

# *COUNTY OF POWHATAN*

## EMPLOYEE HANDBOOK



Adopted by Board of Supervisors  
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## **PURPOSE**

The objective of the County of Powhatan Employee Handbook (Handbook) is to provide a uniform system of personnel administration for the employees of the County of Powhatan (County), based on merit principles, equitable compensation, open competition in hiring and advancement, and equal employment opportunities.

It is the policy of the County to establish reasonable rules of employment conduct and to ensure compliance with these rules through a program consistent with the best interest of the County and its employees.

The Handbook is not, and shall not be construed as, an explicit or implied contract; shall not modify any existing at-will status of any County employee; and shall not create any due process requirement in excess of Federal or State Constitutional or Statutory requirements. The term at-will means employees may terminate or be terminated at will.

For purposes of the Employee Handbook the following terms are defined:

**Agency Head** – the Library Director, the Social Services Director, the Director of Elections, the County Administrator or any Constitutional Officer.

**Department Director** – the Deputy County Administrator, the Director of Elections or any employee approved in the Staffing Plan as a Department Director

## **1. EMPLOYMENT POLICIES**

### **1.1 Employee Standards of Conduct**

The employees of Powhatan County have been entrusted with the management of the citizens' interests.

As an integral member of the County, employees are expected to accept certain responsibilities, adhere to acceptable business principles in matters of personal conduct, and exhibit a high degree of personal integrity at all times. This not only involves sincere respect for the rights and feelings of others, but also demands that employees refrain from any behavior that might be harmful to them, their co-workers, and/or the County, or that might be viewed unfavorably by the public at large.

Types of behavior and conduct that the County considers inappropriate include, but are not limited to, the following:

1. Not reporting for all scheduled working hours regularly and on time (i.e., unexcused absence and tardiness).
2. Abuse of County time, including, for example, unauthorized time away from the work area, use of County time for personal business, and abuse of sick leave.
3. Use of harsh, abusive or profane language.
4. Rude behavior towards, or treatment of, County citizens, customers, and staff.
5. Inadequate or unsatisfactory work performance.
6. Disruptive behavior.
7. Conviction of a moving traffic violation while using a County-owned vehicle.
8. Consumption of alcoholic beverages on company premises, or reporting to work while under the influence of alcohol.
9. Possession, sale or use of a controlled substance other than a drug prescribed by a physician.
10. Sexual, discriminatory, or other unlawful harassment of another employee or visitor of the County.
11. Recording the work time of another employee or allowing any other employee to record your work time, or allowing falsification of any timesheet, either your own or another employee's.
12. Insubordination or refusal by an employee to follow management's instructions regarding a job related matter (to include argumentative reluctance).
13. Violation of a safety rule.
14. Unauthorized use or misuse of County records.
15. Falsifying any records, including, but not limited to, vouchers, reports, insurance claims, time records, leave records or other official County documents.
16. Lying or providing false or misleading information to a supervisor, Department Director, or Agency Head.
17. Willfully or negligently damaging or defacing County records, County property or property of other persons.
18. Theft, misuse or unauthorized removal or possession of County property, another employee's property or the property of any visitor to the County.
19. Gambling on County property or on County time.
20. Inappropriate attire as determined by the Agency Head.
21. Assault or battery on a fellow employee or visitor of the County.

22. Inordinate personal use of County telephones/equipment.
23. Sleeping during work hours.
24. Participating in any kind of slowdown or similar concerted interference with County operations.
25. Threatening or coercing any persons associated with any County department, any citizen, client consultant, etc.
26. Criminal convictions for illegal conduct occurring on or off the job that clearly are related to job performance or are of such a nature that to continue employees in their positions could constitute negligence in regard to departments' duties to the public or other County employees.
27. Criminal conviction for a crime involving lying, cheating, or moral turpitude.
28. Unauthorized use of another employees email.
29. A breach of any of the confidentiality or fiduciary responsibilities outlined in this Manual or implicit in responsibilities of your position with the County.

This is not intended to be a complete list of unacceptable conduct, nor does this limit or restrict the County's "at-will" employment policy. Agency Heads may have additional Standards of Conduct for their employees.

### **1.2 Equal Employment Opportunity**

The County of Powhatan is committed to providing equal employment opportunities for all qualified persons, regardless of any of the bases protected by Federal law. In addition, the County complies with applicable state and local laws governing nondiscrimination in employment in every location in which the County has facilities. This policy applies to all aspects of employment, including, but not limited to, hiring, placement, work assignments, promotion, evaluation, termination, layoff, recall, transfer, leaves of absence, reasonable accommodation of disability, compensation, benefits and training. We trust that all employees of the County will act responsibly to maintain a working environment free of discrimination and harassment. The County encourages any employee to raise questions he/she may have regarding discrimination or harassment with his/her supervisor or Human Resources. The County prohibits any form of retaliation against any employee for filing a complaint under this policy or for assisting in a complaint investigation. To the extent an employee is not satisfied with the handling of a harassment complaint; he/she may contact their Agency Head with their concerns. This policy does not prohibit the County from taking disciplinary action in appropriate circumstances.

### **1.3 Probationary Period**

At least, the first six months of employment is considered a probationary period. An Agency Head may determine that a longer probationary period is required for any of their positions. If the Agency Head determines at any time during the probationary period that an employee is not suited to that position, the employee will be terminated or provided with the opportunity to resign. Prior to the probationary period ending, a written evaluation will be conducted by the employee's supervisor. **An employee remains on probation until a written evaluation is conducted by the employee's supervisor.** If performance has been satisfactory during the period, the probationary period shall end. The probationary period may be extended with the Agency Head's approval. Probationary employees do not have access to the County's grievance procedure. Part-time employees are subject

to the same probationary period as full-time employees. Employees do not receive Cost-Of-Living Adjustments/Market Adjustment or merit increases during the probationary period. If the probationary period ends within three months of the effective date of a Board of Supervisor approved Cost-Of-Living Adjustment/Market Adjustment or merit increase, the Agency Head may approve the Cost-Of-Living Adjustment/Market Adjustment or merit increase for the employee effective the day after the probationary period ends.

#### **1.4 Performance Appraisals**

The County recognizes the importance of constructive feedback in the development of employees. Supervisors are encouraged to provide constructive feedback to employees on a regular basis. The work of each employee will be evaluated in writing at least annually. Evaluations shall be a collaborative effort between the employee and the employee's supervisor. The supervisor shall obtain input from the employee via a self-evaluation or some other format. The supervisor will meet with the employee to discuss the employee's performance for the preceding year and expectations for the next ensuing year. A written report of the evaluation will be prepared with a copy provided to the employee and the original filed in Human Resources. If the employee believes that the report is unfair, the employee may prepare comments to be attached to the supervisor's evaluation report.

The County may also periodically provide oral direction, guidance, and counsel with respect to the performance of the employee and the means by which employee's work activities are being carried on. The County may place a written memo in the employee's personnel file detailing the direction, guidance or counsel given to the employee.

#### **1.5 Absence or Lateness**

An employee who is absent from duty shall request leave from his/her supervisor prior to the date of absence when possible. If prior approval is not possible, the employee shall notify his/her supervisor no later than the scheduled start time on the first day of absence. Each supervisor will determine the method of notification. All unauthorized absences shall be considered leave without pay and the employee will not be compensated for this time. See the Leaves of Absence section of this handbook.

Public Safety facilities are open 24 hours a day, 7 days a week, 365 days a year and therefore Public Safety employees shall comply with the Policies and Procedures of their department (Sheriff's Office and the Fire & Rescue Department)

#### **1.6 Separations**

In the event an employee resigns, notice should be given to the supervisor in writing at least two weeks in advance. Any annual or sick leave that is due the employee will be distributed the month after the employee's separation.

#### **1.7 Nepotism**

The Conflict of Interests Act in the Code of Virginia prohibits an employee from supervising members of his/her immediate family. Immediate family is defined here to include spouse and the mother,

father, sister, brother, children, or grandparent of the employee or spouse. It can also include other relationships established by blood, marriage, intimate co-habitation or other legal actions. The County shall not take any actions that would result in such a relationship (for example hiring or promotion). Immediate family of a member of the Board of Supervisors are not eligible for hire with the County. The Agency Head shall have the discretion to prohibit employment of close family members in other relationships than supervisor-subordinate.



## **1.8 Employment Opportunities**

Human Resources shall advertise and publicize all opportunities for employment with the County to include details regarding salary and qualifications. Executive or professional positions may be filled through the services of a third party consultant. The consultant shall comply with the County's equal employment opportunity and advertising guidelines. All vacancies may be advertised internally. A vacancy which is being advertised externally shall be posted on the County website and may be advertised on other websites or in other publications.

### **Applications**

Each applicant is required to submit a current application and is requested to submit a voluntary self-identification form. Applications normally remain on file for six months or for the period of time required by state and federal law. The County may reject an applicant who does not meet the requirements defined in the job specifications. The County may also reject an applicant for making false or deceptive statements or for failing to submit a complete, accurate, or current application. The County may terminate an employee if false or inaccurate statements are discovered after employment has begun.

## **1.9 Human Resource Records**

Information on all employees is necessary for payroll processing and for maintaining accurate Human Resources files. The County will collect, use, and retain information required for business and legal compliance. The County will do its best to balance employee privacy with the County's need to assemble and use this information. Due to the confidential nature of such information, the County strictly limits access to employee records and/or the disclosure of information contained in these records. Employees are permitted to see their Human Resources file at reasonable times, at a reasonable place, and on reasonable notice, according to applicable state law.

## **1.10 References and Pre-employment criteria**

To ensure that individuals who join the County are well qualified and have a strong potential to be productive and successful, it is the policy of Human Resources to check the employment references of the selected applicant prior to extending a job offer.

A criminal background check will be ordered from the Virginia State Police and a pre-employment drug test is required.

Only Human Resources is authorized to respond to reference check inquiries from other employers. All calls, contacts and written inquiries concerning current or former employees should be referred to Human Resources. It is the policy of Powhatan County to provide neutral references concerning former employees. Responses to such inquiries will confirm dates of employment, wage rates, and the title of position held.

### **1.11 Personal Appearance & Attire**

Employees shall dress appropriately for their specific job as determined by their Agency Head. County photo identification badges and uniforms (where applicable) may be required by the Agency Head. Employees will be notified upon employment of the attire that is appropriate or not appropriate for their position.

### **1.12 Harassment**

Powhatan County strives to keep the workplace free from all forms of harassment, including sexual harassment, and considers harassment in all forms to be a serious offense. All employees are expected to conduct themselves in a professional manner and be respectful of the rights and interests of others. Harassment against individuals in any manner is unacceptable and will not be tolerated. This policy applies to all employees and covers harassment by employees of the County (including supervisors and management), customers, vendors, or other third parties with whom the County has business dealings.

