- (e) Except when this Resolution shall conflict with federal and state laws, or the Memorandum of Understanding between the North Carolina Cooperative Extension Service, North Carolina University, A&T State University and the Board of Commissioners; and

(f) Employees of the Sheriff and Register-of-Deeds shall be exempt from Article IV, Sections 3, 4 and 5 and Article VIII and any section in direct conflict with federal and state laws.

Section 1.04 Employment

No applicant for employment or employee shall be deprived of employment opportunities or otherwise affected as an employee because of the individual's race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, or age.

Section 1.05 Responsibilities of the County Board of Commissioners

The Board of Commissioners will establish personnel policies and rules, including the classification and salary plans and shall make and confirm appointments when so specified by law.

Section 1.06 Responsibilities of the County Manager

The County Manager will be responsible to the Board of Commissioners for the administration and technical direction of the personnel program. The County Manager will:

- (a) recommend to the Commissioners rules and revisions to the personnel system for its approval;
- (b) recommend to the Commissioners revisions to the position classification plan for its approval;
- (c) prepare and recommend to the Commissioners revisions to the salary plan for its approval;
- (d) determine which executive, administrative and professional positions are exempt as defined by the Fair Labor Standards Act and therefore excluded from overtime compensation as provided for in Article VI, Section 2;
- (e) establish and maintain a roster of all persons in McDowell County service, setting forth each officer and employee, class title of position, salary any changes in class title and status and such data as may be deemed desirable or useful;
- (f) develop and administer such recruiting, training and education programs as may be necessary;
- (g) investigate periodically the operation and effect of the personnel provisions of this policy and at least annually report findings and recommendation to the Commissioners; and
- (h) perform such other duties as may be designated by the General Statutes and those assigned by the Commissioners, not inconsistent with this policy.

Section 1.07 Application of Policies, Plans, Rules, and Regulations

This personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all County employees. The County Manager, County Attorney, elected officials, appointed members of the County Board and advisory boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action as set forth in this policy, as well as prosecution under any civil or criminal laws which have been violated.

Section 1.08 Departmental Rules and Regulations

Due to the particular personnel and operational requirements of the various departments of the County, each department is authorized to establish supplemental rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the County Manager and shall not in any way conflict with the provisions of this policy but shall be considered as a supplement to this chapter.

ARTICLE II. CLASSIFICATION PLAN

Section 2.01 Adoption and Purpose

The Position Classification Plan, as set forth in Appendix A is adopted as the position classification plan for McDowell County.

The position classification plan is a complete inventory of all authorized classifications in the County Service, and an accurate description. The position classification plan standardizes job titles, each of which is indicative of a definite range of duties and responsibilities. All positions covered by this personnel policy are to be classified according to the assigned duties, responsibilities, qualifications needed and other required factors. In order to ensure its continuing value as a personnel management tool, the position classification plan shall be maintained to reflect current work assignments and other conditions and requirements which are factors in proper classification and allocation of regular positions.

Positions in the Departments of Social Services and Health will be classified by the NC Office of State Human Resources.

Section 2.02 Composition of the Classification Plan

The classification plan shall be composed of the following:

- (a) A grouping of positions in classes which are approximately equal in difficulty and responsibility and which can be equitably compensated within the same range of the pay plan.
- (b) Class titles descriptive of the work of the classes.
- (c) Written specifications for each class of positions; and
- (d) List showing the class title and salary range of each position.

Section 2.03 Use of the Classification Plan

The classification plan is to be used:

- (a) As a guide in recruiting and examining applicants for employment.
- (b) In determining lines of promotion and in developing employee training programs.
- (c) In determining pay for various types of work.
- (d) In determining personnel service items in departmental budgets. (e) In providing uniform job terminology.

Section 2.04 Administration of the Classification Plan

The County Manager, or person(s) designated by 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.

- (1.) Department heads shall be responsible for bringing to the attention of the County Manager:
 - a. The need for new positions; and
 - b. Material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classifications of any existing positions.

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

- (3.) When the County Manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the County Manager shall
 - a. direct that the existing class specification be revised
 - b. recommend to the Board of County Commissioners that the position be reallocated to the appropriate class within the existing classification plan or
 - c. recommend that the Board of County Commissioners amend the Position Classification Plan to establish a new class to which the position may be allocated. The Department of Social Service positions will be approved annually by the Office of State Personnel and placed on the McDowell County pay plan.

Section 2.05 Amendment of the Classification Plan

The County Manager shall present requests to the Board of Commissioners to amend the classification plan by adding, changing, or deleting classes of positions and salary grades based on internal analyses and market surveys.

ARTICLE III. WAGE AND SALARY ADMINISTRATION

Section 3.01 Purpose of the Pay Plan

The attached pay range assignments and pay ranges in annual, semi--monthly and hourly amounts as adopted effective June 20, 1991, and as amended April 15, 2014 shall be the salary plan of McDowell County. The salary plan includes all full-time classes of positions identified in the classification plan.

The pay plan includes the "Pay Schedule" and the "Assignment of Classes to Pay Grades and Ranges" recommended by the County Manager and approved by the Board of County Commissioners. The pay plan approved by the Board of County Commissioners shall consist of a minimum, midpoint, and maximum for each job classification. The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in employment in the area, changes in the cost of living, the financial conditions of the County, and other factors.

Section 3.02 Administration and Maintenance

Each year prior to the preparation of the annual budget, the County Manager shall secure information concerning the general level of salaries paid and fringe benefits provided by area private industries, comparable county, municipal and state employees, and any change in the cost of living in the area during the fiscal year. The County Manager shall conduct continuing studies of the internal relationships between classes in order to reduce or eliminate inequalities between classes of positions within McDowell County. Based on the studies and the general financial condition of McDowell County, the County Manager shall recommend to the Board of County Commissioners such increases, reductions, or amendments as deemed necessary to maintain the fairness and adequacy of the salary plan.

Section 3.03 Entrance Salary

Each new employee shall be appointed at the first step which has been established for the position in which they are employed except;

- a. If the new employee does not meet the minimum requirements of the position, and if qualified applicants for the position are not available the County Manager may designate the employee as a trainee (defined in Section IV.), to be appointed at a salary below the entrance salary;
- b. When the County Manager shall determine that there has been a demonstrated inability to recruit at the entrance salary or that an applicant possesses exceptional qualifications, the County Manager may authorize the employment of an applicant at a salary up to 4 steps above the entrance salary and up to 12 steps above the entrance salary with notification to the County Commissioners.

Section 3.04 Salary of a Trainee

An applicant hired, or employee promoted to a position in a higher class who does not meet all the established requirements of the position may be appointed, with the approval of the County Manager at a training salary below the position's entrance salary.

However, in cases of promotion, this will not result in a reduction of current salary. An employee in a trainee status shall continue to receive a reduced salary until the appointing department head and the County Manager shall determine that the trainee is qualified to assume full responsibilities of the position not to exceed twenty-four (24) months unless otherwise mandated by the State or the Board of County Commissioners.

The supervisor shall prepare a training plan, including a time schedule, to meet the minimum qualifications for the job classification. If the training is not successfully completed as planned, the employee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least at the minimum rate established for the job class.

Section 3.05 Pay Effect of Promotions, Demotions, Transfers

Promotions and Reclassifications: The salary of an employee promoted or reclassified from one class to another having a higher overlapping pay range shall be adjusted to the minimum of the new range or up to four steps above their old salary, whichever is higher. The County Manager may authorize the salary of a promoted employee up to four steps above the entrance salary and up to twelve steps above the entrance salary with notification to the Board of Commissioners.

The reclassification of a position to a class having a lower pay range may result in a reduction of the salary of the reclassified employee. However, if the employee is classified as a trainee, Section IV of the Article shall be followed until the completion of the trainee term. (Revised 9/8/92)

Demotions: The County has the discretion to demote an employee who demonstrates unsatisfactory job performance. Such a demotion will ordinarily be preceded by warning procedures outlined in the Article IX, Section 1. An employee who is demoted may have their salary left the same or reduced to any step in the new range.

Transfers: The realignment of an employee to a position in the same class or to a position in a different class with the same pay range shall not change the employee's salary. However, when an employee goes through the application/hiring process for a class or position, and is hired for that position, their salary may be adjusted to the entrance salary for their new position.

Section 3.06 Salary of a Part-Time and Temporary Employees

The pay established by this resolution is for full time service. The compensation of any employee appointed for less than full time service shall be approved by the Board of Commissioners in the budget process.

Section 3.07 Salary of a Separated Employee

Separated employees shall be paid through their last day worked, accrued compensatory time and accrued vacation time in accordance with Article IV, Section 10 (a), and Article VII, Section 2 (c). Total payment shall be made on the next regularly scheduled pay period on or following the termination date.

Section 3.08 Payroll Procedure

All employees shall be paid on a semi-monthly basis.

Section 3.09 Effective Date of Salary Adjustment

Salary adjustments approved during the pay period will ordinarily become effective at the beginning of the next pay period or at such a later date as may be provided.

Section 3.10 Overtime Pay Provisions

McDowell County shall abide by all applicable sections of the Fair Labor Standards Act, along with the Fair Labor Standards Amendments of 1985. Under such implementation, the County will properly record all applicable overtime accrued for each covered employee. This policy shall be applicable to all employees of McDowell County who are covered under the provisions of the Fair Labor Standards Act. Its intention is to assure compliance with such acts to the extent applicable to McDowell County. Effective February 19, 1985 the Supreme Court declared that local governments are subject to the FLSA. This section is in accordance with that ruling.

(a) Exempt

Full time and part-time employees who have been classified as "Exempt" from the overtime provisions of the FLSA are paid for the accomplishment of assigned accountabilities rather than being paid for the number of hours worked in a work week. A 100% or full-time exempt employee, as an example, would be expected to work a 37.5 hour week at minimum during normally defined business hours unless prior approval to work a flexible schedule has been requested by the employee and approved by the department head, or the County Manager in the case of a Department Head.

(b) Non-Exempt (Non-Law Enforcement)

Full time, part time and temporary employees who have been classified as "Non-Exempt" from the overtime provisions of the FLSA must be paid for overtime hours worked or given compensatory

time off in accordance with the guidelines in this policy. Overtime is paid or compensatory time off is given to non-exempt employees for hours worked in excess of 40 hours per week.

(c.) Non-Exempt (Law Enforcement 207K Exemption)

Full time and part time employees who have been classified as “Non-Exempt” from the overtime provisions of the FLSA, but meet criteria set forth in the 207K exemption of the FLSA must be paid for overtime hours worked or given compensatory time off in accordance with the guidelines in this policy. Overtime is paid or compensatory time off is given to nonexempt law enforcement employees for hours worked in excess of the established work period.

Overtime Rates for Non -Exempt Employees

When overtime is paid, it is at the rate 1-1/2 times the employee’s regular hourly rate for those hours worked in excess of 40 in one week (except those subject to the law enforcement exemption, where overtime is paid for hours worked in excess of the FLSA threshold for the established pay cycle).

