

Orange County, Texas Personnel Policy Manual



Adopted by the Orange County Commissioners' Court
This 13th Day, of September, 1999
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ORANGE COUNTY, TEXAS PERSONNEL POLICY MANUAL

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000. GENERAL INFORMATION

GENERAL INFORMATION

I. PURPOSE

The Orange County Commissioners Court considers the county's employees to be one of the county's most valuable resources. This manual has been written to serve as a guide for the employer/employee relationship and has been adopted by the Orange County Commissioners Court for that purpose.

II. SCOPE

This preface applies to all policies contained within the Orange County, Texas Personnel Policy Manual, and applies to all employees of Orange County.

III. POLICY AND PROCEDURE

There are several things that are important to keep in mind about this manual:

A. General Policy Information and Guidelines.

This policy manual is an overview and summary of the policies and procedures of Orange County, Texas, which are presently in effect. As such, the manual contains only general information and guidelines, and is not intended to be comprehensive or to address all the possible applications of, or exceptions to, the general policies and procedures described. For that reason, if an employee has a specific question concerning eligibility for a particular benefit, or the applicability of a policy or practice to the employee, the employee should address the question to the county's Human Resources Department or to the employee's supervisor, department head, or elected official.

Throughout this manual, Orange County may be referred to as "the county." Department heads and elected officials may be referred to collectively as "department heads/elected officials."

B. All Previous Manuals Superseded.

This policy manual supersedes all previous manuals, Commissioners Court minutes, letters, memoranda and understandings of Orange County, Texas regarding the personnel policies contained herein.

C. Subject to Modification by Commissioners Court.

The County, through the Commissioners Court, is committed to reviewing its policies and benefits on a regular basis, and making changes to comply with law and/or efficient administrative practice. Thus, the procedures, practices, policies, and benefits described herein are subject to interpretation, review, and change, and may be modified or discontinued at any time in the court's sole discretion. In addition, the county retains the right to interpret and administer any of the policies contained in this manual in light of changing circumstances and events.

Information shall be disseminated through various written notices from the Human Resources Department, as well as verbally from department head/elected officials. The county will make every effort to inform all employees of any changes or revisions as they may occur. However, advance notice of such changes may not always be possible.

D. Subject to Modification by Elected Officials.

By law, elected officials of the county have broad discretion over the administration of their respective offices. Elected officials also have certain duties and responsibilities imposed on them by law. As such, an elected official may modify, delete, or add to the policies contained in this manual. Any such modifications must comply with all applicable laws.

Elected officials should make every effort to communicate any modification of these policies to the employees in their offices. An employee of an elected official should consult either the official or the appropriate employee in the elected official's office who has been delegated the authority by the official to address questions regarding personnel policies, regarding any questions concerning the applicability of a particular policy to that employee.

E. Consulting Other Official Documents.

This manual does not contain all of the information an employee will need during the course of employment. Some of the subjects described herein, such as the Group Insurance Plans, are covered in detail in other official documents maintained by the Human Resources Department. Employees should refer to those documents for specific information concerning those benefits, since this handbook only briefly summarizes those benefits. Please note that the terms of the written insurance policy are controlling.

An elected official may implement written personnel policies or manuals that govern his or her office. Any such policies or manuals should be consulted in determining the applicability or relevance of a certain policy to a particular employee. In addition, the Orange County Sheriff's Office is currently governed by a Labor Agreement between Orange County and the Orange County Sheriff's Employee Union, which is applicable to the employees specified in the agreement, and which may modify certain of the policies described herein.

F. Maintenance and Dissemination of Personnel Policies.

1. Maintenance of Records.

- a. The Human Resources Department shall maintain the official set of personnel policies, with all revisions, for reference by employees, and shall make all official changes to this manual, at the direction of the Commissioner Court. If a discrepancy arises about the accuracy or the current effectiveness of a particular policy, the official set of policies maintained by the Human Resources Department should be consulted and shall control.
- b. Revisions to the policies contained in this manual, as well as policies added to the manual after the date of initial adoption shall be clearly labeled with the policy number and date of the revision or addition, and shall be in the same format as the policies contained in this manual.