#### **The following conduct is considered harassment and is grounds for disciplinary action:**

1. Verbal or physical conduct directed toward an employee because of the bases protected by Federal law (Appendix B) and which has the purpose, or effect of creating an offensive or hostile working environment.
2. Threats, demands, or suggestions that an employee's work status is conditioned upon tolerance of such verbal or physical conduct.
3. Retaliation against an employee for complaining about such verbal or physical conduct.
4. Making unwelcome sexual advances or requests for sexual favors or other verbal or physical conduct of a sexual nature a condition of an employee's continued employment; or (b) making submission to or rejection of such conduct the basis of employment decisions affecting the employee; or (c) creating an intimidating, hostile, or offensive working environment by such conduct.
5. Lewd, vulgar or obscene remarks, jokes, e-mails, faxes, posters or cartoons, and any unwelcome physical contact.
6. Causing physical injury to another person.
7. Making threatening remarks.
8. Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress.
9. Committing acts motivated by, or related to, sexual harassment or domestic violence.

#### **Reporting Procedure**

1. Employees who believe they have been the subject of sexual or other harassment should report the alleged act or conduct immediately to their supervisor, or Agency Head. All complaints of harassment will be investigated.
2. All information reported will be kept confidential to the extent possible and will only be disclosed on an as needed basis in order to investigate and resolve the matter.
3. If the County determines that an employee is guilty of harassing another employee, appropriate action will be taken against the offending employee, up to and including termination of employment.

4. The County prohibits any form of retaliation against any employee for filing a complaint under this policy or for assisting in a complaint investigation.
5. To the extent an employee is not satisfied with the handling of a harassment complaint; he/she may contact the Agency Head with their concerns.

## **2. COMPENSATION AND BENEFITS**

### **2.1 Pay Procedures**

It is the policy of the County to pay employees by direct deposit on a regular basis and in a manner so that the amount, method, and timing of wage payments comply with all applicable laws and regulations. All employees are required to have their pay direct deposited into the checking or savings account of their choice.

Employees will be paid on the last business day of the month. Full-time employees will be paid for regular hours worked through the last day of the month and for overtime hours worked in the FLSA cycles that ended in the previous month. Full-time employees on a 28 day FLSA cycle will be paid for regular hours worked through the last day of the month and for overtime hours worked in the 28 day FLSA cycle that ended in the previous month. Part-time employees will be paid for regular and overtime hours worked as of the four weeks ended two weeks prior to the last business day of the month.

All employees must submit a timesheet detailing their hours worked and leave taken for the pay period. The timesheet must be signed by the employee and their supervisor.

Employees on each payday will have access to a statement showing gross pay, deductions, and net pay. Local, state, federal, and Social Security taxes will be deducted automatically. No other deductions will be made unless required or allowed by law, contract, or employee obligation. Employees may elect to have additional voluntary deductions taken from their pay only if they authorize the deductions in writing.

### **2.2 Wage & Hour Compliance - FLSA**

As an agency of local government, all employees are covered under the Fair Labor Standards Act Amendments of 1985. The FLSA requires that those employees whose positions are covered by the Act or “non-exempt” be paid one and one-half times their regular hourly rate for work in excess of forty hours during their normal workweek. Non-exempt employees under the Fair Labor Standards Act may work overtime hours only as authorized in advance by their supervisor. Employees are expected to work overtime hours as required by their Agency Head. All overtime must be preapproved by the employee’s Agency Head.

Employees in certain administrative, executive and professional positions have been determined as “exempt” for the overtime requirements under the FLSA and are not entitled to overtime compensation. Each position in the County requires the determination of its exempt or non-exempt status according to FLSA guidelines.

In accordance with Fair Labor Standards Act regulations, exempt employees who are required to be paid on a salary basis may not have their pay reduced for variations in the quantity or quality of work performed. Employees who feel their pay has been improperly reduced should report this immediately following the complaint procedures specified below.

1. Employees who believe their pay has been improperly reduced should contact Human Resources immediately to request an investigation.
2. The employee will be asked to specify in writing, the circumstances of the pay deduction and whether it has occurred on other occasions.
3. The County will review pay records and interview the supervisor or supervisor as well as the payroll representatives handling the employee's pay, to determine if the allegation is correct.
4. If the deduction was in fact improper, the County will reimburse the employee as promptly as possible (but in no case longer than two pay periods from the identification of the problem).
5. The individual(s) responsible for the error will be investigated further to determine if this was an isolated incident or a pattern of conduct that requires further action on the part of the County. If warranted, the responsible person will be held accountable for the error(s) made consistent with County disciplinary policy.
6. The resolution of the situation will be documented (including confirmation on the part of the employee that the situation has been resolved) and placed with the employee's pay records.
7. Following the identification of such a problem the employer will establish a practice to regularly audit employee pay records to ensure no further issues arise.

### **2.3 Compensatory Leave**

The County of Powhatan provides compensatory leave (paid time off) in lieu of paying overtime to non-exempt employees upon request of the employee. In the same manner as overtime pay, an employee earns one and one-half hours of compensatory leave for every hour worked in excess of forty hours during the normal workweek. Once earned, an employee must request the use of accumulated compensatory leave in writing on the form provided by Human Resources and may only use the accumulated compensatory leave if approved. Approval of the use of compensatory leave is at the sole discretion of the Agency Head. To maintain adequate staffing levels, the Agency Head will determine the request based on the needs of the department. Compensatory leave shall be used in increments of no less than quarter hour blocks of time.

Should the employee separate from the County, the employee will be paid for any accumulated and unused compensatory leave. At June 30 of each year, the employee may carry over into the next fiscal year (July 1 – June 30) eighty (80) hours of accumulated compensatory leave. If an employee has accumulated compensatory leave in excess of eighty (80) hours as of June 30, the employee will be paid for the compensatory leave in excess of eighty (80) hours. An employee may request to be paid for all or part of the eighty (80) hours of accumulated compensatory leave at June 30 of each year. All compensatory leave earned and used must be recorded on the employee's time sheet and Human Resources will maintain the official record of compensatory leave balances. Employees may only use accumulated compensatory leave and will be only be paid for accumulated compensatory leave if Human Resources has a record of the accumulated compensatory leave.

## 2.4 Employment Classifications

For the purpose of salary administration and eligibility for overtime payments and employee benefits, the County uses the following classifications:

**Full-time, Regular** – An employee who is regularly scheduled to work a minimum of forty (40) hours per week and is hired for an indefinite period. **Full-time, Regular** employees are entitled to participate in the County’s benefit programs. **Full-time, Regular** employees may be “*exempt*” or “*non-exempt*” as defined in the Wage & Hour Compliance – FLSA section of this handbook.

**Part-time, Regular** – An employee who is scheduled to work less than an average of twenty-six (26) hours per week and is hired for an indefinite period. The schedule of a Part-time, Regular employee is flexible and is determined by the Agency Head. **Part-time, Regular** employees are NOT entitled to participate in the County’s benefit programs. **Part-time, Regular** employees may be “*exempt*” or “*non-exempt*”.

**Temporary** – An employee hired either part-time or full-time for a specified, limited period of less than one year. **Temporary** employees are NOT entitled to participate in the County’s benefits programs. **Temporary** employees may be “*exempt*” or “*non-exempt*” as defined 2.2. (Note the County may obtain individuals from a temporary employment agency, subcontractor, or other outside County for specific assignment. These individuals are employees of the respective firm and not the County.)

**Full-time, Restricted** – An employee who is regularly scheduled to work a minimum of forty (40) hours per week and is hired for a limited period which exceeds one year. **Full-time, Restricted** employees are entitled to participate in the County’s benefit programs. **Full-time, Restricted** employees may be “*exempt*” or “*non-exempt*”.

**Part-time, Restricted** – An employee who is scheduled to work less than twenty-six (26) hours per week on a regular basis and is hired for an limited period of time which exceeds one year. **Part-time, Restricted** employees are NOT entitled to participate in the County’s benefit programs. **Part-time, Restricted** employees may be “*exempt*” or “*non-exempt*”.

**Intern** – In conjunction with local high schools and universities, the Agency Head may elect to allow **paid or unpaid interns** to work for a specified period of time as dictated by the education institution sponsoring them, but no longer than nine months. Interns should be at least a high school junior level. Interns are NOT entitled to participate in the County’s benefits programs. Interns may be “*exempt*” or “*non-exempt*”. Unpaid interns are not employees of the County and County is not liable for any work related injury while on duty. Unpaid interns will be required to sign a release relieving the County of any and all responsibility.

**Volunteers** – Volunteers are not employees of the County. Powhatan County encourages the use of volunteers in the workforce, with the understanding that the County is not liable for any work related injury while on duty. Volunteers will be required to sign a release relieving the County of any and all responsibility. Volunteers are not permitted to operate County vehicles. Court ordered volunteers may be accepted, at the discretion of the Agency Head, to provide community service.

## **2.5 On-Call**

There are certain operations/functions of the County which require an employee to be available to be called back to work to handle an emergency outside of the normal working hours. In this case, the employee is on-call. Non-exempt employees who are on-call will receive on-call pay at a rate of \$1.25 per hour for every hour they are on-call outside the normal working hours. On-call hours are not applied toward the 40 hour work week for calculation of overtime.

An employee who is on-call must be available to work when called back into work. When an employee is called back to work after regular work hours, they will be paid for actual time worked at their hourly rate. This actual time worked is applied to the 40 hour work week for calculation of overtime. On-call pay is not paid for the hours when the employee is called back to work.

If an on-call employee cannot be contacted by their supervisor via the agreed upon device (cell phone, etc.) or is not available to work, he or she is not entitled to on call pay and **SHALL BE SUBJECT TO DISCIPLINARY ACTION.**

## **2.6 Work Schedule**

Powhatan County offices are open for business from 8:30 AM to 5:00 PM; therefore, normal working hours are 8:30 AM to 5:00 PM, with a 30 minute unpaid lunch.

Other County facilities (e.g., Convenience Center, Waste Water Treatment Plant, Public Works, Library) are open at alternate times; therefore, these employees may have alternate work schedules.

All full time employees are scheduled to work 40 hours per week, with two (2) fifteen (15) minute breaks per day included as part of the 40 hours. The breaks may be utilized at any time except to shorten the workday, either at the beginning or end of the day. These breaks may be taken in conjunction with the 30 minute unpaid lunch.

Exceptions to the normal working hours may be granted by the Agency Head so long as the numbers of hours worked per week are in compliance with the Employee Handbook.

Public Safety facilities are open 24 hours a day, 7 days a week, 365 days a year and some Public Safety employees work a 28 day FLSA cycle, therefore Public Safety employees shall comply with the Policies and Procedures of their department (Sheriff's Office and the Fire & Rescue Department).