Compensatory Time

- (a) Exempt: All exempt employees will receive 1 hour of comp time per 1 hour worked over 40 hours per week. Exempt compensatory time does not have monetary value. Exempt employees that earn compensatory time should make the effort to use this time as soon as possible.
- (b) Non-Exempt: It is the policy of McDowell County, in agreement with its employees, that all non exempt employees who receive compensatory time off, will receive compensatory time at a rate of not less than one and one-half (1 ½) hours for each hour of employment for which overtime compensation is required under FLSA. Non-exempt employees shall not be allowed to accrue more than 80 hours of compensatory time at any point, without prior approval from the County Manager. The County Manager may provide approval for a compensatory balance of greater than 80 hours but not to exceed 200 hours after consultation with the department head.

Department Heads and supervisors have the right and obligation to manage compensatory time by scheduling employees to take accrued compensatory time in a timely manner so that compensatory hours will not accrue to excessive levels. Compensatory time must be used before sick and vacation.

Employees requesting to use accrued compensatory time must make a specific request to their immediate supervisor. Use of such time will be allowed within a reasonable period following the request as long as the use does not unduly disrupt the operations of McDowell County.

Approval to Work Overtime

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 such non-work breaks, mealtimes or

unscheduled hours unless they receive approval from their immediate supervisor, except in cases of extreme emergency.

An extreme emergency exists when an employee is called upon to perform work for McDowell County that could result in damage to property or persons or which requires immediate attention of the employee which cannot possibly be postponed. Employees who work excess hours due to an emergency shall properly advise their immediate supervisor of the overtime worked as soon as practical for final approval or disapproval.

Department Heads and supervisors shall hold hours worked by the employee to the County's established 40 hour workweek standard except in those cases where excessive hours of work are necessary because of weather conditions, short-staffing, necessary seasonal activity or emergencies. Department Heads and supervisors are responsible for ensuring that overtime hours are authorized, recorded and properly documented for compensatory time off or overtime pay in accordance with the established record keeping forms and instructions.

Section 3.11 On-Call and Call-Back Compensation

The County provides compensation for non-exempt employees who are required to be available for after hours on-call coverage. Compensation for time spent while on-call and for time spent when actually called back to work shall be determined according to the following;

- (a) On Call standby time consists of scheduled non-work hours in excess of the standard work period when an employee is required to be available to be called back to work on a regularly scheduled or emergency basis. Called back to work time consists of actual time spent when called back to work to handle a scheduled or emergency situation.
- (b) On-call standby schedules must be approved by the County Manager or designee. The Finance Director shall maintain a list of employees who are approved for on-call compensation arrangements.
- (c) Compensation for on-call employees shall be determined by the County Manager or designee and shall consist of either compensatory time off or a flat payment for the time period one is on-call in accordance with the department plan.
- (d) Compensation for employees called back to work shall be for a minimum of two hours of pay or compensatory time. For time periods above two hours, compensation will be for the actual time worked. Should this additional time exceed the standard of hours of work for the workweek or pay period, overtime pay rules and regulations shall apply.

Section 3.12 Longevity Pay

Longevity pay is to recognize long time service of full time, non-elective, employees who have served at least ten (10) years with McDowell County.

Time and Method of Pay

1. Longevity pay is automatic: payment shall be made when all eligibility requirements are met as specified below.
2. Longevity payment shall be made in a lump sum.
3. Payment shall be made during the next semi-monthly pay period following the date the employee is eligible to receive longevity pay. This includes employees on worker's compensation leave.
4. To qualify for longevity pay an employee must be in current pay status on his/her anniversary or must be on leave-with-out pay status approved by the department head. Employees who have resigned, retired, or otherwise left employment with the county prior to their anniversary date shall not qualify for payment.

Amount of Longevity Pay

Annual longevity pay amounts are based on the length of consecutive years' service with McDowell County and a percentage of the employee's annual rate of base pay on the date of eligibility. Longevity pay amounts are computed by multiplying the employee's base pay rate by the appropriate percentage from the following table. (Salary increases effective on the longevity payment date shall be incorporated in the base pay before computing longevity.)

<u>Consecutive Years of County Service</u>	<u>Longevity Pay Rate</u>
10 but less than 15 years	1.5 Percent
15 but less than 20 years	2.25 Percent
20 but less than 25 years	3.25 Percent
25 or more years	4.50 Percent

Eligibility Requirements

1. An employee shall have at least ten (10) consecutive years of qualifying service before being eligible for any longevity payments.
2. The employee must have a full-time appointment.
3. An employee's earliest possible date of eligibility for a longevity payment is the date when ten (10) consecutive years of McDowell County Service have been completed. Examples: 1) an employee who began work on December 1, 1976, and has at least 10 years of aggregate service as of November 30 will have longevity anniversary date of December 1, 1986; 2) an employee who began work on July 5, 1977 and has worked continuously through July 4, 1987 will have a longevity anniversary of July 5, 1987. In succeeding years, a longevity payment will be made annually in the pay period following the month in which the employee's longevity anniversary date falls.

4. Credit for the service requirement shall not be given for temporary full-time or temporary part-time employment and periods of leave without pay in excess of one-half the workdays in a month, with the exception of military leave and worker's compensation leave.
5. Upon change of appointment to temporary, the employee is ineligible for continued longevity pay. If an employee goes on leave without pay, longevity would not be paid until the employee returns and completes a full year.

Consecutive Service

Consecutive service is the time for full-time or part-time of fifty percent or over, trainee probationary or provisional employment. If a full-time employee is in pay status (working exhausting vacation or sick leave, or when on workers' compensation or authorized military leave) for one-half or more of the regularly scheduled workdays in a month, credit shall be given for the entire month.

Department Responsibility

Human Resource shall be responsible for determining the quantity of qualifying service of each employee of that agency. When an employee is eligible for longevity pay Human Resources shall submit proper forms for payment certifying the length of qualifying service to the McDowell County Finance Office.

Effect of Longevity Pay

Longevity pay is not considered part of annual base pay for classification and pay purposes, nor is it to be recorded in personnel records as part of annual base salary.

Section 3.13 Payroll Schedule and Deductions

The payroll schedule shall be established by the County Manager and shall be administered by the Finance Department. All employees shall be paid on a semi-monthly basis.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 4.01 Equal Employment Opportunity Policy

McDowell County is an Equal Opportunity Employer. It is the policy of the County to hire and employ the most qualified candidates available, based on their education, training, experience and work performance. It is the policy of the County to recruit, hire, train and promote individuals without regard to age, sex, race, color, religion, political affiliation or national origin. The County does not discriminate against anyone for any reason. Individuals with qualified disabilities will be given equal consideration with other applicants for all positions for which they are otherwise qualified. The County will interactively work with disabled applicants

and employees to identify reasonable accommodations that will allow the individual to perform essential job functions.

It is the responsibility of any individual who experiences or witnesses unfair or discriminatory treatment to inform their supervisor, department head, Human Resource Manager or County Manager as the case may be.

Section 4.02 Implementation of Equal Employment Opportunity (EEO) Policy

All personnel responsible for recruitment and employment shall implement this personnel policy through procedures that will promote equal employment opportunity. Notices with regard to Federal Laws and equal employment matters shall be posted in conspicuous places on county premises where notices are customarily posted. Exceptions will include elected offices; Sheriff's Department and the Register of Deeds.

Section 4.03 Recruitment

The Human Resources Director shall be responsible for an active recruitment program for all departments reporting up through the McDowell County Board of Commissioners, to meet current and projected manpower needs, through procedures that will assure equal employment opportunities. To accomplish this, the efforts of the Human Resources Director and all County departments must be coordinated in a timely manner. The Human Resources Director and Department Head shall jointly determine whether a position vacancy will be recruited by internal, external, or concurrent postings.

Section 4.04 Position Vacancy Announcements

When position vacancies occur, the Human Resources Director shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring process will be posted to the county website through the Human Resources Portal, as well as NC Works Online, to inform the community and attract a quality and diverse pool of applicants. In addition, job openings shall be posted on the intranet in order to inform all current county employees. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for County service. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

Section 4.05 Application for Employment

The McDowell County Employment application shall be the standard application accepted or any and all position listings. No applications for recruitment may be accepted within an agency or department. All referrals are to be made through the County Human Resources Office (exceptions: Sheriff's Office and Register of Deeds). All persons expressing interest in employment with the County shall be given the opportunity to file an application for employment if a current vacancy exists. A separate application must be submitted for each position.

Section 4.06 Appointments

Each department head shall be responsible for appointing such clerical and technical employees as are authorized by the budget for their department. All appointments will be made in accordance with the Centralized Personnel Function Standard Operation Procedure.

Section 4.07 Status of Employment

Full-time- This is an appointment to an established twelve (12) month position. All employees in this status shall receive full benefits.

Part-time- This is an appointment to an established position on a half-time or greater basis for twelve (12) months a year. Employees in this status work a designated schedule.

Temporary-This is an appointment to a full-time or part-time position on a temporary basis. All employees in this status shall not receive any benefits nor vacation and sick accrual except Social Security, Unemployment Insurance and Worker's Compensation. (Addition 8/20/90)

Section 4.08 Conditional Offer of Employment

In order to protect citizens of the county and their properties, the procedures in this subsection are established on applicants for all positions in county government (except for the Sheriff's Office who handles their own pre-employment process).

No prospective employee shall be permitted to begin working before the conditional offer requirements have been met. Both the background check and pre-employment drug screen have to be cleared through the Human Resources Department. (This includes participation in any County funded training or certifications).

(a) The Human Resources Director shall investigate of any final candidate for a county government position, and it shall be a precondition of employment that an applicant for a position shall, upon request, all necessary personal identification, including birth certificate, social security number and drivers' license, if available, so that a thorough search can be made of criminal records to determine if the applicant has a history of criminal convictions.

(b) An evaluation of any crime for purposes of employment will consider the nature and the circumstances of the offense and the timeframe of the offense as they relate to the essential job functions for the position applied for.

(c) Employment with the county may require additional tests or investigation be conducted, after making a conditional offer of employment, but before making a final offer of employment. Such additional tests or investigations are determined by the position being filled and may include but are not necessarily limited to the following: driving records checks, credit checks, fingerprinting and criminal background checks.

(d) Applicants for all positions with the county will be required to undergo a pre-employment drug test prior to being made a final offer of employment.

(e) Unsatisfactory results from pre-employment testing and checks will result in the conditional offer of employment being withdrawn.

(f) The county reserves the right to consider all results and withdraw any offer of conditional employment based on the results obtained.

(g) Applicants for all positions with the County will be required to be current in all monetary obligations to the County prior to being made a final offer of employment. "Monetary obligations" include, but are not limited to, all real and personal ad valorem taxes, any water or sewer charges which the applicant may be responsible for and any cost or charge applicable to the general public for services rendered by the County.

Section 4.09 Limitation of Employment of Relatives

Two members of an immediate family shall not be employed as permanent full-time employees in the same administrative department (or administrative unit in the case of Department of Social Services). Administrative departments or units may hire immediate family members as part time employees so long as the employees do not work the same work shift as other immediate family members.