2. Dissemination of Policies.

a. Upon Employment.

- I. The Human Resources Department shall direct new employees to a digital copy of this manual and any additional related personnel policies or materials to new employees on their first day of employment. Employees are required to read this manual carefully and to adhere to the rules and regulations stated herein, as modified by the relevant department head/elected official.

- II. Within two (2) weeks of employment, every new employee is required to sign an acknowledgment of having received the manual and having read the manual and understood the policies contained herein. Such acknowledgment, which is made a part of this manual as Appendix B, shall be maintained in the employee's permanent personnel file by the Human Resources Department.

b. Subsequent Changes.

- I. The Human Resources Department shall make complete digital copies of this manual available to each department head/elected official, within two (2) weeks of the effective date of this manual, in a sufficient number for the department head/elected official to distribute one copy to each and every employee within his or her department. The department head/elected official shall then be responsible for disseminating the manuals to each and every employee within their respective departments, obtaining signed acknowledgments for each and every employee of receipt and review of the manual, and submitting such acknowledgments back to the Human Resources Department within two (2) weeks of receipt of the manual by the department head/elected official. All such acknowledgments shall be maintained in the respective employees' permanent personnel files.
- II. The Human Resources Department shall also provide a copy of all subsequent revisions to the manual to each department head and elected official, who shall then be responsible for disseminating such policy changes to the employees within their respective departments.

EMPLOYMENT-AT-WILL

I. PURPOSE

To explain the legal doctrine of employment-at-will by which Orange County operates, and to set forth the requirements for any modification of that policy.

II. SCOPE

This policy applies to all employees of Orange County.

III. POLICY

Orange County operates under the doctrine of employment-at-will, and thereby reserves the right to terminate any employee at any time "at-will," with or without cause, and with or without notice of intent to terminate. In addition, all employees are free to terminate their employment with the county at their will at any time, although it is recommended and requested that an employee provide his or her department head/elected official with at least two (2) weeks written notice of intent to terminate employment. See Policy No. 810: Employee Resignation and Termination.

NEITHER THIS HANDBOOK NOR ANY OTHER COUNTY DOCUMENT CONFERS ANY CONTRACTUAL RIGHT TO ANY COUNTY EMPLOYEE, EITHER EXPRESS OR IMPLIED, TO REMAIN IN THE COUNTY'S EMPLOYMENT. WHILE THE COUNTY SHALL ATTEMPT TO ENSURE THAT EMPLOYEE DISMISSALS ARE NOT MADE IN AN ARBITRARY AND CAPRICIOUS MANNER, THE POLICIES CONTAINED IN THIS MANUAL DO NOT, IN ANY WAY, CONSTITUTE OR IMPLY A CONTRACT, AGREEMENT, PROMISE, OR GUARANTEE OF EMPLOYMENT OR OF CONTINUED EMPLOYMENT, IN ADDITION, NOTHING CONTAINED IN THIS MANUAL OR ANY OTHER DOCUMENT PROVIDED TO AN EMPLOYEE IS INTENDED TO BE, NOR SHOULD IT BE, CONSTRUED AS A GUARANTEE THAT ANY EMPLOYMENT CONDITION OR BENEFIT SHALL BE CONTINUED FOR ANY PERIOD OF TIME. NO COMMUNICATION OR PRACTICE LIMITS THE RIGHT OF THE COUNTY TO TERMINATE OR MODIFY THE EMPLOYMENT RELATIONSHIP AT ANY TIME WITH OR WITHOUT CAUSE.