## **2.7 Inclement Weather Conditions and County Emergencies**

There are times when inclement weather conditions or emergencies are such that it is necessary to close County facilities to protect the health and safety of employees. The decision to close County facilities is made by the County Administrator. It is the responsibility of the employee to confirm when County facilities are closed. Employees are advised to check local TV announcements and the County's web site for notice. Except as otherwise noted, when County facilities are closed, employees who are scheduled to work will be paid. Employees who are not scheduled to work at the time the County facilities are closed will not receive any extra compensation.

Some employees may be designated as essential to their department and therefore are required to report to work during inclement weather conditions or emergencies. The essential designation will

be determined based on the circumstances of any given event and may include changes in duty assignments and changes in work schedules. Please refer to the County's Emergency Operations Plan manual. All Public Safety employees are essential and shall comply with the Policies and Procedures of their department (Sheriff's Office and the Fire & Rescue Department).

**When the County facilities are open during inclement weather conditions or emergencies, employees must first consider their health and safety and may opt to take annual leave if they are not designated as essential.**

## **2.8 Group Health Insurance**

The County makes available Group Health Insurance for full-time and retired employees as well as members of the Board of Supervisors.

### Full-time Regular and Full-time Restricted Employees

Full-time employees may elect to participate in the County's Group Health Insurance Plan. If elected, health care will be effective on the first day of the first full month of employment. The County contributes toward the cost of employee health premiums *and* dependent coverage. Rates and coverages are subject to change annually. Enrollment information on the plans is kept in Human Resources. If an employee is on leave without pay and not on FMLA leave, the employee is responsible for a pro-rata share of the County's contribution to the cost of the health premiums.

### Retired Employees

"Retired Employees" are defined as those employees who have at least 5 years of service with the Virginia Retirement System and are 50 years or older. Retired employees are eligible to participate in the County's Group Health Insurance Plan until age 65 and at their own cost, provided they were covered under the County's Group Health Insurance Plan as of their retirement date.

Effective July 1, 2014, the County will offer the Virginia Retirement System health insurance retirement credit to all employees who retire through the Virginia Retirement System.

For employees who retired prior to January 2, 2015, the County will contribute to the retired employee's health care premium at the rate of \$4 per year of service, up to \$120 a month, if the retired employee provides the County with proof of health care premium. A retired employee must have worked 15 consecutive years with Powhatan County to access this benefit.

## **2.9 Employee Health Insurance Opt-out Plan**

If approved in the annual operating budget, employees who have elected not to participate in the County's group health insurance may receive an annual payment if by June 1, the employees provides Human Resources with proof of alternative health insurance coverage and a signed medical insurance claims waiver. The payment will be made annually at the close of the fiscal year for the prior 12 months of coverage. The amount will only be paid if the employee is still active as of June 30 and will be prorated if the employee has worked for or had insurance through the County less than 12 months.



## **2.10 Life Insurance**

The County provides life insurance coverage for its full-time employees through the Virginia Retirement System. Detailed information about the life insurance plan may be obtained from Human Resources.

## **2.11 Retirement Benefits**

The County offers all full-time employees a pension plan through the Virginia Retirement System. Participation in the plan begins on the date of hire, or on the first day of the month following the hire date, depending on the employee's preference.

The County contributes a percentage of the employee's annual salary into the pension plan. Employees are required to contribute 5% of their salary into the plan. Detailed information about this may be obtained from Human Resources.

When an employee applies for retirement benefits, leave in excess of eighty consecutive hours before the final date of employment must be approved in writing by the Agency Head.

## **2.12 Optional Benefits**

The County offers the following benefits at the employee's option and expense:

- Disability Insurance
- Deferred Compensation
- Christmas Club Savings
- Additional Hospitalization Coverage
- Additional Cancer Coverage
- Additional Life Insurance Coverage
- Flexible Spending Accounts

Payment is made through authorized withholding from employee's pay. Detailed information on any of these plans may be obtained from Human Resources.

## **2.13 Continuing or Converting your Group Health Insurance Coverage**

Under the Consolidated Omnibus Budget Reconciliation Act of 1985, better known as COBRA, if an employee resigns or terminates employment or if the employee's work hours are reduced and if this event makes the employee or his/her dependents no longer eligible to participate in one of the group health insurance plans, the employee and his/her eligible dependents may have the right to continue to participate for up to eighteen months at the employee's (or his/her dependents') expense. The policy will be enforced per applicable state law. If the employee is determined to be disabled under the Social Security Act at the time of termination or reduction in hours occurs, the employee may be entitled to continuation coverage for up to thirty-six months. All questions concerning eligibility should be directed to Human Resources.

## **2.14 Holidays**

Powhatan County observes the following holidays. In addition, the County shall also observe any other holiday designated by the Governor as a legal holiday for the Commonwealth of Virginia.

New Year's Day	January 1
Lee-Jackson Day	Friday preceding 3 <sup>rd</sup> Monday of January
Martin Luther King, Jr.	3 <sup>rd</sup> Monday of January
President's Day	3 <sup>rd</sup> Monday of February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1 <sup>st</sup> Monday in September
Columbus Day	2 <sup>nd</sup> Monday in October
Veteran's Day	November 11
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Day after Thanksgiving	4 <sup>th</sup> Friday in November
Christmas Day	December 25

Birthday holiday will cease to be a holiday on December 31, 2016.

Holidays falling on Saturday are observed on the preceding Friday; holidays falling on Sunday are observed on the following Monday.

The following conditions apply to the County's holiday pay policy:

1. Holiday pay is computed at individual employee's base rate of pay and paid only to full time employees
2. Holiday pay will not be considered as time worked for the purpose of overtime calculations.
3. If an employee is required to work on a holiday, the employee may choose to take the Holiday on another day approved by their supervisor.
4. Holidays will not be paid to employees on any type of unpaid leave.
5. Holidays falling within an approved scheduled vacation will be recorded as holiday pay.
6. Employees must be in a paid status the day before and the day after a holiday to be paid for that holiday.

## **2.15 Leaves of Absence**

A Leave of Absence (Leave) may be with or without pay. Leave must be requested in writing, and approved by the employee's Agency Head prior to the leave being taken. If sick leave is not approved prior to being taken, the employee must complete the form when they return to work. Leave shall be taken in increments of no less than quarter hour blocks of time. Annual, sick and compensatory leave may not be taken until after it is accrued. All information regarding leave (accrual, etc.) will be maintained in the employee's file in Human Resources.

**Annual Leave**

All full-time employees accrue annual leave at a graduated rate based on the employee’s years of full-time service with the County.

<b>Years of Service</b>	<b>Amount accrued each month</b>	<b>Maximum Accrued Leave Balance on December 31<sup>st</sup></b>
Less than 5	8 hours	192 hours
Over 5 and less than 10	10 hours	240 hours
Over 10 and less than 20	12 hours	288 hours
20 or more	14 hours	336 hours

Agency Head approval must be obtained in advance to take (use) accrued annual leave. Approval of an annual leave request is at the sole discretion of the Agency Head. To maintain adequate staffing levels, the Agency Head will determine the request based on the needs of the department.

Employees will be paid for the balance of their accrued annual leave hours when they separate from the County. Leave taken by the employee prior to separation will be deducted from their balance prior to the balance being paid to the employee.

**Sick Leave**

The County provides all full-time employees with sick leave benefits. Sick leave may be taken (used) for illnesses for yourself, spouse, children, stepchildren, parents, or any IRS claimed dependent.

If the employee’s absence can be anticipated, the employee must complete a Leave Request Form prior to taking the sick leave.

If the employee’s absence is not anticipated, the employee shall report the absence to their supervisor no later than the scheduled start time on the first day of absence. Each supervisor will determine the method of notification. The supervisor may request notification every day of the employee’s absence. The employee must complete the Leave Request Form when he/she returns to work.

The County requires a doctor’s certificate of illness, as well as a doctor’s verification of ability to return to work following a sick leave absence of more than three days, and may request one for a lesser periods of absence. In the case of an extended illness or hospitalization, the employee must comply with provisions of FMLA.

Employees will accrue Sick Leave at the rate of 10 hours for each full month of employment.

Employees with five (5) years of consecutive service when they separate from the County, will be paid \$2.00 per hour for their accrued sick leave hours up to a maximum payout of \$5,000 (2,500 hours).

### **Accrual of Annual and Sick Leave**

Employees with a hire date on or before the 15<sup>th</sup> of the month will accrue annual and sick leave for the month. Employees will accrue annual and sick leave for the last month of their employment only if they work or are on authorized paid leave for the entire month. Employees must work or be on authorized paid leave for the entire month to accrue annual and sick leave for the month. Leave will not be prorated.

### **Bereavement Leave**

In the event of a death in the family, the County will grant up to three (3) working days off with pay to full-time employees. For purposes of Bereavement Leave, family is defined to include the spouse and mother, father, sister, brother, children, or grandparent of the employee or spouse. It may also include other relationships established by blood, marriage, intimate co-habitation or other legal actions. It is in the sole discretion of the Agency Head as to whether any such other relationship qualifies for Bereavement Leave.

### **Jury Duty**

The County recognizes that serving as a juror is part of one's civic responsibility. Therefore, whenever a County employee is summoned to jury duty in any Federal, State or Municipal Court, a leave of absence with pay will be granted for the period served. Because the employee is receiving his/her regular pay from the County while serving on jury, any payment received from the court system must be passed on to the County. An employee may keep reimbursements received such as parking fees, travel, meals, etc.

### **Military Leave**

It is the County's objective to grant military leave with or without pay to employees for active duty in the armed services of the United States or for employees who are former members of the armed services, or current members of the reserve forces of any of the United States' armed services, or of the Commonwealth's militia (National Guard, naval militia, and Virginia State Defense Force), or the National Defense Executive Reserve, in accordance with federal and state law.

Employees who are called for military duty for partial workweeks will be paid his/her regular pay for that week. Employees in the categories listed below shall be granted up to 15 consecutive workdays (120 hours) of military leave with pay in a federal fiscal year (October 1 – September 30) for the duty required in their military orders:

1. Current members of the armed services who are called to: participate in federally funded military training duty; or report for a tour of active duty, except that no employee shall receive paid leave for more than 15 work days per federally funded tour of active duty;
2. Former members of the armed services who are called to report for a tour of active duty;
3. Members of the Virginia State Defense Force who are engaged in training duty or state active duty approved by the Governor or his designee;
4. Members of the naval militia who are under the active command of the Governor; and
5. Members of the National Defense Executive Reserve (senior executives who may be called to service with the national government) who are engaged in training approved by the Governor or his designee.

Military leave will be taken without loss of seniority or accrued leave balances.

Employees may be paid for up to eight hours annually for pre-induction and other physical examinations required for military service (in addition to the 120 hours above above). The leave record should show "military leave with pay-physical."

Employees shall be granted unconditional military leave without pay for the duty indicated in any military orders that is not covered by military leave with pay, normally for up to five years. Employees returning to their previous positions from military leave shall be reinstated to their former jobs at the same salary steps they had attained when placed on military leave status, which would include any incentive increases or across-the board adjustments that occurred during the military leave status.