Two members of an immediate family shall not be employed at the same time, regardless of the administrative department or unit, if such employment will result in an employee supervising a member of their immediate family. This policy applies to promotions, demotions, transfers, reinstatements and new appointments. The provisions of this Section shall not be retroactive. Immediate family is defined as wife, husband, and mother; father, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandfather, grandson, granddaughter, stepmother, and stepfather. Exception; Sheriff's Department/Register of Deeds.

Section 4.10 Probationary Period

All appointments to full time positions in the service of McDowell County shall be for a probationary period of one (1) twelve (12) month period. Before the completion of the probationary period the department head will determine if the employee performance merits the employee being retained for permanent employment. If retained, the employee shall be considered a full-time employee.

Disciplinary action, including demotion and dismissal, may be taken at any time and for any reason during the probationary period of a new hire without following the steps outlined in this policy for disciplinary action. A

promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed.

Section 4.11 Separation

Resignation- A minimum of two (2) weeks written notice is expected of all resigning personnel.

(a) Department Directors and Senior Level Management: Employees are not required, however encouraged to provide a minimum of a 30-day notice of intent to terminate employment with McDowell County. This is a courtesy that facilitates a smooth transition for your department staff, management, and Human Resources.

Such notice shall be given to the department head (or in the case of department heads, to the County Manager and the Department Head will submit to Human Resources) Personnel shall work at least seventy (70) percent of their scheduled workdays, one of which must be their final day. Payment for accumulated vacation leave will be in accordance with ARTICLE VII Section 2 (c).

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 seniority in determining those employees to be retained.

(a) Employees who are laid off because of reduction in force shall be given at least two (2) weeks' notice of anticipated layoff. No full-time employee shall be separated while there are temporary employees serving in the same class in the department, unless the full-time employee is not willing to transfer to the position held by the temporary employee.

Termination- In accordance with ARTICLE IX Section 1

Section 4.12 Reinstatement

An employee who has been separated because of reduction in force or who has resigned may be eligible for reinstatement and credited with their previously accrued sick leave.

ARTICLE V. DRUG AND ALCOHOL USAGE POLICY

Section 5.01 Purpose

The purpose of this Policy is to maintain a drug--free and alcohol--free workplace and to provide procedures for testing job applicants and employees for the use of illegal drugs, the improper use of prescription medications, and the misuse of alcohol.

Section 5.02 General Policy on Driving or Working under the Influence

Persons employed by the County shall not, under any circumstances report to work, work or operate County owned, leased, or rented vehicles, or personal vehicles while on County business, while under the influence of drugs, including prescription drugs, if it is the opinion of a competent medical authority that driving ability is impaired by such substances.

County employees shall not report to work, work or operate County owned vehicles while under the influence of or with the smell of beer or other intoxicating beverages on their breath. Employees suspected to be in violation of this Section shall be immediately reported to the County Manager who may suspend the suspected violator without pay, allowances or benefits until an investigation is conducted. If it is determined that the employee is not in violation of this Section, the employee shall be returned to duty with no loss of remuneration or benefits. If the employee is found to be in violation of this Section, he/she shall be discharged for unacceptable personal conduct according to the procedures outlined in herein.

Section 5.03 Drug and Alcohol Testing

Purpose: The purpose of this Policy is to maintain a drug-free and alcohol-free workplace and to provide procedures for conducting screenings of job applicants and employees for the use of illegal drugs.

Definition(s):

ACCIDENT– An occurrence involving any County employee while on-duty with a County- owned or personally-owned motor vehicle operating on a public road that results in a fatality; bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle(s) to be towed away from the scene. An accident is also an occurrence involving any County employee while on-duty operating heavy equipment and/or machinery that results in a fatality; bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident.

ALCOHOL ABUSE– Improper uses or use to excess of alcoholic beverages

ALCOHOL TEST– A test for the presence of alcohol in the body as determined through the use of a breath alcohol test, evidential breathalyzer test, or blood screening.

ALCOHOL DEPENDENCY REHABILITATION PROGRAM – A program designed to assist participants in controlling a dependency to alcohol, with the program being one that is commonly accepted by the medical community.

EMPLOYEE – Any Full Time, Part Time, temporary, reserve officer and/or contract employee with the County.

ILLEGAL DRUGS – Any controlled substance, or narcotic, as listed in Schedules I through VI of Section 202 of the Controlled Substances Act (21 USC 812) or Chapter 90, Sections 87-94 of the North Carolina General Statutes, or a metabolite thereof.

ILLEGAL DRUG USE – The physical consumption of any amount of controlled substance as defined in **ILLEGAL DRUGS**, or a metabolite thereof.

POSITIVE SAMPLE – With the respect to the results of a test for illegal drugs, means a laboratory finding of the presence of an **ILLEGAL DRUG(S)** or a drug metabolite in the urine, hair or blood of an employee being tested; all positive tests will be confirmed using a different technology than was used for the first test. The second test does not include the test authorized for the employment finalist or current employee, under North Carolina General Statute 95-232 (f) and 13 North Carolina Administrative Code 20.0400.

REASONABLE DETERMINATION – Whereby the County Manager considers any personal observations and the written observations of the Department Head and concludes from such observations that an employee in question may have consumed an illegal drug(s) and/or may have consumed alcohol immediately before or during the work period.

REASONABLE SUSPICION – Whereby a Department Head and/or the County Manager have reasonably held, objective evidence that an employee in question may have consumed an illegal drug(s) and/or may have consumed alcohol immediately before or during the work period or is otherwise impaired.

SAMPLE FOR ILLEGAL DRUGS – The providing of urine, hair or blood used in testing to determine the presence of illegal drugs.

SUBSTANCE ABUSE REHABILITATION PROGRAM – A program designed to assist participants in controlling a dependency to any **ILLEGAL DRUG(S)**, with the program being one that is commonly accepted by the medical community.

TEST FOR ILLEGAL DRUGS – A test, including providing the necessary sample of urine, hair or blood by the employee being tested, for the presence of any of the controlled substances, as defined in **ILLEGAL DRUGS**.

TERMINATED – Whereby the County Manager ends an employee's work with the County either by immediate dismissal or by accepting his or her letter of resignation.

Section 5.04 Pre-Employment Screening

As a post-offer, pre-employment condition of employment, all finalists for any employment position with the County shall take a test for illegal drugs within eight (8) hours of being

directed to do so. Any finalist who delays or refuses to provide a sample for illegal drugs shall not be further considered for employment. The results of the test for illegal drugs shall be

provided to the County before any position may be offered. A position shall not be offered to any finalist who provides a positive illegal drug sample. A finalist who provides a positive illegal drug sample shall be notified of his/her rights to retest the sample, pursuant to North Carolina General Statute 95-232 (f) and 13 North Carolina Administrative Code 20.040.

Furthermore, any post-offer, pre-employment finalist who provides a positive illegal drug sample shall not be considered for any employment with the County for a period of one (1) year from the date of the positive illegal drug sample. Moreover, any finalist who provides a positive illegal drug sample shall not be considered for employment until the applicant completes a substance abuse rehabilitation program, to be completed following the positive illegal drug sample.

Section 5.05 Reasonable Suspicion Testing

The County Manager shall direct a test for illegal drugs and/or alcohol to be taken by an employee in question immediately, not to exceed four (4) hours, of making the reasonable determination that the employee has used an illegal drug(s) and/or consumed alcohol immediately before or during work period. The employee in question shall be transported, by the County, to the testing location. The reasonable determination shall be based, in part, on the written observations of the Department Head and /or the County Manager of the employee in question's behavior leading to the reasonable suspicion of illegal drug use and/or alcohol use. Credible reports of impairment or intoxication from reliable third-party sources may also be considered, subject to corroboration.

Written observations shall be signed and completed within two (2) hours of the actual observation. Under this section, any employee in question who delays or refuses to provide either sample shall be immediately suspended without pay for a period not to exceed seven (7) days from the date of delay or refusal. During the suspension, the County Manager shall make the determination whether the delay or refusal warrants additional disciplinary action up to termination. The employee in question shall provide a written and signed statement explaining his or her actions for delaying or refusing to provide either sample.

If an employee in question provides a positive alcohol sample under this section, the employee shall be immediately transported, by the County, to his or her primary residence and shall be suspended without pay for a period not to exceed seven (7) days from the date of the positive sample. During the suspension the County Manager shall make the determination whether the positive alcohol sample warrants disciplinary action up to termination. The County Manager shall consider that individuals recovering from addictions may qualify for protection and accommodation under federal and state disability laws.

An employee in question who provides a positive drug sample shall be notified of his/her rights to retest the sample, pursuant to North Carolina General Statute 95-232(f) and 13 North Carolina Administrative Code 20.0400. If an employee in question provides a positive illegal drug sample under this section, the employee in question shall be terminated.

Section 5.06 Post-Accident Testing

Any employee involved in any accident and deemed responsible by the police report shall be required to take a test for illegal drugs and/ or alcohol test, immediately following the accident, not to exceed four (4) hours. The employee shall be transported to the testing location by the County.

Under this section, any employee who delays or refuses to provide either sample shall be immediately suspended without pay for a period not to exceed seven (7) days from the date of the delay or refusal. During the suspension, the County Manager shall make the determination whether the delay or refusal warrants additional disciplinary action up to termination. The employee shall provide a written and signed statement explaining his or her actions for delaying or refusing to provide either sample.

If the employee provides a positive alcohol or drug sample under this section, the employee shall be transported, by the County, to his or her primary residence and shall be suspended without pay for a period not to exceed seven (7) days from the date of the positive sample. During the suspension, the County Manager shall make the determination whether the positive alcohol or drugs sample warrants disciplinary action up to termination. The County Manager shall consider that alcohol abuse is considered to be a disability.

An employee who provides a positive illegal drug sample shall be notified of his/her rights to retest the sample, pursuant to North Carolina General Statute 95-232 (f) and 13 North Carolina Administrative Code 20.0400. If an employee provides a positive illegal drug sample under this section, the employee shall be terminated.

Section 5.07 Re-Employment of a Terminated Employee

Any employee terminated under the terms of this Policy shall not be considered for re-employment with the County for a period of one (1) year from the date of termination. Furthermore, the former employee shall not be considered for re-employment until the former employee completes a substance abuse rehabilitation program and/or alcohol dependency rehabilitation program, to be completed following the positive illegal drug sample and/or positive alcohol test.

Section 5.08 Confidentiality

Records concerning any employee's involvement with this Policy shall be confidential and only released in conformance with North Carolina General Statutes 160A-168 and 13 North Carolina Administrative Code 20.0500.

Section 5.09 Enforcement

The County Manager shall be responsible for the enforcement of this Policy.

Section 5.10 Severability

Any section of this Policy determined to be inconsistent with Federal, State and/or common law shall not be enforced and shall not interfere with the enforcement of the remaining sections of the Policy.

ARTICLE VI. CONDITIONS OF EMPLOYMENT

Section 6.01 Work Week/Period

- (a) Sheriff Department employees are subject to work 171 hours in their designated 28-work day cycle
- (b) Emergency Medical Service emergency employees are subject to 24 hour shifts in a one shift on, two shifts off cycle, per "Article One Operations" policy.
- (c) All other employees:

The standard work week will be Saturday through Friday and shall consist of forty (40) hours with overtime provisions set forth in Article V, Section II. The non- overtime work week will consist of 37.50 hours. Therefore, an employee is provided 2.5 hours' time as a benefit.