IV. PROCEDURE

A. No Authority to Bind County Without Express Authorization.

No department head, elected official, or other supervisory employee of Orange County has any authority whatsoever to make any contrary representations to any employee, nor do such employees or officials have any ability to bind the county contractually. Only the Commissioners Court, acting as the governing body of Orange County, or a department head/elected official, including the County Judge, acting with the approval of Commissioners Court, may enter into an agreement with a current or prospective employee for employment for any specific period of time, or to provide that an employee may only be discharged for cause.

B. Contents of an Employment Contract.

Any employment contract or agreement must be in writing, must identify the employee by name, and must be signed both by the employee and by the Commissioners Court as a whole, or by the County Judge, acting with the approval of the Commissioners Court, or by the department head/elected official, acting with the approval of the Commissioners Court. To alter the employment-at-will relationship, any such writing must expressly state "the employment-at-will relationship is altered," and must state "the employee may only be discharged for cause." Further, the writing must contain a definition of termination for cause which must include violation of any of the policies of the county. To expressly create a term of employment, the writing must state "the term of employment for this employee is (term specified)."

100. COUNTY EMPLOYMENT PRACTICES

DEFINITIONS OF EMPLOYMENT STATUS

I. PURPOSE

To help provide uniformity and equity in applying personnel policies and benefits.

II. SCOPE

This policy applies to all county employees, as specified in the policy.

III. POLICY

The county maintains standard definitions of employment status and classifies employees for purposes of personnel administration and related payroll transactions. An employee with a question concerning his or her employment status should consult his or her department head/elected official or the Human Resources Department. All employees are considered to be “at will” employees and employee status shall not be considered a contract of employment. Employees are currently classified according to the following definitions:

- A. Exempt. Employees whose positions meet specific tests established by the Federal Fair Labor Standards Act (FLSA) and state law, and who are exempt from overtime pay requirements. See also Policy No. 111: Exempt/Non-Exempt Employee Status.
- B. Non-Exempt. Employees whose positions do not meet FLSA exemption tests and who are paid at a multiple of their regular rate of pay for overtime, as required by federal and state law. See also Policy No. 111: Exempt/Non-Exempt Employee Status.
- C. Full-Time. Employees in a position which has normal work schedule of at least 40 hours per week on a non-seasonal basis, and who maintain continuous employment status. Such employees are eligible for all county benefits.
- D. Part-Time. Employees in a position which has a normal work schedule of 29 hours or less per week. Such employees are not eligible for county benefits. Part-time employees working 30 hours or more a week may be eligible for certain Orange County benefits. All regular part-time employees must be placed on Texas County and District Retirement System (TCDRS) retirement regardless of the number of hours worked per week. Effective: 07/01/2013
- E. Seasonal. Employees scheduled to work only during specific seasonal times during the calendar year. Such employees are ineligible for county benefits and holiday pay.

- F. Part-Time (Temporary). Employees who are hired for a pre-established period, usually during peak workloads or for vacation relief, although any such period may be shortened or extended at any time during the pre-established employment period, at the discretion of the department head/elected official, and with any necessary budgetary approval of the Commissioners Court. Such employees may work a full-time or part time schedule for a pre-established period. They are ineligible for county benefits and holiday pay. If subsequently hired as a regular full-time or part-time employee, the length of service of any such employee shall be determined by the most recent hire date, i.e., the date the employee becomes employed as a regular full-time or part-time employee.
- G. Orientation Period. New employees with 90 days of service or less. See also Policy No. 160: Orientation Period. Such employees are not eligible for health insurance benefits for 60 days or the receipt of sick leave benefits, although such benefits accrue during the 90 day period. See also Policy No. 313: Sick Leave. All new and rehired employees are subject to an orientation period, excluding those employees who are rehired within thirty (30) consecutive days of their termination date, as described in Policy No. 170: Rehire and Reinstatement of Benefits and Seniority.

EXEMPT/NON-EXEMPT EMPLOYEE STATUS

I. PURPOSE

To define exempt and non-exempt employee status and to provide guidelines for determining this status according to law.

II. SCOPE

This policy applies to all county employees, as specified herein.