### **Leave Without Pay**

In accordance with the FLSA, leave granted for which there is no leave time accrued will be without pay. Employees who are on leave without pay status will have their pay reduced by the amount of time that they were on leave without pay status. No annual or sick leave will accrue during the pay period in which the leave without pay status occurred. The Agency Head may authorize an employee not on FMLA leave to be on leave without pay for personal reasons. An employee on FMLA leave may be on leave without pay for the entire length of their FMLA leave (see Family and Medical Leave (FMLA) section of the Employee Handbook).

### **2.16 Annual Leave Sharing Program**

An employee may voluntarily transfer their annual leave and compensatory leave accrued hours to an employee co-worker who has suffered a non-work related catastrophic illness or injury.

#### **A. Eligibility for Receipt of Leave**

1. All employees who are entitled to receive the sick leave benefit and are not in their probationary period are eligible to participate in this program.
2. To be eligible for donated leave hours, the employee must be on an approved Family and Medical leave of absence (FMLA).
3. The employee must have exhausted all annual leave, sick leave, and compensatory leave, or soon will exhaust such leave, resulting in the employee being in a leave without pay status.
4. When an employee is utilizing donated hours, they will not accrue annual leave or sick leave benefits.
5. As with paid leave status, recipients will continue to be eligible to participate in the health insurance plan. The employee will be responsible for continuing to pay the same monthly premium as other active employees.
6. The total leave credits received by the employee shall not exceed 360 hours (prorated for part time employees proportional to hours worked compared to 40 hours a week) in any 12 month period.

B. Exclusions

1. Any occupationally related accident or illness for which Workers' Compensation benefits have been or could be awarded.
2. Injuries occurring in the course of the employee's commission of a crime.
3. Injuries occurring while under the influence of alcohol or drugs.

C. Application for Leave Donations

1. An employee must submit a completed "Request for Leave Donations" within five working days of the anticipated expiration of all leave time to Human Resources. Required medical verification of the illness or injury from the health care provider must be on file in the Human Resources before submission of the request for donated leave. This verification must be signed by the treating physician of the employee or the employee's immediate family member.
2. All medical and leave information relating to an employee seeking leave donations will be treated as confidential personnel information.
3. Eligible employees who participate in this program and receive donated leave are subject to the terms and requirements of the Family and Medical Leave Act (FMLA), other laws, leave policies, rules or regulations. This program is to run concurrently with other leave programs.
4. Employees receiving a medical release for return to work on a part-time basis may continue to use donated leave for the balance of the regular work schedule until medically released for full duty.

D. Annual Leave Donations

1. An employee must have completed his or her probationary period in order to donate leave.
2. Donations to recipients shall be in the form of annual/compensatory leave only. Donations of annual/compensatory leave hours must be made in whole hour increments and are irrevocable. Donors are required to retain a minimum balance of 80 hours (10 days) of their own annual leave.
3. Application to donate leave will be made in writing by completing the "Donation of Annual Leave" form provided by Human Resources and submitting the form to Human Resources.
4. All donations of leave will be processed by Human Resources. Names of employees who donate leave and the amount of leave donated will be maintained as confidential.
5. Annual leave shall be transferred on an hour-for-hour basis regardless of differing pay scales.
6. This is a voluntary program and no employee may be required to surrender leave.

E. Termination

1. Upon termination of employment, leave payouts shall not include hours that have been donated.

## **2.17 Family and Medical Leave (FMLA)**

It is the policy of the County to grant up to 12 weeks of family and medical leave during any rolling 12-month period to eligible employees, in accordance with the Family and Medical Leave Act of 1993 (FMLA). The leave will generally be unpaid, unless paid sick leave or annual leave, if applicable, is available to the employee. In that case, all sick and annual leave must be utilized during the FMLA period of incapacity.

### **Eligibility**

In order to qualify to take family and medical leave under this policy, the employee must meet **all** of the following conditions:

1. The employee must have worked for the County at least 12 months, or 52 weeks. The 12 months, or 52 weeks, need not have been consecutive. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of the week or if the employee is on leave during the week.
2. The employee must have worked at least 1,250 hours during the twelve-month period immediately before the date when the leave would begin.
3. The employee must work in an office or worksite where 50 or more employees of the County are employed within 75 miles of that office or worksite.

### **Type of Leave Covered**

In order to qualify as FMLA leave under this policy, the employee must be taking the leave for one of the reasons listed below:

1. The birth of a child and in order to care for that child;
2. The placement, with the employee, of a child for adoption or foster care;
3. To care for a spouse, child, or parent with a serious health condition; or
4. The serious health condition (described below) of the employee.

A serious health condition is one in which the employee is either ill for at least three consecutive days under the continuous care of a health care provider, or requires in-patient care in a hospital, hospice or residential medical care facility. The employee must provide certification from a health care provider to verify the existence of the condition.

To receive a copy of the full policy statement describing Family and Medical Leave of Absence and applicable forms, please contact Human Resources. Appendix A describes the employee's rights and responsibilities under the FMLA.

### **Usage of Leave under FMLA**

All personal sick and annual leave expended under the FMLA will be used in accordance with the County of Powhatan's leave policy; see the Leaves of Absence section of this handbook.

## **2.18 Worker's Compensation**

To provide for payment of your medical expenses and for partial salary continuation in the event of a work-related accident or illness, you are covered by workers' compensation insurance. The amount of benefits payable and the duration of payments depend on the nature of your injury or illness.

If you are injured or become ill on the job, you must immediately report such injury or illness to your Supervisor. This ensures that the County can assist you in obtaining appropriate medical treatment and receiving appropriate benefits. Your failure to follow this procedure may jeopardize your right to benefits in connection with the injury or illness.

The County has selected a panel of physicians to whom employees must go for all work-related injuries. In the event an injury requires immediate medical attention, the employee may go directly to the nearest hospital emergency room. However, an examination and follow-up care must be with a doctor included in the panel of physicians. All time away from work must be authorized by the panel physician.

For employees who are placed on worker's compensation leave and are eligible under the Family Medical Leave Act, this leave is considered qualifying leave under the FMLA. (Please refer to the FMLA policy in this manual).

Sick leave will need to be utilized for the first seven days an employee is unable to work due to a worker's compensation injury.

After seven days, when the employee is officially placed on worker's compensation by the worker's compensation carrier, the employee may either:

- a. Elect to receive the 2/3 untaxed salary provided by the carrier and be removed from payroll for the period of disability. In this instance, employee would be responsible for payment of benefits to the Payroll Department. No leave accrual or paid holidays will be extended during the period of worker's compensation disability.
- b. **OR** the employee can elect to sign their disability payments over to the County, utilize 1/3 day of paid sick, annual or compensatory leave, and remain on payroll, with accrual of leave, holidays and uninterrupted continuation of benefits.

Questions regarding workers' compensation insurance should be directed to Human Resources.

The policy will be enforced per applicable state law.

## **2.19 Expense Reimbursement**

Employees must have their Agency Head's authorization prior to incurring an expense on behalf of Powhatan County. To be reimbursed for any such expense, an employee must submit itemized receipts with the form provided by the Finance Department to their Agency Head for approval. To be eligible for reimbursement, the signed form with the itemized receipts must be received by the Finance Department within 60 days of the date of the incurring the expense. For limitations on the reimbursement of meals see the Travel/Training Reimbursement section of this handbook.



## **2.20 Purchasing Card**

Upon the request of their Agency Head and with the approval of the Director of Finance, an employee may be issued a County purchasing card which shall only be used for County expenses. Employees must have their Agency Head's authorization prior to incurring an expense on behalf of Powhatan County. All expenses charged to the purchasing card must have detailed receipts. Meals for travel/training may not be charged to a County purchasing card. Each month, the employee will submit all itemized receipts required documentation and the purchasing card statement to their Agency Head for approval on the form provided by the Finance Department.

## **2.21 Employee Development**

It is the policy of the County to encourage employees to obtain training designed to develop the employee's value to the organization.

### **A. Required Training**

The County may require mandatory training for employees or training to develop the employee's value to the County. The cost of required training and related expenses undertaken at the discretion of the County will be paid in full by the County and the hours spent in training are considered work time and the employee will receive salary or wages for this time. Any retesting required due to failure of the employee to pass the required test or exam the first time may be at the employee's expense. Required training must be approved by the Agency Head prior to the training and prior to any costs being incurred. Approval is dependent on availability of funding in the budget. See the travel/training reimbursement section of the Employee Handbook.

### **B. Discretionary Training**

Discretionary training is for personal or professional development which an employee elects to pursue. Time off work or leave for discretionary training is at the discretion of the Agency Head and may be given without pay or with partial pay. The County Administrator will report to the Board of Supervisors annually during the budget process, the cost of the work with pay or with partial pay for employees attending discretionary training in the previous fiscal year.

### **C. Tuition Reimbursement**

The tuition reimbursement program is for discretionary training that could reasonably be expected to increase the employee's knowledge, skill and ability relative their current job and/or subsequently enhance their advancement opportunities in the same career path.

#### **1. GENERAL PROVISIONS**

Under this program, the County will provide tuition reimbursement, when funds are available, to an eligible employee who has completed coursework in either a degree seeking program or a skills development program. The program is managed by the Human Resources Office and

all funds for this program are specifically budgeted in the Tuition Reimbursement line item in the Human Resources Office. All reimbursement must be approved by the County Administrator prior to registration for the course.

## 2. ELIGIBILITY

- a. Regular full-time employees who have completed one year of continuous service and worked 2,080 hours will be eligible to participate.
- b. Employees must have received a 3 or higher on their most recent evaluation.

## 3. REQUIREMENTS AND CONDITIONS

- a. Tuition reimbursement is provided only when funds are available.
- b. Employee must submit a tuition reimbursement application which must be approved by the County Administrator prior to registering for the course.
- c. All courses must be taken through a nationally accredited education institution, college, or university.
- d. Each course or degree program must be related to the employee's present position with the County or a reasonable promotional objective as determined by the employee's supervisor and approved by the Agency Head.
- e. All courses, when possible, must be attended outside the employee's scheduled work hours. The County will not consider the time spent taking the course or any associated study/research time as compensable work time, unless otherwise approved in advance and directed by the employee's Agency Head.
- f. Prior to reimbursement, the employee must successfully complete the course and submit written evidence of completion. For all graded courses, the employee must obtain a minimum grade of "C", or, if a pass/fail course, must pass
- g. The completion of any course, degree, or certificate does not guarantee promotion, salary increase, or transfer.
- h. In the event that the employee receives tuition reimbursement from another government agency, organization, or association, (i.e., Veterans' Benefits, Grants, Scholarships), he/she will be reimbursed the difference between what the employee receives from the other source and the total tuition expense, up to the maximum allowable amount as stated in this policy.
  - i. Failure to report any outside financial reimbursement, grants or scholarships may result in disciplinary action, and will require the employee to repay all sums expended by the City for the year(s) in which the outside financial reimbursement, grants or scholarships were received by the employee.
  - ii. Receipt of student loans will not preclude an employee from receiving tuition reimbursement.
- i. Tuition reimbursement will not be provided for course cancellations.