Employees in qualified, exempted administrative, professional and executive positions shall work those hours necessary to assure the satisfactory performance of their departments but not less than thirty-seven- and one-half hours a week.

Department heads are responsible for developing a work schedule for their employees that serves the needs of the public and complies with federal, state, and local laws.

Section 6.02 Attendance, Absenteeism, Tardiness

The quality of service provided to the public reflects the consistent and dependable performance of County employees. Unscheduled absence or tardiness places a burden on co-workers and hinders effective County operations. In situations where an employee must be tardy or absent, they must notify his/her immediate supervisor within the 30-minute period following the normal reporting time. Supervisors may use discretion when there is sufficient documentation.

Excessive tardiness and absenteeism may result in disciplinary actions up to and including dismissal. Any absence of three consecutive workdays without notification to the department or prior approval from the department shall be deemed to be a voluntary resignation.

Section 6.03 Overtime

Supervisors shall arrange the work schedules of their departments so as to accomplish the required work within the standard workday. Employees may be required to work overtime only in emergencies or other exigent circumstances. The prior approval of all overtime work and compensatory time off that is not emergency related must be approved by the County Manager. All overtime will be governed by rules and

regulations of the Fair Labor Standards Act. A nonexempt employee called in to work during non-scheduled working hours will receive a minimum of two hours pay.

Emergency Preparedness:

If McDowell County deploys emergency teams outside of the County to support an external disaster, exempt employees will be compensated at time and a half for time worked over (40) hours during the disaster and recovery phase. Non-exempt employees will be compensated at the regular FLSA compensation policy. This procedure will also apply when a local State of Emergency is declared within McDowell County by the board of Commissioners.

Approved October 9, 2017

Amended October 14, 2019

Section 6.04. Reporting of Accidents

All accidents involving county vehicles shall be reported as provided for in the McDowell County Vehicle Use Policy. All bodily injury accidents will be reported as provided for in the Worker's Compensation Reporting Policy. All exposure to blood and bodily fluids shall be reported as provided for in the Personal Protection and Work Control Practices section of the Occupational Exposure to Blood borne Pathogens Exposure Control Plan. McDowell County will comply with all regulations of the Occupational Safety and Health Act (OSHA).

Section 6.05. Outside Employment

The work of McDowell County shall have precedence over other occupational interests of employees. Employees must report and receive approval for all outside employment for salary, wages, or commission and all self-employment from their respective department heads. Department heads must have the approval of the County Manager before seeking outside employment. All approvals for outside employment will be documented and placed in the employee's personal file. Conflicting or unreported outside employment shall be grounds for dismissal or other disciplinary action. Employees are prohibited from participating in dual full time employment with the County. Employees are authorized to hold appointments to only one position at a time. **(Exceptions: Sheriff's Department)**

Section 6.06 Expectation of Ethical Conduct

The proper conduct of all employees is necessary to ensure a safe, productive and pleasant work environment. County employees are expected to conduct themselves in accordance with the following guidelines:

1. Know and observe relevant County policies and procedures.
2. Perform the job assigned as instructed by the supervisor.
3. Be prompt in reporting to work and devote full attention to work while on duty.
4. Know and abide by the rules of the County for personal protection and for protection of co-workers and the public.
5. Be fair, courteous and cooperative in dealing with the public and with fellow employees.

The following actions are not permitted. Any employee discovered committing any of the following offenses while employed by McDowell County is subject to disciplinary action up to and including dismissal. The list is not all-inclusive.

1. Displaying disrespect toward or refusing to carry out the instructions of a supervisor or other authorized person unless those instructions are unsafe or illegal.
2. Going outside the supervisory chain of command with the intent to disrespect or discredit a supervisor or co-worker(s) based on an issue of personal dissatisfaction in the workplace not otherwise provided for in the personnel policy.
3. Making comments or engaging in behavior that is untruthful or directed as a personal attack on the professional conduct of others.
4. Repeatedly disappearing from the work area without permission or without an acceptable reason.
5. Allowing personal relations in the workplace to become disruptive.
6. Removing County property from the premises without permission from the proper authority.
7. Theft or misuse of County property or services (e.g. mailing personal things, personal use of County car, extensive use of cell phone or office phone for personal calls, billing personal long-distance calls to the County, personal use of tools or supplies, etc.)
8. Intentionally falsifying County records.
9. Using county internet access, email, the telephone or a facsimile machine to view, generate, send or receive materials that could be construed as fraudulent, illegal, harassing, obscene, indecent, profane or intimidating.
10. Violating the McDowell County drug and alcohol-free workplace policy.
11. Fighting or provoking a fight on county property; using abusive, obscene, profane or threatening language; or engaging in immoral conduct while on duty.
12. Engaging in workplace violence; which includes, but is not limited to intimidation, threats, physical attack, domestic violence or property damage.
13. No County employee shall possess or carry, whether openly or concealed, any weapon, as described in G.S. 14-269(a) and G.S. 14-269(a1) of the NC General Statutes; in or on the grounds of real property or buildings owned by or leased to McDowell County; in or upon County motor vehicles; or while on duty or when expected to perform services on behalf of the County.
 - a. This section shall not apply to officers or employees of the County, charged with the execution of the laws of the state, when acting in the discharge of their official duties if authorized by law to carry weapons or full-time sworn law enforcement officers when so authorized by the sheriff as provided by the law.
14. Operating a County vehicle without a valid N.C. driver's license or otherwise in violation of policies regarding the use of County vehicles.
15. Unwelcome or unsolicited speech or conduct based on age, race, color, religion, sex, national origin, disability, or any other factor that creates a hostile work environment.

Section 6.07 County Dress Code Policy

An employee's personal appearance is a direct reflection of the professionalism of McDowell County. Attire must be appropriate for the working environment.

Managers and Supervisors are responsible for determining what is considered appropriate in accordance with this policy, as the need arises, and for ensuring dress code policies are administered consistently within the scope of their authority. Managers may consult with Human Resources should they need assistance.

The following guidelines are oriented towards employees who work primarily in an office setting where business casual dress would be appropriate. Employees working primarily in the field/outdoors should dress for their duties when following the aspects of this dress code where appropriate.

General Dress Guidelines

- Clothing will be neat, clean and in good repair.

More formal attire is expected when employees are attending public meetings such as court hearings, seminars or are meeting with employees or partners outside of the organization.

Acceptable Attire

General Dress Guidelines may include, but are not limited to the following:

Male Employees:

- Dress shirts or Polo Shirts
- Dress Pants
- Dress Khaki-style pants
- Suits, sport coats or ties
- Dress shoes, loafers
- Non-blue denim pants

Female Employees:

- Dresses, jackets or suits
- Denim shirts or dresses
- Dress slacks or Khaki-style pants
- Sweaters or blouses
- Leggings (not athletic) if worn beneath a dress or mid-thigh length top or dress
- Dress shoes, dress sandals, loafers
- Skirts no shorter than 2' above mid-knee
- Capri pants
- Non-blue denim pants

The following are not permitted any day of the week, as they would be examples of inappropriate dress and does not constitute business casual attire:

Male Employees:

- Blue Jeans
- Shorts
- Bibbed Overalls
- T-Shirt or Sweatshirts (with or without logos)
- Tank Tops
- Hats inside building
- Athletic shoes or plastic/rubber flip-flops
- Pants with rips or holes
- Exposed undergarments

Female Employees:

- Blue Jeans
- Visible spaghetti straps
- Miniskirts or minidresses
- Shorts, athletic leggings or skorts
- Athletic shoes, plastic or rubber flip-flops or bedroom shoes
- Exposed undergarments or revealing necklines
- Halter tops or crop-tops/midriiffs
- Hats inside building
- T-Shirts or sweatshirts (with or without logos)
- Clothing with rips or holes

Exceptions to Dress Code

During inclement weather, staff may dress more casually including snow boots and sweatshirts. Inclement weather is defined as the presence of ice/snow on the ground making it difficult to get to and from vehicles safely.

Staff may wear appropriate items during the holidays (Christmas, Thanksgiving, Valentines, etc)

Staff may substitute the kind of footwear worn in the office due to a medical condition with a doctor's note.

The County Manager may waive provisions of this policy under special circumstances.

Flexibility

A manager may allow designated employees flexibility in attire when a particular job duty or medical condition, either temporary or permanent, precludes the practicality of the normal expectations for appearance, eg. casual attire for cleaning the file room, office clean up days, maternity clothes and/or athletic shoes for a medical condition.

Public Appearances

Employees representing the organization before groups, such as public governing bodies, community organizations and court, are required to dress professionally; coat and tie for men and appropriate business attire for women.

Hygiene/Grooming Expectation

Every employee is expected to maintain an acceptable level of hygiene so as to not offend clients or other staff. Personal hygiene is a component of good health, and staff should present as a role model. The use of excessive or heavy-scented cologne, perfume and aftershave lotion are discouraged due to possible health sensitivities. Hair must be clean, neat and arranged in such a manner as to not interfere with safety. Beards must be clean, neat and trimmed so as to not interfere with safety.

Fingernails must be clean and of appropriate length as to not interfere with assigned work or safety. Managers have discretion to implement more restrictive guidelines in response to job duties and/or population of clients that they are serving to meet the client needs and for safety precautions.

Violations

Violations of the guidelines set forth in this policy will lead to disciplinary action, up to and including discharge. Every supervisor has the responsibility for ensuring his/her employees are aware of the guidelines and comply with the intent of this policy. Managers are responsible for ensuring the policy is applied consistently within their area of jurisdiction. Employees with questions regarding the suitability of an item of clothing should discuss it with their supervisor prior to wearing it to work.

1. First Violation
 - a. Employees failing to comply with the dress code will be counseled by their Supervisor and sent home to change. This time will be charged to the employee's annual or compensatory time leave balance.
2. Second and Subsequent Violations
 - a. Employees with second or subsequent violations of the dress code will be sent home to change. The time will be coded absent without leave (AWOL) and subject to disciplinary action.

Section 6.08 Workplace Harassment

McDowell County is committed to maintaining a work environment that is free of all forms of discrimination and harassment. Accordingly, any practice, activity or conduct that is defined as harassment herein will not be tolerated and will result in disciplinary action.

Harassment Defined: Harassment is verbal or physical conduct that demonstrates hostility or aversion toward and individual on the basis of race, color, religion, gender, national origin, age or disability, or other US Constitutional areas:

- Has the purpose or effect of creating an intimidating, hostile, or offensive work environment.
- Has the purpose or effect of unreasonably interfering with an individual's work performance. -Otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes but is not limited to the following:

- a. Epithets, slurs, negative stereotype, or threatening, intimidating, or hostile acts that relate to race, color, religion, gender, national origin, age, or disability; or
- b. Written or graphic material that demonstrates hostility or aversion toward an individual or group because of race, color, religion, gender, national origin, age or disability and that is placed on walls, bulletin boards, or elsewhere on the employer's premises, or circulated in the workplace.