III. POLICY

The county does not define or designate exempt and non-exempt employee status classifications. Rather, federal law, the Fair Labor Standards Act (FLSA), mandates classification of all positions in the county as either exempt or non-exempt for overtime pay administration purposes. See also Policy No. 250: Overtime Pay: Non-exempt Employees, for the county's overtime pay requirements.

IV. DEFINITIONS

Definitions of exempt and non-exempt status are based on provisions of the FLSA and state law. These definitions are summarized as follows:

- A. Exempt. Management, supervisory, professional, administrative and outside sales employees whose positions meet specific tests established by the FLSA and state law and who are exempt from overtime pay requirements. Exempt employees generally spend over 60% of their work time on duties which require the exercise of independent judgment and discretion.
- B. Non-exempt. Employees whose positions do not meet FLSA exemption tests and who are paid one-and one-half times their regular rate of pay for hours worked in excess of 40 in one week.

V. PROCEDURE

- A. In cases where the exempt/non-exempt status of an employee is in dispute, the Human Resources Department, in consultation with the County Attorney's Office, the employee, and the relevant department head/elected official, shall review position duties and responsibilities against FLSA exemption tests, and reach a provisional decision.

1. In the provisional determination of the employee's status, the Human Resources Department shall complete a survey of the employee's duties and responsibilities with the employee's assistance, which shall be maintained in the employee's personnel file.
- B. The federal Fair Labor Standards Board may be consulted in making the provisional determination of an employee's status.
- C. The issue of the employee's status shall be presented to the Commissioners Court by the Human Resources Department and/or the County Attorney's Office for formal action. The Commissioner's Court shall review the provisional decision regarding the employee's status, and make the final decision in all cases, in compliance with the FLSA and any findings of the Fair Labor Standards Board.

ANTI-DISCRIMINATION POLICIES

I. PURPOSE

To promote an environment where an applicant's or employee's qualifications and capabilities, rather than irrelevant personal characteristics and associations, form the basis for any employment action in regards to that applicant or employee.

II. SCOPE

All anti-discrimination policies apply to all county employees, department heads, and elected officials.

III. POLICIES

In addition to the standards of conduct set forth in Chapter 400 of this manual, the following policies apply to protect all current and prospective employees from discriminatory motives and/or actions.

A. Policy No. 121: Equal Employment Opportunity

B. Policy No.122: Americans with Disabilities Act Amendments Act

Policy No.122-A: Americans with Disabilities Act Amendments Act Grievance and Complaint Procedures

C. Policy No. 123: Sexual Harassment and Other Types of Harassment

Policy No. 123-A: Sexual Harassment Grievance and Complaint Procedures

D. Policy No. 124: Employee Reports of Illegal Acts: No Discrimination or Retaliation

E. Policy No. 125: Employee Claims for Workers' Compensation Benefits:
No Discrimination or Retaliation

EQUAL EMPLOYMENT OPPORTUNITY

I. PURPOSE

To preserve an employment environment free from illegal discrimination.

II. SCOPE

This policy applies to all employees, department heads, and elected officials of Orange County.

III. POLICY

Orange County maintains a policy of non-discrimination for employees and applicants for employment. Equal Employment Opportunity applies to all county policies and procedures relating to recruitment and hiring, compensation, benefits, termination and all other terms and conditions of employment. Thus, no aspect of employment within the county, including but not limited to job structuring, recruitment, examination, selection, appointment, placement, training, upward mobility, discipline, or any other aspect of personnel administration, shall be influenced in any manner by race, color, religion, sex, age, national origin, veteran status, mental or physical disability, political affiliation, family relationship, or any other basis prohibited by law. It is also the policy of the county that personnel decisions are to be made on the basis of occupational qualifications and job-related factors, such as skill, knowledge, education, experience, and ability to perform a specific job.