- j. Reimbursement will not be provided for laboratory fees, internet fees, exams, textbooks, supplies, transportation, parking, or any other expense or fee associated with the course(s).
- k. A maximum reimbursement of \$3,000 per employee per fiscal year is the limit for reimbursement.
- l. The County Administrator may require an employee to enter into a tuition reimbursement agreement.

## **2.22 Travel/Training Reimbursement**

The cost of travel/training undertaken at the discretion of the County will be paid in full by the County and the hours spent in training are considered work time and the employee will receive salary or wages for this time.

Employee travel/training must be preapproved by the Agency Head. Authorized expenses may include transportation, lodging, registration fees, and per diem. To minimize costs to the County, employees will use the most efficient and economical means of travel (air, rail, vehicle) and use discount fares, government and coach rates, as well as travel by the most direct route. When two or more persons travel to the same destination, maximum use shall be made of group travel discounts, joint use of taxicabs and joint use of County-owned or privately owned vehicles.

If the employee cancels the travel/training for an unexcused absence after costs have been incurred, the employee will pay any cancellation fees. If the County cancels the travel, the County shall pay any cancellation fees.

### **Air Travel**

Air travel may be utilized provided that the destination is more than 300 miles from the Powhatan County Administration building unless documentation proves that air travel is more cost effective than vehicular travel. The least expensive coach fare must be used. Upgrades to first class may be accepted provided that the upgrade is afforded at no charge to the County.

### **Rail Transportation**

The least expensive coach accommodations must be used on passenger railroads.

### **Vehicle Travel**

Use of a County vehicle is preferred over a personally owned vehicle if all occupants are on official business and a County vehicle is available. If using their personally owned vehicle, the employee will be reimbursed at the Internal Revenue Service mileage rate. All mileage is reimbursed according to the most direct route, not to exceed the cost of the least expensive coach class airline ticket. The reimbursable mileage is the actual mileage measured from the work place to the destination and return. In the event that an employee leaves from their place of residence, mileage should be measured based on the starting point that is in closest proximity to the destination.

Tolls and parking fees are reimbursable.

### **Ground Transportation**

Taxis, shuttle service, limousine service, buses and public transportation fares including tips not to exceed 15%, are reimbursable provided the most economical and practical method is used.

A rental car is to be used only when other means of transportation are unavailable, costly, or impractical. The rental car must be approved prior to leasing by the Agency Head. Rental car insurance should not be purchased, since it is covered under the County's insurance policy.

### **Lodging**

Lodging may be utilized for overnight travel provided that the destination is located 55 or more miles away from the Powhatan County Administration building or the purpose necessitates the overnight accommodations. Lodging costs will be paid at the actual cost of a single-occupancy rate plus any applicable taxes up to the maximum of the U.S. General Services Administration (US GSA) per diem rate for lodging. When attending a conference or seminar held at a lodging facility, travelers may stay at that facility and the County will pay the lower of the facility's government rate or the conference rate.

### **Meals/Incidentals**

The County will pay the US GSA per diem rates for meals and incidentals incurred while on overnight travel.

If an employee is reimbursed for a meal while not traveling overnight, the meal is a taxable fringe benefit per the Internal Revenue Service. If requested by the employee and approved by the Agency Head, the employee will be reimbursed for the actual cost of the meal not to exceed the US GSA per diem rate through the payroll process. Upon submittal of a receipt, the amount of the reimbursement will be added to the employee's taxable gross income and federal and state withholding tax will be deducted from the amount reimbursed. The County will not reimburse the employee for alcoholic beverages or gratuities in excess of 20%.

### **Accompaniment Travel**

In the event anyone accompanies an employee on official County business, all expenses incurred that are related to the accompaniment shall be the responsibility of the employee.

### **3. HEALTH & SAFETY**

#### **3.1 Health & Safety**

The County seeks to provide a work environment for employees, customers, and vendors that is as free as possible from recognized hazards, and in full compliance with applicable Occupational Safety and Health Act (OSHA) standards. To achieve this goal, every employee is responsible for being “safety conscious”, and to conducting themselves in a manner that maximizes safety. Employees should report any unsafe or hazardous condition to their Supervisor immediately. Efforts will be made to remedy problems as quickly as possible.

Each employee is responsible for the safe operation of all County property (equipment, vehicles, etc.) in his/her charge. Employees should be familiar with, and observe at all times, the OSHA requirements and other safety rules applicable to their jobs. If you are not familiar with, or do not understand the applicable rules, please see your supervisor for further clarification. The County shall provide for the proper maintenance of County property, but each employee should report any malfunction of County property to his/her immediate Supervisor. The Supervisor should investigate and take necessary steps to correct the malfunction.

In case of an accident on the job resulting in a personal injury or illness, regardless of how serious, employees should notify their Supervisor immediately. Failure to report accidents can result in a violation of legal requirements and can lead to difficulties in processing insurance and benefit claims. The County carries workers’ compensation insurance and will assist employees in obtaining all benefits to which the County believes the employee is legally entitled.

In the event of an emergency (*i.e.*, medical/environmental-related), employees should follow established emergency procedures issued by their Agency Head.

Employees who know or believe a situation exists that may affect their ability to do their jobs or the health or safety of themselves, or other employees, should promptly report the situation to their supervisor. Further if any employee observes any unsafe behaviors in others, they should promptly report the situation to their supervisor.

#### **Americans with Disabilities Act**

Under the Americans with Disabilities Act (ADA), the County prohibits discrimination against an individual with a life-threatening illness or other disability covered by the ADA and will provide reasonable accommodation to qualified individuals with disabilities to perform the essential functions of their job, unless to do so would create an undue hardship on the County.

#### **3.2 Smoking & Tobacco Prohibited**

Powhatan County provides a smoke free and tobacco free work environment. Employees may smoke or use tobacco products in designated areas only.

### **3.3 Drug and Alcohol Free Workplace Policy**

All County property shall be maintained as drug and alcohol free workplaces. The County forbids any employee to unlawfully manufacture, dispense, possess, use or distribute any controlled substance or alcohol on County property or during working hours.

1. As a condition of employment, any employee convicted of any criminal drug law shall notify his/her supervisor within five (5) days after such conviction.
2. In compliance with state and federal law, Powhatan County reserves the right to search all County workplaces and County property for the purpose of maintaining a workplace free of drugs and alcohol.
3. In compliance with state and federal law, an employee must submit to alcohol or drug testing when requested to do so by management/administration pursuant to this policy, and must sign the Alcohol and Drug testing consent form provided by Human Resources. Refusal to sign or be tested is grounds for immediate termination.
4. No employee shall consume alcoholic beverages or illegal drugs immediately prior to or during work hours.
5. If an employee is using a prescription or non-prescription medication that may impair performance of duties; the employee shall report that information to his or her supervisor.
6. Violation of this policy and regulation will result in appropriate disciplinary action up to and including termination.

#### **A. DRUG AND ALCOHOL TESTING**

Drug and/or alcohol testing will be required in the following instances:

##### 1. Pre-employment Drug Testing

A pre-employment drug test will be administered prior to any applicant's duties for employment with the County will begin. Applicant will be notified of such testing no later than the interview phase and be required to sign a consent form. Any applicant who fails a pre-employment drug test or refuses to consent or take the test will be denied employment and become ineligible for hire by any County department.

##### 2. Reasonable suspicion

Any employee will be required to submit to drug and/or alcohol testing within 2 hours when there is reasonable suspicion an employee is under the influence of drugs and/or alcohol. If the suspicion is brought about by another employee a formal determination must be made by the Agency Head. The following examples alone or in combination may comprise reasonable suspicion:

- a. Unexplained inability to perform normal job functions;
- b. Slurred Speech;
- c. Smell of alcohol or drugs on person;
- d. Any unusual lack of physical coordination or loss of equilibrium;
- e. Unexplained hyperactivity or depression and withdrawal;
- f. Unexplained inability to think or reason at the employee's normal level;
- g. Unusual or bizarre behavior

### 3. Random

The Agency Head may conduct random unannounced testing of all public safety employees at such times as deemed appropriate. No employee will be removed from the random sampling pool for any period of time by having been required at any time to submit to random testing. The selection of employees to be tested randomly shall be based on a valid method of selection for random testing and shall proceed immediately or as soon as possible to the designated testing site.

### 4. Post-accident

When an employee is involved in an accident while utilizing County vehicles or equipment, or is injured on the job, the Agency Head may require drug and or alcohol testing within two (2) hours of the incident.

## **B. RESULTS**

If an employee tests positive for drugs or alcohol they shall be suspended from their duties for two days pending disciplinary action up to and including termination. If an employee tests positive for *illegal* drugs they will be required to submit a second test within 8 hours. If the second test is positive the employee will be immediately terminated and not compensated for the suspension period. If the second test is negative the employee will receive their regular compensation for the suspension period.

Employees who are in a suspension status or who have tested positive for drugs may not have the same FMLA job status protection as other employees.

## **C. PRESCRIPTION DRUGS**

An employee will not be subject to disciplinary action if he/she tests positive for drugs as long as they can provide a valid prescription or a medical explanation from the employees licensed physician stating the use was prescribed and is valid and lawful.

## **D. CONFIDENTIALITY**

All testing information specifically relating to employees and applicants is confidential and should be treated as such by anyone authorized to review such information. All records and information of any personnel actions involving an employee with positive test results shall be maintained in confidential and secured files in the Department of Human Resources and disseminated only to authorized staff members. Drug and or alcohol testing shall not be conducted for the purpose of gathering evidence for use in any criminal proceeding.

## **E. TESTING FOR VOLUNTEERS**

Volunteers may be subject to the County's Drug and Alcohol Policy. Any volunteer who fails a drug or alcohol test or refuses to submit to such a test will be denied the opportunity to volunteer for the County.

### **3.4 Vehicle Use Policy**

This section applies to all County employees and applicants for employment, who may be required to operate a vehicle on either a full or part-time basis in the performance of their duties. Human Resources shall maintain a list of all positions covered hereby. The employees on this list are referred to as “drivers” in this section.

Public Safety employees shall comply with the Policies and Procedures of their department (Sheriff’s Office and the Fire & Rescue Department).

#### **Personal Vehicles**

The County maintains vehicles for use by its drivers while they are engaged in County business. In addition, drivers may be required to use their own vehicle for County business. Prior to using their personal vehicle for County business, the driver must obtain the written approval of their Agency Head. Drivers must maintain insurance on their vehicle. Drivers approved to use their personal vehicles will be reimbursed at the Internal Revenue Service mileage rate.