Harassment Complaint Procedure:

1. Employees encountering harassment should immediately tell the offending person that their actions are inappropriate and offensive.
2. The employee shall document all incidents of harassment in order to provide the fullest basis for investigation. In addition, the employee shall notify their supervisor of the harassment and appropriate investigative and/or disciplinary measures may be initiated.

Sexual Harassment: Defined by the Equal Employment Opportunity Commission as "unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature" when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that person; or
- Such conduct has the purpose or effect of unreasonably interfering with a person's work performance; or
- Such conduct creates an intimidating, hostile or offensive work environment.

Sexual Harassment may include but is not limited to the following:

- a. Explicit sexual propositions, sexual innuendo, suggestive comments, sexual oriented kidding "or "testing", "practical jokes", jokes about gender specific traits
- b. Foul or obscene language or gestures, displays or foul or foul or obscene printed or visual material
- c. Foul or obscene physical contact, such as patting, pinching, or brushing against another's body

Sexual Harassment Complaint Procedure:

1. Any employee who believes that another employee is engaging in sexual harassment may file a complaint as soon as possible and will file within a reasonable period of time after the event (not more than 180 days).
2. No person filing a complaint under this policy or who legitimately assists another in the prosecution of any such complaint shall be subjected to retribution or retaliation of any kind of doing.
3. Complaints filed under this policy shall be immediately investigated by the Human Resource Director or by an individual designated by the County Manager, in the event the Human Resource Director is unable to perform this function due to circumstances surrounding the complaint. The County Manager will be notified after if the Human Resource Director is unable to investigate the complaint. To the fullest extent practicable, the investigation will be kept confidential.
4. A report of findings will be presented to the County Manager within fifteen (15) days of the complaint and the employee shall be advised of the findings.

Adjudication:

If the findings indicate a possibility of sexual harassment a hearing will be set to further investigate the claim. The County Manager and the Personnel Officer shall designate a time for a hearing and notify the accused employee in writing at least ten (10) calendar days before the hearing and of the complaint and underlying allegations. The accused employee may request one (1) postponement of no longer than (10) working days of the hearing upon receipt of the notice.

The accused employee shall be entitled to attend the investigation process and testify on their own behalf, and shall be entitled to confront and cross-examine the employee who filed the complaint. In the event that the complainant chooses not to attend the hearing and upon objection from the accused to the complainant's absence, the complaint shall be dismissed and the accused deemed innocent of the allegations.

The accused employee shall be entitled to call witnesses on their behalf and to introduce evidence which pertains to the issues presented by the complaint and investigative report.

At the conclusion of the hearing, or within five (5) working days of the hearing, the County Manager shall inform the employee in writing the findings and results of the hearing concerning the innocence or guilt of the offense.

The findings of guilt must be supported by substantial, credible evidence that:

- the facts alleged by the complainant occurred, are true: and
- those facts constitute sexual harassment within the definitions of this policy; and
- the accused is the person who committed the acts amounting to sexual harassment.

If an investigation confirms that harassment has occurred, corrective action will be taken in accordance with the nature and extent of the offense. The County absolutely prohibits retaliation against any employee bringing a claim of sexual harassment.

Harassment and Sexual Harassment-False Accusations Procedure:

The County recognizes that false accusations of harassment and sexual harassment can have a serious effect on an innocent individual. Falsely accusing another of harassment or sexual harassment shall be disciplined in accordance with the nature and extent of the accuser's claim.

McDowell County encourages employees to raise questions regarding the harassment policy with their immediate supervisor, their department head, the Human Resource Director or the County Manager.

Adopted November 8, 1995

Section 6.09 Use of County Time, Equipment Supplies and Vehicles

County supplies and equipment are to be used exclusively for County business. During working hours, an employee shall only engage in County business. Use of County, time, supplies, or equipment for personal or other purposes not related to the employee's County duties and responsibilities is prohibited and subjects the employee to disciplinary action, up to and including dismissal.

All employees who use County vehicles are required to follow applicable motor vehicle and safety requirements. Violation or misuse of County vehicles also subjects the employee to disciplinary action, up to and including dismissal.

Section 6.10 Social Media Policy

Purpose

This policy outlines the necessary approval process to utilize social media for County business, as well as best practices and guidelines that all County officials and employees will follow when communicating with the public through social media outlets.

A basic definition of social media is resources similar to, but not limited to Facebook, Twitter, Instagram, YouTube, LinkedIn, and any other Internet media geared toward open and largely unmoderated communication between followers/users/members.

As with all communication tools, social media should be used in ways that maximize transparency, enhance productivity, and are appropriately professional. Therefore, the application of social media for McDowell County must be done in order to achieve the following purposes:

1. Social media content should be thoughtful and professional so as to leave citizens and users of the media with a positive impression of the County, and have a consistent and positive message about the profession of service by the County to its citizens;

2. Care should be given so that content does not propose a risk to the County, particularly with vulgar or offensive content, libelous remarks, partisan political views, or other content that does not directly relate to the provision of public services; and,

3. As social media communications are considered public records; such content must be retained for the time specified by applicable public record laws.

Policy Statement

County Departments are not required to maintain departmental-specific social media sites. When appropriate, the County Manager or designee will incorporate departmental news and information into the County's social media content. However, departments may choose to manage their own social media content as long as it adheres to McDowell County policy.

Departments are responsible for getting permission and direction from the County Manager or his designee with regard to expectations for content management within the department.

Establishing an Official County Social Media or Networking Account

All proposed official McDowell County social media and networking sites are to be submitted for approval to the County Manager's Office. Requests shall be submitted by department heads. Social media sites require constant monitoring and updating in order to be effective. The department initiating the social media tool is responsible for tasks such as updating information, monitoring content, replying to site users, and fulfilling public information requests.

Social Media and Networking as Public Record

McDowell County's social media and networking sites are considered public records under North Carolina General Statutes Section 132 and will be managed as such. Non-employees may not know that social media and network sites are public records. To assure that the public is aware of this, departments should include the following statement (or some version of it) somewhere on them social media and networking sites:

Representatives of the McDowell County government communicate via this website. Consequently, any communication via this site (whether by a county employee or the general public) may be subject to monitoring and disclosure to third parties as a public record.

In addition to the Public Record notice above, the following shall be prominently posted on all sites.

This site is moderated and comments are reviewed. Any communication on this site is considered public record and is not designed to be the avenue for communication of personal or individual requests and communication

specific to a person or group of people. Please make direct contact with the county employee or department you desire assistance from outside of this social media site. The posting of external links, solicitations, or advertisements on this site are prohibited, are subject to removal, and do not constitute official endorsement or support. Comments expressed on this site do not represent or reflect the opinions and positions of the McDowell County government, its officials, and employees

Department heads shall not allow the public to start new topics or add new content on social media pages that belong to the County. County employees shall not respond to any removable comments from sites. This may turn removable content into public records and make the content undeletable.

The following are prohibited from being posted on official county sites, are considered of no value, and are subject to removal.

- Comments that are threatening or harassing.
- Sexual comments about, or directed to, anyone.
- Content that promotes fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, sexual orientation, marital status, status with regards to public assistance, national origin, physical or mental disability.
- Obscene, pornographic, or other offensive/illegal materials or links.
- Any personal, sensitive, confidential, or medical information.
- Defamatory material.
- Photographs of employees or members of the public without permission.

o Requests to publish should be in writing, collected by the manager of the social media account. Intellectual property of others without written permission.

- Information about actual or potential claims and litigation involving the government.
- Comments designed to sell a product, service or drive people to another website for personal, political or monetary gain.
- Comments advocating for illegal activity.

If a department head or their designee finds a public comment in violation of this policy, the person shall remove the comment, log the comment removed and the user who posted it, and post in its place that the comment was in violation of the McDowell County Social Media Policy and has been removed. Three posts removed due to violation of this policy will cause the member to be blocked from making any future posts.

Acceptable Professional Use

All usage of social media shall follow applicable State, Federal and local laws. Employees are not to use any County-sponsored social media for personal gain or to share personal information or opinions. Great care shall be taken when posting content/comments to prevent disclosing proprietary County Information, sharing personal information about any member of County staff, the governing body, or the public posting of copyrighted or trademarked material, and disclosing identities of individuals shown in photographs especially if the subject is a minor, without written permission. For any content that the County Staff is unsure about the legalities of posting, the county must be consulted in advance of posting.

Employees must not use county-sponsored social networking sites for political purposes, to conduct private commercial transactions, or to engage in private business activities. Links or references to sites containing comments made or posted about anything racially or sexually discriminating or of a political or religious nature are prohibited. Employees should be mindful that inappropriate usage of social media can be grounds for disciplinary action. Thus, if an account is used for county business, the entire account, regardless of any personal views, is subject to these best practices, including the collection and preservation provisions.

Security Requirements

All social media sites/outlets that are managed under County representation will be secured with a password that meets the minimum requirements of the site, as well as be at least eight characters in length, and have at least one number and one special character. Further, the password and any security questions are not to be a common word or phrase that is associated with the County and easily guessable or compromised by outsiders or is the same as a current county password. The department shall annually verify that the login information on file is current and able to be used to log in as the administrator of the account.

Violation of this policy shall subject the employee to disciplinary action pursuant to the McDowell County Personnel Policy, up to and including termination.

Section 6.11 Drug and Alcohol-Free Workplace Policy

The following policy is hereby recognized by the McDowell County Board of Commissioners in an effort to establish a drug free workplace and serves to comply with the Federal requirements in the Drug Free Workplace Act of 1988.

The Board of Commissioners recognize the severe danger that drugs in the workplace pose by impairing public safety, promoting criminal activity, lowering productivity, and the quality of work, and generally undermining public confidence in the work that McDowell County is a "responsible source" for federal contracts and grants.

(a.) Effective immediately, any location at which county business is conducted is declared to be a drug free workplace. This would include county buildings, property, and vehicles. No employee may unlawfully manufacture, distribute, or possess in the workplace any controlled (illegal) substance or alcohol. This requirement includes and prohibits reporting to work under the influence of any controlled substance in Schedules I and V of Section 202 of the Controlled Substances Act (21 U.S. C. 812), and as further defined by

regulation at CRF.1300.15, and as defined in Schedules I through VI of the North Carolina Controlled Substances Act (Article 5, Chapter 90, NCGS).

(b.) As a condition of employment, Article IV, Section IV, "Pre-employment Drug Screening" will be followed.

(c.) As a condition of employment, each employee shall notify his or her supervisor of a conviction of any criminal drug statute that occurs while employed with McDowell County will notify immediately with any change. "Conviction" is defined as a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal and State Criminal Drug Statutes.

(d.) As a condition of employment, any employee who violates this policy or is convicted of any criminal drug statute may be disciplined as provided in ARTICLE VIII. Section I up to and including dismissal and/or that employee may be required to participate in a drug abuse assistance or rehabilitation program approved by McDowell County.

(e.) McDowell County will notify the federal government (contracting officer) within ten (10) days of receiving such notice if the employee is engaged in work funded by a federal grant.