IV. PROCEDURE

- A. The Human Resources Department has overall responsibility for this policy and maintains reporting and monitoring procedures.
- B. Any employee who has reason to believe that he or she has been a victim of discrimination based on race, color, religion, age, sex, national origin, disability, or political affiliation is encouraged to follow the grievance procedures outlined in Policy No. 122-A, 123-A, and 560 of this manual, as appropriate, and may do so without fear of reprisal or retaliation.
- C. All employees are expected to demonstrate sensitivity to and respect for all other employees. Appropriate disciplinary action may be taken against any employee willfully violating this policy, or any of the county's anti-discrimination policies, up to and including termination of employment.

AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT (ADAAA)

I. PURPOSE

To comply with the Americans with Disabilities Act Amendments Act (ADAAA)

II. SCOPE

This policy applies to all employees, elected officials, and department heads of Orange County, as well as applicants for employment.

III. POLICY

- A. Discrimination Prohibited. It is the policy of Orange County, Texas to comply with the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), 42 U.S.C. Section 12101, *et seq*, as well as the Texas Commission on Human Rights Act (TCHRA), Chapter 21, Texas Labor Code. It is the policy of Orange County, Texas to ensure equal employment opportunity for all qualified persons with disabilities. The ADAAA prohibits discrimination against persons with disabilities in hiring as well as in all terms and conditions of employment, and its purpose is to enable employees and applicants with disabilities to enjoy the same benefits and privileges of employment as are enjoyed by others without disabilities. Orange County does not disqualify employees or prospective employees from consideration for employment or actual employment in any given position because of any such employee's or applicant's inability to perform nonessential or marginal job functions.
- B. Retaliation Prohibited. Orange County, Texas strictly prohibits retaliation or discrimination whatsoever against an employee, applicant for employment by any employee, department head, or elected official. This prohibition includes, but is not limited to, (1) disclosing an impairment/disability, (2) retaliation for making or filing a charge of discrimination, (3) retaliation for filing a complaint under Policy No. 122-A of this manual, (4) retaliation for opposing a discriminatory practice, or (5) retaliation for testifying, assisting, or participating in an investigation, proceeding, or hearing convened to determine the validity of a complaint made pursuant to the ADAAA. Any such discrimination or retaliation shall result in disciplinary action against the offending employee, up to, and including, immediate termination of employment.
- C. Reasonable Accommodation. It is the policy of Orange County, Texas to make reasonable accommodations to assist disabled applicants or employees in meeting legitimate job criteria, to the extent that Orange County, Texas receives of any such disability, provided that such accommodations does not cause undue hardship to the county in its service to the public.

- D. Voluntary Disclosure. It is also county policy to not ask about mental or physical impairments or the severity of any disability, unless an applicant or employee voluntarily discloses the existence of a disability and requests an accommodation, or unless such inquiry is job-related and consistent with business necessity. A department head/elected official who wishes to ask an employee about a mental or physical impairment or the severity of a disability should first consult with the County Attorney's Office. The county, through its authorized representatives, may discuss the specific requirements of a given job and make inquiries into the ability of an employee or applicant to perform job-related functions.
- E. Other Applicable Policies. For additional information concerning the requirements of the ADAAA, see also Policy No. 141: Physical Fitness Examinations; and, Policy No. 720: Life Threatening and Infectious/Contagious Illnesses.

IV. DEFINITIONS

- A. Disability. In order to be afforded the protections of the ADAAA, an individual must have a physical or mental impairment that substantially limits one or more major life activities, have a record of such impairment, or are regarded as having such impairment.
- B. Qualified Individual/Person With a Disability. A qualified individual with a disability is one who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

V. PROCEDURE

- A. Essential Functions. The Human Resources Department, with the assistance of the department heads/elected officials shall prepare written job descriptions for each position in the county, stating what functions of the job are essential. The written description of a particular job shall be prepared prior to advertising or interviewing applicants for the job when a position becomes open.
- B. Compliance by Elected Officials and Department Heads. Elected officials and department heads are to ensure that all personnel actions, including those involving recruitment, hiring, training, promotion, compensation, benefits, transfers, demotions, terminations, layoffs, and recalls, shall be administered so as not to discriminate against individuals with disabilities, and to comply with the requirements of the ADAAA and any federal regulations promulgated pursuant to the Act.