#### **Mileage Reimbursement**

Drivers request mileage reimbursement by submitting the form provided by the Finance Department to their Agency Head for approval. To be reimbursed, the form must be received by the Finance Department by the end of the same fiscal year in which the mileage is claimed. Parking and moving violations are the responsibility of the driver, whether driving a County or personal vehicle.

#### **County Vehicles**

1. County vehicles are to be used only for County business.
2. Drivers of County vehicles must have a valid driver’s license from the Commonwealth of Virginia or the state in which the driver lives.
3. Drivers of County vehicles must have a valid commercial driver’s license (CDL) if required for their position.
4. Personal passengers are prohibited in County vehicles.
5. Prior Agency Head approval is required to transport anyone other than a County employee.
6. Prior Agency Head approval is required to use County vehicles outside the County.
7. The Driver and all passengers in the County vehicle must use their seat belts.
8. Drivers must comply with all motor vehicle laws while driving County vehicles.
9. Smoking tobacco products is not allowed in County vehicles.

#### **Qualifications of Drivers**

1. Prior to hire, all applicants who are required to drive County vehicles must have a valid driver's license issued by the Commonwealth of Virginia or the state in which they live and shall have their driving record checked by Human Resources.
2. An applicant who has no current license, or whose license is suspended or revoked, shall not be eligible for consideration for hire in any position requiring driving of a County vehicle.
3. An applicant who is not licensed, or has license currently suspended or revoked or has more than a negative three point balance with the Commonwealth of Virginia’s Department of Motor



Vehicles will not be eligible for consideration for hire in any position requiring driving of a County vehicle.

4. The County shall check all drivers official driving records with the Department of Motor Vehicles at least once each year, and may check at any other time, either upon supervisor's request or as part of a general procedures review.
5. All drivers shall immediately report any change in their license status to their department head through their immediate supervisor.
6. Drivers must notify their supervisor on the next workday of any charge and/or conviction of the following violations: any driving related offense; driving under the influence of drugs or intoxicants; refusal to submit to a blood or breath test for determination of drug or alcohol content; reckless driving; leaving the scene of an accident; or vehicular manslaughter or homicide, eluding police, committing a drug offense, regardless of whether or not a motor vehicle is involved, committing a felony involving the use of a motor vehicle. Failure to make this notice shall result in a disciplinary action by the County.
7. A driver who is involved in any accident with a County vehicle, regardless of how minor, must notify the local law enforcement authorities and obtain a police report of the incident.
8. If an employee or volunteer fails to meet driving standards and is in a position where operating a vehicle is essential to the County, appropriate action will be taken depending on the severity and number of the convictions(s). Failure to comply with the standards shall be considered cause for dismissal, or other disciplinary measures.

## **4. MISCELLANEOUS**

### **4.1 Gifts and Gratuities Policy**

Employees may not personally accept gifts of significant value. A value in excess of \$20.00 per gift shall be deemed significant. Employees may accept gifts or contributions that will be used to the benefit of the public in a County office, subject to acceptance of that contribution being approved by the Agency Head.

### **4.2 Outside Employment**

No employee may engage in any other employment, nor in any private business, nor in the conduct of a profession or other remunerative activity, during work hours or while engaged in work for the County. Additionally, employees may not engage in such remunerative activities outside work hours in a manner or to an extent that affects or is deemed likely to affect the employee's work productivity as determined by the Agency Head. In engaging in such activities, employees must adhere to the Virginia Conflict of Interests Act.

### **4.3 Political Activity**

Powhatan County employees shall not:

- Display campaign materials, political posters or signs in or on County buildings or vehicles,
- Engage in political events during work hours
- Use County resources, supplies, materials or equipment for political purposes.

However, nothing in this policy shall be construed as to prevent any employee from becoming or continuing to be a member of a political organization, or from attending any political organization, or from attending any political meeting or from enjoying freedom from any interference in casting their vote. This does not in any way deprive any employee of the basic rights as a citizen to register with a political party or to vote in primary and general elections.

### **4.4 Telephones/Cellular Phones/E-Mail**

County owned telephones, cell phones, and email are for business use. Personal usage shall be kept to a minimum number and length. Employees shall reimburse the County for all personal usage for which the County is charged. All electronic and telephonic communications systems (including telephone, email, internet, etc.) and all communication and information transmitted by, received from, or stored in County systems are the property of the County. These systems are to be used for business related purposes. To ensure that the use of electronic communication systems is consistent with County business, the use of such equipment may be monitored at any time.

#### **4.5 County Property**

Each employee is expected to care for County property as if it were his/her own. Abuse, neglect or theft of County property will result in disciplinary action up to and including termination and or/prosecution. Supplies, email, Internet access and other County resources are for County business/activities only and are not intended for personal use.

#### **4.6 Personal Property on County Premises**

The County does not assume responsibility for the loss or theft of, or damage to, personal property on County premises, including the parking lot.

#### **4.7 Children in Workplace**

Children of employees are not permitted in the workplace on a regularly scheduled basis.

#### **4.8 Disciplinary Process**

County employees are expected to conduct themselves in a professional and courteous manner in the performance of their duties. Employees are expected to avoid any action, which might result in giving preferential treatment to any organization or person, losing independence or impartiality of action, or adversely affecting the integrity of the County.

##### **A. Disciplinary Actions**

In the event that a non-probationary employee fails to meet acceptable standards of performance and behavior, the supervisor may choose one of several disciplinary actions, depending on the nature and seriousness of the problem. Any action other than reprimand should be taken only after consultation with the Agency Head. Prior to all dismissals, the employee shall be given notice of the proposed action, reason for the action, and an opportunity to respond, prior to the dismissal of the employee.

##### **B. Progressive Discipline**

It is the responsibility of each supervisor to maintain consistent, fair and high standards of discipline. The following are several disciplinary actions which may be used in a progressive manner appropriate to the nature and seriousness of the problem. The following list of disciplinary actions includes examples of progressive actions. The County retains; however, the right to discipline in a manner that promotes the effectiveness of the organization. This policy does not modify the status of employees as employees-at-will nor in any way restricts the County's right to impose discipline without consideration of progressive discipline. Depending on the nature and seriousness of the problem the appropriate level of discipline may be imposed without consideration to the progression. For example, it is not necessary to issue an Oral or Written Reprimand if the offense is of such a nature to warrant a suspension or termination. All written documents pertaining to an employee are part of the personnel record and copies shall be given to the employee, to the Agency Head and placed in the employee's file in Human Resources.

#### ORAL REPRIMAND

The supervisor will document the reprimand in writing.

#### WRITTEN REPRIMAND

The supervisor may issue the employee a reprimand in writing, documenting the offense and stating a corrective course of action. Counseling records remain active, and multiple active counseling records will result in progressive disciplinary action, up to and including termination.

#### CONDITIONAL STATUS

The Agency Head may place the employee in “Conditional” status with a written reprimand and a Corrective Action Plan. A Conditional status allows the employee a specified period of time to improve their performance. The Corrective Action Plan must have specified time frames for review. Failure to meet the conditions of the Corrective Action Plan will result in further disciplinary action, up to and including termination.

#### SUSPENSION

Suspension is the removal of the employee from job duties for a determined period of time. Suspensions must be documented in writing, recommended by the immediate supervisor, reviewed and approved by the Agency Head. All disciplinary suspensions are without pay. The length of time will depend on the seriousness of the offense.

#### INVOLUNTARY DEMOTION

Involuntary Demotion is the movement from one classification to another with a lower pay grade approved by the Agency Head based on the availability of a lesser position.

#### DISMISSAL

If an employee is dismissed, such dismissal shall be effective immediately unless there are extenuating circumstances which the Agency Head determines require that the effective date of dismissal occur at a later date or time.

Deliberate and intentional misuse of funds will be met with the strongest disciplinary action. If an employee is criminally convicted or terminated due to misuse of County property or funds, s/he may be ineligible to receive certain benefits (health insurance under COBRA, VRS retirement benefits, etc.).

#### **C. Confidentiality**

Employees having access to personal information or data in the course of providing County services to clients, customers, and employees shall maintain the confidentiality of that information and shall release that information only in accordance with the Government Data Collection and Dissemination Practices Act and any other regulations which are applicable to specific program. Failure to adhere to those requirements and to maintain the confidentiality of personal information may result in disciplinary action, including dismissal.

**D. Administrative Leave Pending Investigation**

In cases involving alleged serious misconduct, such as a major breach of policy or violation of law the employee may be immediately placed on administrative leave pending investigation into the matter. Administrative leave pending investigation is not disciplinary. Administrative leave pending investigation is with pay and shall not last longer than ten (10) work days. In certain circumstances, administrative leave without pay may be approved by the Agency Head.

## **5. CLASSIFICATION AND COMPENSATION PLAN**

### **5.1. Pay Philosophy:**

In an effort to attract, motivate, and retain quality employees committed to providing a high level of public service, it is the County's philosophy to maximize external market competitiveness while maintaining internal equity.

### **5.2 Classification and Compensation Plan:**

The Classification and Compensation Plan consist of three components.

1. The Position Classifications is a list of all positions with their assigned grade as each relates to the other positions in the County (internal equity),
2. The Compensation Scale contains a salary range for each grade which reflects the current job market (external market competitiveness),
3. A job description for each position reflects the duties, responsibilities, qualifications and FLSA status of the position.

### **5.3 Position Evaluation System:**

The County utilizes the Factor Evaluation System (FES) to evaluate positions. FES is a system that uses nine factors to assign a grade to a position. Positions are evaluated at the time of creation and when duties and responsibilities have significantly changed. Periodically the County may reevaluate the grades of all positions to ensure internal equity is maintained.

### **5.4 Maintenance of the Classification and Compensation Plan:**

Human Resources, under direction of the County Administrator, is responsible for administration and maintenance of the Classification and Compensation Plan.

On an annual basis, the Board of Supervisors may approve adjustments to the Compensation Scale to maintain external market competitiveness. An adjustment to the scale results in Cost Of Living Adjustment (COLA) salary/wage increase for employees.

The Board of Supervisors may also approve a merit increase which would adjust the salary/wage of those employees with a satisfactory performance appraisal.

### **5.5 New Hires:**

Every effort should be made to recruit and select qualified employees. The Agency Head has the discretion to authorize a salary for a new hire between the minimum and midpoint of the position's pay range depending on the qualifications of the new hire. If a new hire substantially exceeds the minimum qualifications of the position, a salary higher than the midpoint may be necessary, in which case, the Agency Head shall consult with the County Administrator to determine availability of funding. To maintain internal equity, Agency Heads shall consider the salaries of current employees within their department when making salary offers.

### **5.6 Acting Appointments:**

An acting appointment may be made for a vacant position or a position in which the incumbent is on leave for an extended period of time. An acting appointment is a temporary assignment, pending recruitment and selection or return of the current incumbent. The anticipated duration of the acting status should be at least 30 calendar days. The salary of the acting appointee is adjusted to the minimum salary of the grade in which appointed, or to a rate 5% above their current salary, whichever is greater.