(f.) This policy will be distributed to each employee, and each employee shall sign a statement of policy receipt acknowledging that they have received, read, and understood the policy. This policy will also be included in the Employee Handbook and will be posted. This policy is applicable to all full, part-time, and temporary employees.

(g.) McDowell County will identify all available drug counseling, rehabilitation, and employee assistance programs. McDowell County will work with Smoky Mountain Center Programs to establish a "Drug Free Awareness Training Program".

(h.) McDowell County will make every effort to maintain a drug free workplace as presented in this policy.

(i.) All positions that are classified as a "safety sensitive position" shall be subject to random drug testing on a rotation schedule. Department Heads will be notified within one hour of the testing date and time by the Human Resource Department.

Adopted November 5, 1990

Section 6.12 Political Activity Restricted

Employees of McDowell County 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.

However, no employee of McDowell County shall (1) engage in any political activity while on duty; (2) be required as a duty of their office of employment, or as a condition of employment or promotion, or tenure of office to contribute to, solicit for, or act as a custodian of, funds for political or partisan purposes; (3) coerce or

compel contributions by any other employee of McDowell County for funds for political or partisan purposes; or (4) use any county supplies or equipment for political activity. Any violation of this section shall be deemed improper conduct and shall subject the employee to disciplinary action consistent with County policy.

ARTICLE VII. LEAVES OF ABSENCE

Section 7.01 Holidays

(a) Non-emergency Personnel: All full-time and part-time employees shall receive full pay for the following holidays and any other days as set by the Board of Commissioners which shall be observed by McDowell County offices:

New Year's Day Martin Luther King, Jr. Day Good Friday Memorial Day Independence Day Labor Day Veteran's Day Thanksgiving Day (2) Christmas (3)

When a holiday falls on Saturday, the employees will receive off the Friday before the holiday.

When a holiday falls on Sunday, the following Monday will be taken as the normal holiday. At Christmas three days are observed McDowell County will strive to follow the State holiday schedule.

All full-time non-exempt employees that are required to work on a recognized paid county holiday will receive double pay for those hours actually worked. If a scheduled holiday is observed on an employee's regularly scheduled day off (during the week), then that employee may take this holiday at a later date as agreed upon with the supervisor. (Addition 8/20/90)

(b) Emergency Personnel: Full time non-exempt emergency personnel (Sheriff, Emergency Medical Service Departments and 911 Communications) are expected to be available for work seven days a week throughout every week of the year. Because of this difference in work schedules, McDowell County recognizes the following Holiday Policy for those emergency employees often required to work on holidays.

Employees other than the non-exempt emergency personnel receive twelve (12) days at eight hours pay for the recognized county holidays. The total number of hours received is ninety-six (96).

Therefore, non-exempt emergency personnel will receive as a benefits package of ninety-six (96) hours of compensation if the following conditions are met;

- 1) The employee must be actively employed at the time each holiday occurs in order to receive the eight (8) hours of holiday compensation.
- 2) If the employee is scheduled to work on the holiday they must work the complete assigned shift as scheduled. If an employee takes a vacation day or a sick day they will be charged for that vacation or sick day they forfeit the Holiday compensation.
- 3) If the employee is scheduled to be off on the holiday they will receive eight hours of holiday compensation.

Holiday compensation will take place during the pay period that appropriate time records and payroll information are due. All timesheets will be submitted to Human Resources by 10:00 AM on the Monday following the cut off period.

The following Holidays are hereby recognized for Emergency non-exempt employees:

New Year's Day Martin Luther King, Jr. Day Easter Sunday Memorial Day Independence Day Labor Day Veteran's Day Thanksgiving Day and the following Friday, Christmas Eve Christmas Day and the day following Christmas

Section 7.02 Vacation Leave

Vacation Leave Earned

Vacation leave shall be granted to employees on the following basis:

Less than 2 years:	80 hours per year (3.33 per pay period)
2-4 years:	96 hours per year (4 per pay period)
5-9 years:	120 hours per year (5 per pay period)
10-14 years:	144 hours per year (6 per pay period)
15-19 years:	168 hours per year (7 per pay period)
20+ years	192 hours per year (8 per pay period)

Part-time employees shall have vacation accrual prorated based on the above years of service schedule.

For the purposes of this Section, "years of service" is defined as the employee's creditable time as recorded by the North Carolina Local Governmental Employees Retirement System or Teachers and State Employee Retirement System for employees of McDowell County Cooperative Extension. (Added September 2018)

Vacation Leave Accumulation

Leave is computed on a pay period basis. All scheduled work days during a pay period must be in an active status to earn leave.

Leave may be accumulated without any applicable maximum until December 31, of each calendar year. However, if the employee separates from service, payment for accumulated leave shall not exceed 240.00 hours. On December 31, any employee with more than 240.00 hours of accumulated leave shall have the excess accumulation converted to sick leave so that only 240.00 hours are carried forward to vacation leave on January 1, of the next calendar year. The converted leave shall be used in the same manner as accrued sick leave.

Payment of Leave Upon Resignation

Employees who resign their employment with McDowell County by submitting a minimum two (2) weeks written notice to their supervisor and work at least seventy (70) percent of their scheduled workdays, one of which being their final day, shall be paid for vacation leave accumulated to the date of separation, not to exceed 240.00 hours, provided that they have completed 90 days or more continuous service. Failure to give two-weeks' notice and work at least seventy (70) percent of the scheduled workdays, one of which being the final day, shall result in forfeiture of accrued vacation leave pay. An employee who is involuntarily separated without fault or misconduct on their part may be paid for vacation leave accumulated to the date of separation not to exceed 240.00 hours. Compensation for accumulated vacation leave shall not be paid to an employee separated for fault or misconduct or who does not submit the required written notice. Upon the death of a full-time employee, a sum equal to all unused accrued vacation leave at the time of death, not to exceed 240.00 hours, shall be paid to the legal estate of the deceased. Vacation hours are a privilege provided by the County. (Revised December 2019)

Approval of Vacation Leave

Vacation leave may be taken as earned by an employee when the employee's department head approves the leave and can arrange for the leave to be taken without increasing the expense of operating the department. A "Personnel Leave/Notice" form should be completed, approved and forwarded to personnel two weeks in advance. Employees are cautioned not to retain excess accumulation of vacation leave until late in the calendar year; due to the necessity of maintaining certain county services, large numbers of employees cannot be granted simultaneous vacation leave. 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.

Manner of Taking Vacation Leave

Vacation leave shall be deducted at a rate of:

1. Sheriff Department, Public Works, and Emergency Medical Service employees shall be deducted for each hour of vacation leave taken. Emergency Medical Service emergency employees shall be deducted to a maximum of sixteen hours per shift taken. Public Works employees hired to work a ten-hour shift shall take 10 hours per each shift missed, not to exceed a total of 40 hours a week.
2. All other employees shall be deducted for each hour of vacation leave taken, up to a total of eight (8) hours for each vacation day.

Vacation leave is intended for a meaningful break in your employees' work. Utilizing leave a day or less at a time may be permissible but does not accomplish the true purpose of vacation time. The minimum amount of vacation leaves which may be taken is one hour and may be taken in any amount thereafter in fifteen-minute units. (Amended December 2019)

Section 7.03 Sick Leave

Sick leave with pay is not a right which an employee may demand, but privilege granted by the Board of Commissioners. Sick leave will be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, pregnancy, childbirth and postpartum care, exposure to a contagious disease when continued work might jeopardize the health of others, illness in the employee's family which requires the care of the employee.

Notification of the need to take sick leave should be submitted to the employee's supervisor prior to the leave whenever possible or as soon as practicable thereafter given the circumstances surrounding the leave. The employee is expected to communicate with the County to the extent possible and feasible regarding the status of the leave.

Sick Leave Accumulation

Leave is computed on a pay period basis. All scheduled work days during a pay period must be in an active status to earn leave. Each full-time employee shall earn sick leave at the rate of four (4) hours for each pay period worked. Part-time employees shall earn sick leave on a prorated basis. Accrued sick leave from other government jurisdictions may not be transferred without the approval of the department head, the County Manager and notification to the Board of Commissioners.

Manner of Taking Sick Leave

Sick leave shall be deducted at a rate of:

(1) Sheriff Department employees shall be deducted a maximum of twelve (12) hours per shift and the Emergency Medical Service employees shall be deducted for each hour sick leave taken. Emergency Medical Service employees shall be deducted to a maximum of sixteen (16) hours per shift taken. Public Works employees hired to work a ten-hour shift shall take 10 hours per each shift missed, not to exceed a total of 40 hours a week.

(2) All other employees shall be deducted for each hour of sick leave taken up to a total of eight (8) hours each day.

The minimum amount of sick leave which may be taken is one (1) hour and may be taken in any amount thereafter in fifteen minutes units. There is not a maximum amount of sick leave that an employee may accrue, although no payment shall be made for unused accumulated sick leave to an employee upon termination. However, sick leave is used to increase the length of service in the computation of retirement benefits under the regulations of the "North Carolina Local Government Employees Retirement System".

Physician's Certificate

Department heads may require a physician's certificate as to the nature of an illness. This certificate may be used to resume an employee's physical capacity and related duties. The employee may be required to submit to such medical examination, and the department head shall be responsible for the application of this provision to ensure that (1) employee shall not be on duty when they might pose a direct threat to the employee's own safety and/or the safety of others, and (2) to promote the appropriate and fit use of sick leave privileges in accordance with this policy.

Section 7.04. Family and Medical Leave

In accordance with the Family and Medical Leave Act ("FMLA"), The County shall grant each eligible employee leave entitlements consistent with the provisions outlined in the FMLA. The terms used in this Section which are defined in the Act shall have the meanings assigned to them in the Act.

Eligibility: To be eligible for FMLA leave, the employee must:

- a) Have been employed by The County for at least 12 months; and
- b) Have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

Under the FMLA, The County provides up to twelve (12) weeks of unpaid, job protected leave during any twelve (12) month period to eligible employees for the following reasons:

- a) For incapacity due to pregnancy, prenatal medical care or child birth;

- b) For the birth of, and to care for, the employee's child after birth;
- c) For placement of a child with employee for adoption or for foster care;
- d) To care for the employee's spouse, son or daughter (under age 18 unless disabled), or parent, who has a serious health condition; or
- e) For a serious health condition that makes the employee unable to perform the functions of their job.

These provisions apply equally to a father as well as to a mother.

In certain circumstances, certain eligible employees may also be entitled to up to 26 weeks during the 12-month period of Military Family Leave to provide care for a spouse, son, daughter, parent or next of kin who is a military service member recovering from a serious illness or injury sustained in the line of active duty; or 12 weeks during the 12-month period for any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. Please see the Finance Office for questions or more information related to this specific type of leave.

Requesting Leave:

If leave is planned, the employee should give at least thirty-days' notice of his or her intent to take leave under FMLA. In cases of leave for planned medical treatment, the employee is required to make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of his or her department.