- C. Disclosure of Disability Not Required. Applicants and employees are not required to disclose information regarding any physical or mental limitation.
- D. Disability Self-Identification Information. After hire, employees will be asked to read and sign a "Disability Self-Identification Form," made a part of this manual as Appendix D. In addition to acknowledging receipt of the information conveyed in the form, an employee may **voluntarily** identify a disability and a requested accommodation, in order to have Orange County, Texas consider any special arrangements to accommodate a physical or mental impairment.
1. The form may contain the following information: the identity of a disability, a description of the functional limitations resulting from the impairment, and suggestions regarding the type(s) of accommodations(s) the employee or applicant believes would be appropriate.
 2. If an employee is unable to complete the form, but otherwise wishes to self-identify a disability, he or she may advise his or her immediate supervisor, department head, or elected official, as appropriate, or the Human Resources Department, who shall assist in the completion of the form with the permission of the employee.
 3. At no time shall an employee be required to identify an impairment or disability, although he or she may voluntarily do so. It is the policy of Orange County, Texas to prohibit any person from being denied employment, denied promotion, discharged, disciplined, or be subjected to any other adverse treatment based upon that person's decision to provide, or not provide, information relating to an impairment or disability.
 4. The disability self-identification form shall be submitted to the Human Resource's Department by the employee upon employment, within three (3) days of the date of employment. However, an employee or applicant may submit an updated form identifying a disability and requesting accommodation at any time during employment, and should do so if accommodation is requested.
 5. The information contained in the form shall be kept confidential, to the extent permitted by law, except that appropriate department heads, elected officials, supervisors, and safety and health personnel may be informed regarding any restrictions in work duties or necessary accommodations, and appropriate governmental agencies or representatives may be provided information in compliance with various laws, rules and regulations.

- E. Reasonable Accommodation/Undue Hardship. In determining what constitutes reasonable accommodation and whether an accommodation poses an undue hardship on the county, the relevant department head/elected official should consult with the County Attorney's Office. All such decisions shall be made in compliance with Section 12111 of the ADAAA, and any pertinent federal regulations promulgated by the Equal Employment Opportunity Commission pursuant to the ADAAA.

AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT GRIEVANCE AND COMPLAINT PROCEDURES

I. PURPOSE

To set forth guidelines to promote a workplace environment that is free of discrimination under the Americans with Disabilities Act Amendments Act, by setting forth specialized procedures to complain about such behavior.

II. SCOPE

This policy applies to all county employees.

III. POLICY

The following grievance/complaint procedures are designed to provide a prompt and equitable resolution of complaints by job applicants and employees alleging any action prohibited by the Americans with Disabilities Act Amendments Act (ADAAA), by the regulations promulgated by the Equal Employment Opportunity Commission (EEOC) implementing Title I of the ADAAA, and by the Texas Commission on Human Rights Act (TCHRA).

IV. PROCEDURE

A. Reporting Procedure

1. Any applicant or employee who feels that he or she is being discriminated against because of his or her physical or mental impairment is encouraged to report the situation to any or the following:
 - a. the ADAAA coordinator for Orange County, as designated by the county.
See Appendix E for the Commissioners Court's designation;
 - b. the employee's supervisor/department head/elected official;
 - c. the Orange County Human Resources Department;
 - d. any EEOC; or
 - e. the Texas Commission on Human Rights (TCHR).
2. For purposes of the completion of a thorough investigation, a complaint should be made in writing, utilizing the ADAAA Grievance/Complaint Form made a part of this manual as Appendix F. However, an initial complaint may be made verbally. The complainant may be asked to provide information regarding the complaint in writing at a later date.