### **5.7 Promotions:**

Promoted employees are eligible to receive a salary increase to the minimum salary of the grade of their new position or to a rate 5% above their current salary whichever is greater. If the employee substantially exceeds the minimum qualifications of the position, a higher salary up to 10% above their current salary may be justified, in which case, the Agency Head shall consult with the County Administrator to determine availability of funding.

## **6. EMPLOYEE GRIEVANCE PROCEDURE**

### **6.1 Objective**

The purpose of the Employee Grievance Procedure is to afford an expeditious and impartial method for the resolution of employment disputes that may arise between the County and employees (see §15.2-1507 of the Code of Virginia).

### **6.2 Coverage of Personnel**

- A. All full-time and part-time employees who are in non-temporary or emergency positions, except as noted in (B) and (C) below, are eligible to file grievances.
- B. The following are not eligible to file grievances:
  - 1. Employees appointed by the Board of Supervisors or other elected groups or individuals;
  - 2. Officials and employees who, by charter or other law, serve at the will or pleasure of an appointing authority, except the Director of Social Services;
  - 3. Deputies and Assistants to the County Administrator;
  - 4. Department Directors and chief executive officers of units of County government, except the Director of Social Services;
  - 5. Employees whose terms of employment are limited by law;
  - 6. Temporary and probationary employees and paid interns; and
  - 7. Law-enforcement officers as defined in Chapter 5 (§ 9.1-500 *et seq.*) of Title 9.1 of the Virginia Code whose grievance is subject to the provisions of Chapter 10.1 of the Virginia Code and who have elected to proceed pursuant to those provisions in the resolution of their grievance, or any other employee electing to proceed
  - 8. Employees of any Constitutional Officer
- C. Employees in restricted positions may not have access to the grievance procedure to challenge the termination of employment because the grant or special funding has ended.
- D. An employee who has been terminated shall not have access to the grievance procedure, except to grieve the termination. Such grievance must be filed within twenty (20) days of the termination date. Any grievance initiated by an employee prior to termination may, at the employee's option, continue through the grievance procedure.

### **6.3 Definition of a Grievance**

A grievance is a complaint or dispute related to a covered employee's employment which involves but is not necessarily limited to:

- A. Allegations of adverse action, which is defined as an action or consequence to which a person in the County service may be subjected for disciplinary purposes, including the following:
  - (1) Termination of employment;



- (2) Suspension without pay;
- (3) Administrative leave without pay;
- (4) Involuntary demotion, except as permitted in Section 6.4 F. below;
- (5) A written reprimand;
- (6) Disciplinary transfer.

"Adverse Action" does not include any termination, lay-off or suspension of employment because of reduction in workforce, job abolition or expiration of a term of contractual employment; nor shall "adverse action" be deemed to include employee counseling concerning job performance or employee behavior that does not include one of the actions listed above.

- B. Disputes or complaints concerning the application of the County of Powhatan Employee Handbook ("Employee Handbook"), or rules, regulations, and policies and procedures adopted thereunder, including the application of policies. However, neither the content nor the consistent, non-discriminatory interpretation of the Employee Handbook, or rules, regulations, policies and procedures adopted thereunder shall be subject to employee grievance under this Procedure;
- C. Acts of retaliation as the result of utilization of the grievance procedure, participation in the grievance of another County employee or retaliation for assisting another employee in making or demonstrating a complaint of discrimination or harassment under Section E. below;
- D. Harassment of an employee by his supervisor;
- E. Discrimination or harassment on the basis of race, national origin, color, creed, sex, disability, age, or political activity or affiliation, or retaliation for making a complaint of such discrimination or harassment;
- F. Notwithstanding the provisions of Section 6.4 below, terminations resulting from formal discipline or unsatisfactory job performance;
- G. Acts of retaliation because the employee has complied with any law of the United States or of the Commonwealth, or any ordinance of Powhatan County; has reported any violation of such law to a governmental authority; or has sought any change in law before the Congress of the United States, the General Assembly, or the Board of Supervisors.

#### **6.4 Management Responsibilities**

Management reserves the exclusive right to manage the affairs and operations of the County government. Accordingly, the following complaints are not grievable:

- A. Establishment and revision of wages or salaries including performance evaluations, and concomitant pay raises, position classifications or general benefits;

- B. Work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content;
- C. The contents and/or consistent, non-discriminatory interpretation of ordinances, statutes or established personnel policies, procedures, rules and regulations;
- D. Failure to promote, except where an employee can show established promotional policies or procedures were not followed or fairly applied;
- E. The methods, means and personnel by which work activities are to be carried on;
- F. Termination, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition except where any of the foregoing actions affect an employee who has been reinstated within the previous six (6) months as the result of the final termination of a grievance; (unless otherwise specifically noted, months and days are measured as calendar days).  
In any grievance brought under this exception, the action shall be upheld upon a showing that: (1) there was a valid business reason for the action, and (2) the employee was notified of such reason in writing prior to the effective date of the action;
- G. The hiring, promotion, non-disciplinary transfer, assignment, and retention of employees within the County service; and
- H. The relief of employees from duties in emergencies.

### **6.5 Standing to Pursue a Grievance**

A grievant must be personally and directly affected by an occurrence or condition before he shall be permitted to pursue a grievance. Thus, for example, no employee may grieve another employee's job performance unless such job performance directly and adversely affects the grievant's own employment. Disputes as to an employee's standing to file a grievance shall be determined as shall any other dispute as to grievability.

### **6.6 Grievability**

- A. Decisions regarding whether or not a matter is grievable under this procedure, including the question of access to the procedure, shall be made by the County Administrator or her designee within ten (10) days of the request of such a determination.
- B. Decisions by the County Administrator that an issue is not grievable may be appealed by the grievant to the Circuit Court for Powhatan County ("Circuit

Court”) as provided in §§15.2-1507 and 2.2-3006(B) VA Code Ann. Pursuant to those sections, proceedings for the review of the decision of the County Administrator shall be instituted by filing a notice of appeal with the County Administrator within ten (10) days after the date of her decision as to grievability, and by giving a copy of such notice to all other parties to the grievance. Within ten (10) days after receiving notice of appeal, the County Administrator shall transmit to the Clerk of the Circuit Court a copy of her decision, a copy of the notice of appeal, and any exhibits which may have been provided in connection with the resolution of the issue of grievability. A list of the evidence furnished to the Court shall also be furnished to the grievant. The failure of the County Administrator to transmit the record within the time allowed shall not prejudice the rights of the grievant. The Circuit Court, on motion of the grievant, may issue a Writ of Certiorari requiring the County Administrator to transmit the record on or before a certain date as provided in §2.2-1306(B) VA Code Ann.

### **6.7 Policy Generally**

- A. All stages of the grievance procedure beyond the first step provided in Section 6.9 shall be reduced to writing on forms supplied by Human Resources. At any step beyond the second step both the grievant and his supervisor or the County Administrator may call upon appropriate witnesses and be represented by legal counsel or other persons, as may be provided in this procedure;
- B. Once an employee reduces his grievance to writing he must specify on the appropriate form the specific relief he expects to obtain through the use of this procedure. This requirement shall be deemed a substantive matter, and a failure to specify the relief expected shall be sufficient cause to terminate the right to further appeal. No notification required by D. below is necessary prior to termination of the appeal for this reason. When the employee decides to reduce his grievance to writing, he shall obtain the necessary forms from Human Resources. A copy of the written grievance shall be given to Human Resources. That office shall thereupon open a file on the grievance, assign it a number, and shall assist the grievant, the grievant’s supervisor, and the County Administrator, in insuring that all papers are transmitted throughout this process in timely fashion;
- C. Failure of the grievant to comply with the time limitations in Section 6.9 to orally identify a grievance within 20 days after the occurrence or condition giving rise to the grievance or to file a grievance forecloses the employee from filing any grievance under this Procedure thereafter. Failure to appeal a determination regarding the grievance at any subsequent state within the time periods required by Section 6.9 will result in termination of the appeal. No notification required by D. below is necessary prior to termination of the appeal for any reason pursuant to this section;

- D. After the initial filing of the grievance, failure of either party to comply with a procedural requirement of the grievance procedure without just cause will result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five (5) work days of receipt of written notification by the other party of the compliance violation.

Such written notification by the grievant shall be made to the County Administrator. Failure of either party without just cause to comply with all substantial procedural requirements at the Administrative hearing shall result in a decision in favor of the other party. Decisions as to whether any employee or management has in fact failed to so comply shall be made by the County Administrator upon the request of the grievant's supervisor or the grievant that such determination be made. The County Administrator, at her option, may require a clear written explanation of the basis for just cause extensions or exceptions. Compliance determinations shall be subject to judicial review by filing a petition with the Circuit Court within 30 days of the compliance determination.

### **6.8 Consolidation of Grievances**

In the event that more than one grievance is filed arising from the same transaction or occurrences, the County Administrator may, at any time prior to fourth step hearing, consolidate those grievances for joint processing. If the grievances are consolidated, all time limits set forth in this procedure shall thereafter be calculated from the date of the last filed grievance. Once consolidated, the grievances shall all be processed as a single matter.

### **6.9 Grievance Process**

#### **Step One: Immediate Supervisor Level**

No later than 20 calendar days after the occurrence or condition giving rise to the grievance, the employee affected shall identify the grievance orally to his immediate supervisor. Within five (5) days of such presentation, the immediate supervisor shall give his response to the employee with respect to the particular grievance, or shall advise the employee that additional time is needed to render a decision. In the event additional time is needed, the immediate supervisor must render the decision within three (3) days after notice of the need for additional time is given.

The failure of an employee to identify the grievance within the time specified above shall constitute a forfeiture and a waiver of any rights to proceed under this Procedure;

#### **Step Two: Written Grievance to Department Director**

If a satisfactory resolution is not reached by the Step One process, and the employee wishes to advance to Step Two of this Procedure, the employee shall reduce his

grievance to writing, identifying specifically, and in detail, the nature of the grievance and the expected remedy, on a form provided for that purpose by the Human Resources Office. It shall be the duty of the employee to obtain the necessary form from Human Resources.

A grievant shall be entitled, should he prevail in his grievance, to no more than the relief specifically requested. Such written grievance shall be presented to the Department Director of employees' department within five (5) calendar days of the supervisor's verbal reply to the First Step oral grievance.

The Department Director will then meet with the employee within seven (7) calendar days of receiving the submission or indicate that an extension is necessary. The extension shall not exceed three (3) additional calendar days except by mutual agreement. The employee may have witnesses present at the Step Two meeting but no legal counsel or other representative. The Department Director may also have witnesses present. The Human Resources Office shall insure that a verbatim record (in writing or on recording tape) of such meeting is made and retained in the employee's file for not less than 12 months. The grievant shall be entitled to a copy of said record. The Department Director shall render a written response to the grievance within 10 days following the Step Two meeting.