If the need for leave is unplanned, an employee must notify the employer as soon as the need for the leave becomes known. The notice shall be sufficient to make the immediate supervisor aware that the employee needs FMLA-qualifying leave, and the anticipated timing and duration of the leave.

Definition of Serious Health Condition:

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave:

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis

Health Care Provider's Certification for Medical Leave:

When FMLA leave relates to an employee's serious health condition, The County may require that the employee's request be supported by a certification issued by the employee's health care provider consistent with the guidelines in the Flounder certain circumstances, The County may require re- certification consistent with the FMLA.

Continuation of Benefits:

When an employee is on leave under FMLA, the County will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee continued to work. If the employee chooses not to return to work for reasons other than a serious health condition, the County will require reimbursement of the amount paid for the employee's health insurance premium during the FMLA period.

Any insurance payments and/or payroll deductions are the responsibility of the employee and the employee must continue to make such payments for continued coverage of that benefit during FMLA leave.

Returning to Work:

The County may request a periodic report from the employee or certifying physician regarding the employee's status with respect to returning to work. These may be made by telephone, written correspondence or sent by fax. Prior to returning to work, each employee shall provide a fitness-for duty certification from the health care provider. Failure to return to work, and/or failure to reasonably communicate with the County about the employee's ability to return to work following the expiration of all job-protected FMLA leave may result in the employee's unprotected absences being treated as a voluntary resignation of employment resulting in separation. It is therefore critically important to interactively communicate with the County regarding the employee's anticipated return to work date and to discuss any additional reasonable accommodations that may be required for covered, eligible employees under the Americans with Disabilities Act.

If an employee fails to return to work after the employee's leave entitlement has been exhausted or expires, the County has the legal right to request reimbursement for the monthly health insurance premiums paid on behalf of the employee, unless the reason the employee does not return is due to:

1. The continuation, recurrence, or onset of a serious health condition which would entitle the employee leave under FMLA; or
2. Other circumstances beyond the employee's control.

When an employee fails to return to work because of the continuation, recurrence, or onset of a serious health condition, the employee shall provide medical certification of the employee's or family member's serious health condition.

Section 7.05 Maternity Leave

(a) Employee Responsibility

An employee desiring to take a maternity--related leave of absence shall follow the same procedures for regular FMLA leave.

Section 7.06 Military Leave

Leave with Pay:

Leave with Pay shall be granted to employees who participate in the armed services for certain periods of active military duty. Military leave with pay shall be granted to Full Time employees for periods not to exceed 10 days annually.

At the employee's request, he or she will be allowed to use any accrued vacation leave during the period of service.

Unpaid Leave:

Under state and federal laws, if you participate in the uniformed services, you are also entitled to certain leaves of absence without pay, job-protection and reinstatement, continuation of seniority benefits and other important rights. Covered employees under the Uniformed Services Employment and Reemployment Rights Act ("USERRA") shall be entitled to the rights therein and in the event of any conflict with these policies, the requirements of USERRA shall control.

USERRA protects uniformed service members who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also protects employees and applicants from discrimination and retaliation because of their current or past military service. USERRA requires the County to reemploy or reinstate uniformed service members who are called to active duty in most circumstances. This Policy is not intended to fully explain the rights and responsibilities of service members under USERRA. USERRA contains important, and strict, deadlines and requirements of which uniformed service members should be fully aware in order to protect their rights. The County strongly encourages uniformed service members who have further questions about USERRA to consult either the County Human Resource Manager or information posted by the U.S. Department of Labor, Veterans Employment and Training Services (VETS) or their commanding officers.

Section 7.07 Civil Leave

An employee called for jury duty, or as a witness for the Federal or State Governments or a subdivision thereof, shall be entitled to leave with pay for this absence provided the employee deposits the money received for jury/witness duty with the County Finance Officer.

Section 7.08 Education Leave

A leave of absence at full or part pay for a period not to exceed sixty (60) working days may be granted upon the recommendation of the department head by the County Manager to permit a county employee to take courses of study which will better equip the employee to perform their duties for McDowell County. A leave of absence at full or reduced work schedule for a period, not to exceed nine (9) months may be granted upon the recommendation of the department head and the County Manager with the approval of the Board of County Commissioners. When a county employee enters into a job-related training program with the prior approval of their department head and the County Manager, they may be reimbursed for expenses such as tuition and books upon successful completion of the course.

Section 7.09 Education Leave with Pay

A leave of absence with pay during regular working hours will be granted to an employee to take courses required by the County as a condition of hiring. The County shall reimburse the employee for tuition, fees, and books as well as the travel costs, the employee will be required to submit a receipt for such expenses. However, if such occurs results in a certification that would possibly benefit the employee in employment elsewhere and the employee ends employment within (12) months of such certification, the employee will reimburse the County for all costs associated with the certification. This provision does not apply for employees undergoing periodic recertification or for continuing education classes that may be required from time to time.

An employee on educational leave with full pay shall continue to earn leave credits and any other benefits to which the County employees are entitled.

Section 7.10 Funeral Leave

Employees are entitled to a period of bereavement up to three (3) consecutive days at regular pay (not including overtime) with no deduction from other leave balances due to the death of any of these relatives (including step, foster, in-law): parent, child, spouse, brother, sister, grandparent, grandchild, or other person who resides in the same household.

Employees of the Sheriff's Office and Emergency Services that work 12- or 24-hour shifts will receive 24 hours of paid leave.

In addition, subject to the approval of the employee's supervisor, employees may use up to three (3) additional consecutive work days of sick leave, totaling six (6) days of leave. If no sick leave remains, employees must use compensatory time or take vacation leave. If no vacation leave remains, employees must take unpaid leave for these additional days. Employees of the Sheriff's Office and Emergency Services that

work 12- or 24-hour shifts may utilize an additional 24 hours of leave (sick leave first, and then compensatory time or vacation leave) upon approval of the supervisor.

Any bereavement period that is expected to go over the six (6) work day limit requires approval from the supervisor and employees must use your vacation leave.

The employee's supervisor will make the final decision on the number of approved days for bereavement leave based on factors such as required travel and level of involvement in funeral arrangements. Other factors may also be considered.

Death of any other person: Employees may use up to three (3) consecutive days of accrued sick leave for the bereavement of other persons not listed above. If no sick leave remains, employees must use compensatory time or take vacation leave. If no vacation leave remains, employees must take unpaid leave. As stated above, the supervisor will make the final decision on the number of days approved for this leave.

Section 7.11 Leave Without Pay

A County employee may be granted a leave of absence without pay for a period not to exceed one (1) year by the County Manager upon the recommendation of the supervising department head for reasons of personal or family illness, completing education, or special work which will permit McDowell County to profit by the experience gained or the work performed. Vacation and Sick leave benefits will not accrue during leave without pay status. If the leave otherwise qualifies as FMLA leave, the FMLA leave will run concurrently with the leave described in this section and will not be counted in addition to the provisions of this section.

Section 7.12 Coverage by Workers' Compensation

Any employee who is disabled due to a compensable work--related injury or occupational disease covered under the North Carolina Workers Compensation Act is subject to the following leave provisions:

- An employee may take leave without pay for the entire period of disability, and receive any workers' compensation benefits to which they may be legally entitled. If the absence is expected to extend beyond twenty--one (21) calendar days, the employee will immediately be placed in a leave without pay status and begin receiving workers' compensation benefits on day one (1): The employee will receive 66 2/3% of gross wages (wages calculated from date of injury to one year prior to injury, not current gross salary) for lost time due to injury or illness. These wages will be payable from the third-party administrator and mailed directly to the employee. The employee may not elect to supplement the 66 2/3% with sick or vacation leave after the 21 days period has been satisfied.
- An employee with a workers' compensation injury/illness that is not expected to extend beyond twenty-one (21) calendar days shall be permitted to use available paid sick and/or vacation leave for the first seven (7) calendar days of the workers compensation leave. The employee will not be required to reimburse the County for this paid leave in the event the absence extends beyond twenty-one (21) calendar days.

- An employee in a leave without pay status will retain all accumulated sick and vacation leave while receiving workers' compensation benefits.
- Temporary employees will go directly to a leave without pay status and will receive all benefits for which they are eligible under the Workers' Compensation Act.
- Upon reinstatement, an employee's salary will be computed on the basis of the last salary plus any salary increase to which the employee would have been entitled during the absence covered by workers' compensation benefits.
- Any period of leave without pay for a workers' compensation disability that qualifies as a "serious health condition" under the Family and Medical Leave Act (FMLA), will run concurrently with FMLA leave.
- McDowell County's Human Resources policies shall continue to apply to an employee on worker's compensation leave, as they would to any employee who continues to work, or is absent while on some other form of leave.

(Revised July 1, 2011)

Use of Leave for Additional Medical Treatment:

Employees with accepted injuries or occupational disease under the Workers' Compensation Act who have medical appointments during regularly scheduled working hours shall not be charged sick leave or annual leave for time away from work limited to reasonable time for treatment and travel. Any time in excess of this will be charged as sick leave, annual leave or leave without pay. Employees should schedule appointments at a time most convenient for their work unit. During normal work hours the employee is expected to return to work allowing medical treatment unless restricted from doing so by the employee's treating physician.

Benefits While on Leave:

The following is benefit information available to employees while on Workers' Compensation leave in accepted, compensable workers' compensation cases:

- Employee health and dental insurance premiums will continue to be paid by the County as budgeted. Premiums for any dependent coverage must be paid by the employee directly to the County.
- Employees eligible for longevity pay while on leave will continue to receive their annual payments.
- Any cost of living increases which the employee did not receive due to leave will be reinstated to the employee upon returning to work.
- The employee shall continue to accumulate annual and sick leave for use upon returning to work.
- All other payroll deductions for optional benefits (Colonial, 401k, 457, Life Insurance, etc.) will be the responsibility of the employee.

Reinstatement:

To the extent feasible, The County will attempt to provide light duty work, and will attempt to return injured employees to work per the requirements of the North Carolina Workers' Compensation Act.

Any return-to-work following a workers' compensation leave of absence shall be accompanied by a medical certification confirming that the employee can perform the essential functions of the job to which they are returning with or without reasonable accommodation.

7.13 Shared Leave Policy

The following policy is hereby recognized by the McDowell County Board of Commissioners as the standard procedure, which allows employees to share sick leave with another employee affected by a serious or prolonged medical condition. In order to request shared leave, the employee must be a regular full time or part time benefited employee with (1) year of consecutive service with McDowell County.

- A) An employee affected by a serious or prolonged medical condition, and that has expired their vacation and sick leave, may apply in writing to their department head to accept donated sick leave from other McDowell County employees. The written request shall include a brief description of the circumstances prompting their request.
- B) The department head shall review the request and then shall forward to the County Manager a recommendation based on the employee's work history, record of leave, etc. The County Manager shall approve or deny the request. If the request is denied, the employee can appeal to the Board of Commissioners. C) Upon approval, the shared leave request will be forwarded to the Human Resources Office which will be responsible for the accountability of the leave donations and use.
- C) The recipient shall continue to accrue sick and vacation leave while in a shared leave status.
- D) The minimum number of hours that can be donated shall not be less than four (4). The maximum number of hours that can be donated shall not exceed one-half of the donor's sick leave balance.
- E) Per each request approved by the Board of Commissioners, the total shared sick leave hours accepted shall not exceed 480.00. Requests for additional donated sick leave must be submitted in the same manner as the original request.
- F) At the termination of the circumstance requiring excess sick leave, all donated sick leave in excess of 24.00 hours shall be prorated and returned to each donor's sick leave accrual. This amount shall not include the sick leave accrued by the recipient while in the shared leave units.