**Step Three: County Administrator Meeting**

If a satisfactory resolution of the grievance has not been reached at the termination of the Step Two, the employee may so indicate on a grievance form provided by the Human Resources and submit the grievance to Human Resources. It shall be the duty of the employee to obtain the necessary form from Human Resources.

Submission to Human Resources must occur within five (5) calendar days following receipt of the second step reply. The County Administrator, or her designee, will then meet with the employee within seven (7) calendar days of receiving the submission or indicate that an extension is necessary. The extension shall not exceed three (3) additional calendar days except by mutual agreement.

The employee may have legal counsel or other representative and witnesses present at the Step Three meeting, but must bear his own costs for any counsel or assistance in presentation of his case. The County Administrator (or her designee) may also have witnesses present. If the grievant is represented by legal counsel, the County Administrator likewise has the option of being represented by counsel.

Human Resources shall insure that a verbatim record (in writing or on recording tape) of such meeting is made and retained in his custody for not less than 12 months. The grievant shall be entitled to a copy of said record. The County Administrator shall render a written response to the grievance within 10 days following the Step Three meeting.

**Step 4: Administrative Hearing Officer**

1. If a satisfactory resolution to the grievance is not reached at the Step Three, the grievant may submit the grievance to an Administrative Hearing Officer. The

Administrative Hearing Officer shall be appointed by the Executive Secretary of the Virginia Supreme Court. The appointment shall be made from the list of administrative Hearing Officers maintained by the Executive Secretary of the Virginia Supreme Court pursuant to Title 2.2, Chapter 40, § 2.2-4024 of the Code of Virginia, and shall be made from the appropriate geographical region on a rotating basis.

Administrative Hearing Officers must meet stringent guidelines found in Title 2.2, Chapter 40, § 2.2-4024 of the Code of Virginia, otherwise known as the Administrative Process Act. The County is responsible for electing to use an Administrative Hearing Officer and payment of any expenses for an Administrative Hearing Officer.

2. The request for a hearing before a Hearing Officer shall be indicated by the grievant on a form provided for that purpose by Human Resources, and submitted to Human Resources within five (5) calendar days of receipt of the Step Three response. It shall be the duty of the employee to obtain the necessary form from Human Resources.
3. Human Resources shall schedule the hearing as soon as possible. In the event that the Human Resources Manager is a party to the grievance, the request form shall be submitted to the County Administrator, and the County Administrator or his designee shall make the necessary arrangements.
4. The employee may have legal counsel or other representative and witnesses present at the hearing before a Hearing Officer, but must bear his/her own costs for any counsel or assistance in presentation of his case. The County Administrator or her designee may also have witnesses present. The County Attorney will represent the County Administrator.

### **Timeframes**

1. The hearing must be held within 30 calendar days of the appointment of the Administrative Hearing Officer. The Administrative Hearing Officer may grant a postponement or extend the 30-day period for just cause.
2. At least ten days prior to the hearing, the County Administrator, or her designee, shall provide the Administrative Hearing Officer with copies of the grievance record, and shall provide the grievant and his attorney with a list of the documents furnished to the Administrative Hearing Officer.
3. At least ten days prior to the scheduled hearing, the grievant and his attorney shall be allowed access to and copies of all relevant files intended to be used in the grievance proceeding.

4. At least ten days prior to the hearing, the grievant or his attorney shall provide the County and the Administrative Hearing Officer with the documents, exhibits, and lists of witnesses he intends to use at the hearing.
5. At the hearing, the County shall provide the grievant or his attorney with the documents, exhibits, and lists of witnesses it intends to use at the hearing.

### **The Hearing**

1. It is the responsibility of the Administrative Hearing Officer to notify the parties, either in writing or at a pre-hearing conference, of the date, time, and place of the hearing. The hearing must be held in the County. The County must arrange a place for the hearing unless the Administrative Hearing Officer chooses to make the arrangements.
2. A hearing is to last no more than one day, unless the Administrative Hearing Officer determines that the time is insufficient for a full and fair presentation of the evidence by both sides.
3. The parties must appear at the hearing or request a postponement. The Administrative Hearing Officer has the discretion to grant or deny a request for a postponement. However, the hearing may go beyond the 30-day time limit only upon a showing of just cause. At the Administrative Hearing Officer's discretion, a hearing may proceed in the absence of one of the parties; a hearing so conducted will be decided on the grievance record and the evidence presented at the hearing.
4. Where a Step 4 hearing is recorded, the County is responsible for providing proper recording equipment, unless the Administrative Hearing Officer plans to provide it. The Administrative Hearing Officer is responsible for recording the hearing and preserving the recorded tapes as part of the grievance record. Either party may receive a copy of the recording, if requested, for the cost of reproduction. A court reporter is not required. If a party requests a court reporter, that party is responsible for the costs. Either party desiring a transcript should contact the court reporter directly.
5. The following rules shall apply to this step of the grievance process.
  - A. Both the grievant and the County may be represented by legal counsel or other representative at the Administrative Hearing Officer hearing. Such representatives may examine, cross-examine, question, and present evidence on behalf of the grievant or the County before the Administrative Hearing Officer without being in violation of the provisions of Virginia Code § 54.1-3904.
  - B. In addition to the legal representative referred to in 1 above, the County shall be allowed to have at least one management representative, of the County's choosing, and a representative from Human Resources present during the entire hearing.
  - C. The Administrative Hearing Officer shall have the discretion to limit the attendance at the hearing of persons not having a direct interest in the hearing. However, a hearing

disabled employee shall be allowed to have an interpreter present during any and all procedural steps.

- D. Hearings are not intended to be conducted like proceedings in court and the rules of evidence do not necessarily apply.
- E. That Hearing Officer has the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence;
- F. Both the grievant and the County may call appropriate witnesses. All witnesses, including the grievant, shall be subject to examination and cross-examination. Witnesses shall be present only while actually giving testimony, except for the management and Human Resources representative, who may remain throughout the hearing.
- G. Opening and closing statements may be made by each party.
- H. All evidence shall be presented in the presence of the parties, except by mutual consent of the parties.
- I. County employees who are necessary participants at grievance hearings shall not lose pay for time necessarily lost from their jobs and will not be charged leave because of their attendance at such hearings.
- J. The grievant shall not be entitled to recover more than that which he has lost.
- K. Where a grievant has obtained partial relief at one level of this grievance procedure but decides to appeal to the next higher level, the filing of a request form to the next higher level shall constitute rejection of, and relinquishment of any claim to, any and all relief granted at the previous level.
- L. At the request of either party, the hearing shall be private.
- M. The grievant shall not be entitled to damages or attorney's fees.

#### **Decision of Administrative Hearing Officer**

1. A decision by the Administrative Hearing Officer shall be in writing. The Administrative Hearing Officer must send the decision by certified mail, return receipt requested, to each party.
2. The decision of the Administrative Hearing Officer should be rendered as soon as possible, but, in any case, not later than fifteen calendar days following the conclusion of the hearing.



3. The Administrative Hearing Officer shall have the authority, if he finds (based on the greater weight of the evidence) that the grievant has been denied a benefit or wrongly disciplined without just cause (where such cause is required) to reverse, reduce, or otherwise modify such action and, where appropriate, to order the reinstatement of such employee to his former position.
4. The Administrative Hearing Officer shall not have authority to do any of the following:
  - a. Formulate policies or procedures.
  - b. Alter existing policies or procedures.
  - c. Circumscribe or modify the rights of the County as outlined in this procedure.
  - d. Exonerate the employee from all discipline when the fault or responsibility of the employee is established by a preponderance of the evidence, or when the employee admits such fault or responsibility.
  - e. Grant relief greater than that which the grievant has requested in the request form, or grant relief which is inconsistent with law or County policy.
5. The decision of the Administrative Hearing Officer, acting within the scope of his authority, shall be final and binding, subject to existing policies, procedures, and law.
6. **Review of Hearing Decisions**

An Administrative Hearing Officer's original decision is subject to two types of administrative review. A party may make more than one type of request for review. However, all requests for review must be made in writing, and received by the County Administrator, within 10 work days of the date of the original hearing decision. A copy of all requests must be provided to the other party and Human Resources at the time the request is provided to the County Administrator.

**Types of Review:**

- A. A request to reconsider a decision or reopen a hearing is made to the Administrative Hearing Officer, as the case may be. This request must state the basis for such request; generally, newly discovered evidence or evidence of incorrect legal conclusions is the basis for such a request. The Administrative Hearing Officer will review and render a written decision within ten work days of receipt of the written request.
- B. A challenge that the hearing decision is inconsistent with written policy or law is made to the County Administrator or his designee, unless the County Administrator or his designee had a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the Commonwealth's Attorney.

## **Implementation of Remedy**

- A. The County Administrator shall implement any remedy which may be ordered by the Hearing Officer, provided that such decision is consistent with law and written policies.
- B. The County Administrator is not required to implement a decision of the Hearing Officer which she determines is inconsistent with law and written policies;
- C. An Administrative Hearing Officer's original decision becomes a final hearing decision, with no further possibility of administrative review, when:
  - The ten work day period for filing requests for administrative review has expired and neither party has filed such a request; or,
  - All timely requests for administrative review have been decided and, if ordered by the County Administrator, the Administrative Hearing Officer has issued a revised decision consistent with law and policy.
- D. Either party may petition the Circuit Court for an order requiring implementation of the decision of the Hearing Officer.

## **6.10 Computation of Time**

- A. Except where otherwise provided, time periods under this procedure shall be deemed to begin on the day following that on which any action is to be taken or report rendered, and to run on calendar days without regard to weekends or holidays. If a time period herein ends on a weekend or holiday, the last day of the time period shall be deemed to be the end of the business day of the first working day following. Thus, for example, a written grievance under the First Step must be presented to the grievant's immediate supervisor within five (5) days of the supervisor's verbal reply to the informal grievance. The five (5) days shall begin on the day after receipt of the supervisor's verbal reply and terminate on the fifth (5th) day following regardless of whether that is a weekend or holiday. If in fact it is a weekend or holiday, the time period shall be deemed to terminate at the end of the next full working day;
- B. Time limits established under this procedure for unilateral action by either party, such as the filing of the grievance forms at various steps by the employee, or the completion of written decisions by employer representatives at various steps are substantive requirements and are intended to be strictly construed and enforced. However, in the interest of fairness, any such time limits for unilateral action may be extended if all parties agree to such extensions. While the Human Resources Office will make every effort to schedule any hearings within the limits established by this procedure, it will also attempt to schedule those hearings at times agreeable to all parties

involved. The failure to arrive at an agreed-upon date in any case will not be held against either party as a substantial procedural defect, unless it can be shown that either party is acting in bad faith to delay the scheduling of the hearing.

- C. The County Administrator or her designee may, at her option, require a clear written explanation for claims of just cause/good faith extensions or compliance issues. Compliance determinations made by the County Administrator shall be subject to judicial review by filing petition with the Circuit Court within 30 days of the compliance determination.