Adopted March 4, 1991

ARTICLE VIII. EMPLOYEE BENEFITS

Section 8.01 Social Security

Each county employee is covered by Old Age and Survivors Insurance and may become eligible for disability or retirement benefits in accordance with the provisions of the Social Security program.

Section 8.02 Insurance Benefits

McDowell County currently provides group life, group health and group dental coverage for full time employees and provides a prorated amount for part--time employees who elect coverage. (Addition 8/20/90)

Section 8.03 Unemployment Insurance

County employees who are separated from employment may apply for unemployment compensation through the local office of the North Carolina Department of Commerce Division of Employment Security who will determine the employee's eligibility for such benefits.

Section 8.04 Longevity

McDowell County currently provides discretionary longevity pay based on annual review, recommendation by the County Manager. These supplements are meant to recognize employees for specified terms of continuous service. (See Longevity Policy)

Section 8.05 Retirement Benefits

McDowell County is a member of the Local Government Retirement System as such:

- a. Law Enforcement Officer's Benefit and Retirement Fund- Law enforcement officers having the full power of arrest and primarily engaged in the prevention and detection of crime, enforcing criminal laws on public property or serving civil processes are eligible for the Law Enforcement Officers' Benefit and Retirement Fund and is required to join the Local Governmental Employees' Retirement System.
- b. Local Government Employees' Retirement System- Each county employee other than law enforcement officers belonging to the Law Enforcement Officers' Benefit and Retirement Fund is required to join the Local Governmental Employees Retirement System as a condition of employment.
- c. Register of Deeds McDowell County will follow retirement guideline provisions and the North Carolina General Statute in relation to the employment of the Register of Deeds.

Section 8.06 Other Benefits

Full time employees presently have available the services of the State Employee's Federal Credit Union or the Local Governmental Employees Federal Credit Union, (whichever is applicable to employee's department), Prudential 457 and 401(k) Supplemental Retirement Income Plan of North Carolina, the NACO 457 Supplemental Retirement Plan, and the Employee Assistance Program.

Section 8.07 Wellness Program and Health Insurance Related item.

All full-time employees are eligible for health insurance coverage following a 90-day waiting period. Full Time employees are defined as an employee appointed to an established twelve (12) month position. All employees in this status shall receive full benefits. Part time is an appointment to an established position on a half-time greater basis for twelve (12) months a year. Employees in this status work a designated schedule.

Beginning July 1, 2017, the employee contribution for employee only coverage is 20% of the monthly cost of coverage based on the approved funding per employee for the fiscal year. All existing and new employees are eligible for a Wellness Premium Discount that will reduce the employee contribution to \$25.00 per pay period for employee-only coverage. Participation in the Wellness Premium Discount is completely voluntary. An employee can obtain the Wellness Premium Discount by completing the following activities:

1. Annual physical with a physician of your choice that includes a full lab panel and discussion of age appropriate screenings which may include mammograms, colonoscopies or prostate screenings. Physician must sign. (signed physician affidavit required); AND
2. Attend the McDowell County annual health fair and provide attendance confirmation to Human Resources.

NOTE: You are not required to meet certain testing outcomes to receive the Wellness Premium Discount and your lab results are not shared with McDowell County. McDowell County will enroll all employees in the employee contribution Wellness Premium Discount. Employees have until May 30th of each plan year to submit a physician affidavit for an annual physical that occurred on or after the first day of the plan year.

If the employee submits the affidavit and confirmation of health fair attendance, the employee maintains the Wellness Premium Discount for the remainder of the plan year. If the employee does not complete the required activities in a timely manner, the employees' contribution for employee only health coverage increases to \$63 per pay period semi-monthly. Any applicable contribution increase takes effect July 1st on the immediately following plan year.

Waiting Period for Benefits

Retirement Contribution- 1st Payroll Cycle at Hire Date

All Other Benefits Effective After 90 Days

Health Insurance

Sick/Vacation Accruals
Life Insurance

Eligible for Christmas Bonus after 12 Months of Employment

New Hires:

New employees' transitioning employment from another County/State Government to McDowell County and with continued membership in the North Carolina Retirement System will be eligible for benefits without a waiting period. This also applies to active military service and federal personnel transitioning to local government with continuous service. Health insurance will begin on the first day of the month.

ARTICLE IX. DISCIPLINE AND GRIEVANCE

Section 9.01 Disciplinary Action

Any employee whose job performance is unsatisfactory shall be notified and a performance improvement plan will be established outlining performance improvement goals and steps, as well as consequences. All steps will have the Human Resource Director and/or designee present as witness.

McDowell County DSS will follow the discipline and grievance procedure as established by the Department of Health and Human Services. The County Manager and Human Resources will be notified of the disciplinary and grievance process as each step in the process occurs. Disciplinary action is intended to be progressive in nature, and will ordinarily include written warnings and verbal counseling as follows:

1. Written Warning One

An employee Incident Report/Notice will be completed by the department head/supervisor.

(a) Review with the employee the contents of the Employee Incident Report/Notice explaining to the employee how they have not met the requirements and why their conduct has been unacceptable.

(b) Allow the employee to give reasons for their actions or failure.

(c) Make suggestions for correction or appropriate training.

(d) Record the date of the interview and signatures of employee, department head/supervisor and witness. This information shall be retained in their personnel file.

(e) Give the employee and the County Manager copies of the Employee Incident Report/ Notice.

- (f) This warning will be in effect for 18 months from the date of disciplinary action.

2. Written Warning Two

After Written Warning One, Written Warning Two may be issued.

- (a) An Employee Incident Report/Notice will be completed by the department head/supervisor, and the County Manager should be notified that written warning two has been issued.
- (b) Review with the employee the contents of the Employee incident Report/Notice
- (c) Review again the points covered in both warnings, if applicable, that must be corrected. This will serve as a strong warning that a change in work performance must be made.
- (d) Record the date of the interview and signature of the employee, department head/supervisor, and witness. This information shall be retained in their personnel file.
- (e) Give the employee and the County Manager copies of the Employee Incident Report/Notice.

3. Dismissal

- (a) If an employee does not satisfactorily comply with the suggestion in the (1) Written Warning One and (2) Written Warning Two concerning their work performance, they will be subject to dismissal.
- (b) In an exit interview, the employee will be given an Employee Incident Report/Notice summarizing the noncompliance; a copy will be given to the employee, County Manager and personnel file.

The foregoing warning procedures notwithstanding, depending on the nature, severity, and magnitude of the employee's conduct, the County reserves the right to immediately terminate the employee **without any prior warning** so long as the employee is not otherwise protected by the North Carolina State Personnel System and laws codified in, among others, Chapter 126 of the North Carolina General Statute.

Section 9.02 Demotion

Any employee whose performance is unsatisfactory, but who offers promise of becoming a satisfactory employee, may be demoted by their department head after notification to the County Manager. This procedure shall be properly coordinated with the Discipline Procedure and salary changes shall be in accordance with Article III, Section 8.

Section 9.03 Grievance Procedure and Sexual Harassment Procedure-Adverse Action

It is the policy of McDowell County to provide a means whereby employees may freely discuss problems with supervisors and to provide a procedure for the presentation and mutual settlement of problems that arise between employees and from the condition of their employment. The objectives of the grievance procedure are as follows:

- (1) To provide employees with a procedure by which their complaints can be considered rapidly, fairly and without reprisal;
- (2) To encourage employees to express themselves about the conditions of work which affect them;
- (3) To promote better understanding of policies, practices, and procedures that affect employees;
- (4) To instill in employee's confidence that personnel actions are taken in accordance with established, fair, and uniform policies and procedures; and
- (5) To develop in supervisors, a greater sense of responsibility in their dealings with employees.

When an employee is dissatisfied with an adverse action of the condition of their employment with McDowell County, the following successive steps are to be taken. Each step will include notifying the County Manager and the McDowell County Human Resource Department.

- (a) The grievance will be submitted in writing to the employee's immediate supervisor within five (5) working days of knowledge of its occurrence, with the objective of resolving the matter informally. If the grievance concerns or implicates the employee's immediate supervisor, the grievance should be directed to the employee's human resource manager or county manager.
- (b) The immediate supervisor, county manager, or human resource manager who receives the grievance will timely respond and report it to the department head.
- (c) The department head will also timely respond to the grievance.
- (d) If the action of the department head does not resolve the grievance to the satisfaction of the employee, the grievance may be submitted in writing to the County Manager. The County Manager will timely respond to the grievance.
- (e) If the ultimate decision of the County Manager is not satisfactory to the employee, they may file the grievance in writing during the next three (3) working days following receipt of the decision, giving a statement of relief desired with the Board of County Commissioners.
- (f) The Board of County Commissioners shall review all relevant information and consult with whatever sources deemed necessary and respond within twenty (20) working days following the next regularly scheduled board meeting. The Board's written statement must contain the reasons for its determination and a statement of the evidence upon which it relied. The employee will sign and date a copy of the written notification. The decision of the Board is final.

Copies of the original grievance and all replies will be placed in the employee's personnel file and given to the County Manager as each step occurs.

Any grievance not timely made by the employee in accordance with the limits provided above may be considered abandoned conclusively. Any grievance not answered by management in the time limits provided above automatically advances to the next higher step of the grievance procedure.

Section 9.04 Rehiring

An employee who resigns while in good standing may be rehired, and shall be regarded as a new employee, subject to all the provisions of rules and regulations of this Chapter. However, the employee shall be credited with his or her previously accrued sick leave if he or she is rehired within five years and under the conditions set forth in Article VII of this Policy.

If an employee resigns without meeting the requirements listed in Article 4, Section 4.11, they will not be eligible for employment with McDowell County for future vacancies.

ARTICLE X. EXIT INTERVIEWS

Human Resources will conduct employee exit interviews. Once an employee has submitted their resignation or upon termination of employment, Human Resources will conduct an exit interview with that employee. If the employee is not available to meet with Human Resources, all employee exit paperwork will;

- (a) Be emailed to the employee for electronic signature prior to the employee's last day of employment.
- (b) If the employee is terminated or resigns without notice, paperwork will be mailed by certified mail to the last address on file.

ARTICLE XI. CONFLICTING POLICIES REPEALED

All policies, ordinances or resolutions in conflict with the provisions of this resolution are hereby repealed.

ARTICLE XII. SEVERABILITY

If any provision of this policy or any rule, regulation, or order hereunder of the application of such provision to any person or circumstances is held invalid, the remainder of the policy and the application of such remaining provisions of this policy to persons or circumstances other than those held invalid will not be affected thereby.

ARTICLE XIII. EFFECTIVE DATE

This resolution shall become effective February, 1, 2023