3. A complaint should include the following information, if known:
 - a. the name, address, and telephone number of the person making the complaint;
 - b. the date(s) of the alleged discriminatory act(s);
 - c. the identity of any witness(s) to the act(s) that has/have knowledge of the alleged discriminatory act(s);
 - d. the name, address, telephone number, and department of the employer, as well as the identity of the supervisor or employee alleged to have committed the discriminatory act(s);
 - e. the type of discrimination alleged, including the specific acts;
 - f. the issue(s) involved in the alleged discriminatory act(s), such as hiring, promotion, wages, terms and conditions of employment, and discharge;
 - g. identification of the applicant or employee's alleged disability.
4. Applicants and employees should file a written complaint/grievance as soon as possible after the complainant becomes aware of the alleged violation.
5. Complaints made to an employee's immediate supervisor, department head, or elected official, or to the Human Resources Department, shall be referred to the ADAAA Coordinator for investigation.
6. An employee or applicant may file a charge of discrimination on the basis of disability with the nearest EEOC office or with the TCHR. For information regarding filing a charge and to determine the location of the nearest EEOC office, an individual may call, toll free, 1-800-669-4000 (voice) or 1-800-800-3302 (TDD). Use of the Orange County grievance process outlined in this policy, although encouraged, is not required prior to the pursuit of other remedies, including filing a charge of discrimination with the EEOC or the TCHR.

B. Investigation and Resolution Procedures.

1. An investigation, as appropriate, shall be completed on each complaint filed. Such investigations shall be conducted by the ADAAA Coordinator, in conjunction with the Human Resources Department, as appropriate. All interested persons and their representatives, if any, shall be notified of the complaint, and given an opportunity to respond to and submit evidence relevant to the complaint. All employees are required to cooperate in the investigation.

2. The county shall respond in writing to the person filing the complaint within three (3) days of receipt of the complaint, to acknowledge receipt of the complaint, to set a time and place for the ADAAA Coordinator and other appropriate individuals to meet with the complainant, and to request additional or more specific information, if necessary.
3. The ADAAA Coordinator shall report back to the applicant or employee regarding the completed investigation within twenty-one (21) days of the date the complaint is made or completed (if verbal). Such report shall include:
 - a. a determination as to the accuracy of the complaint; and
 - b. recommendations regarding the actions to be taken regarding resolving the situation and/or accommodating the applicant or employee.
4. The applicant or employee has ten (10) days from the date of receipt of the report by the ADAAA Coordinator to request a reconsideration of the decision of the ADAAA Coordinator by the Commissioners Court. Any such request should be made in writing to the County Judge. The Commissioners Court will investigate the complaint and hold a public hearing, as appropriate and necessary, to determine the validity of the report by the ADAAA Coordinator, and take any other action deemed necessary. The decision of the Commissioners Court shall be final.
5. The ADAAA Coordinator shall report to the Commissioners Court or to the relevant employee's department head/elected official, any recommendations regarding disciplinary action to be taken against any individual as a result of a complaint/grievance.
6. These grievance procedures shall be implemented so as to protect the substantive due process rights of interested persons, and to ensure that Orange County complies with the ADAAA and related federal regulations, and the TCHRA. The county will make all attempts to resolve any complaint of discrimination.
7. The ADAAA Coordinator shall maintain the files and records of Orange County relating to complaints/grievances filed under this policy.

SEXUAL HARASSMENT AND OTHER TYPES OF HARASSMENT

I. PURPOSE

To establish the county's position on the subject of discriminatory harassment, and to set forth guidelines for handling violations of the policy. The following harassment policy was formulated to help protect all employees -- both male and female -- from verbal, physical, or visual harassment of sexual, racial, or ethnic nature, as well as all other forms of discriminatory harassment.

II. SCOPE

This policy applies to all Orange County employees and applicants for employment, as well as department heads and elected officials. A "county employee" for purposes of this policy and the laws governing prohibited harassment is anyone employed by Orange County, including elected officials, department heads, and supervisors.

III. POLICY

- A. Discrimination Prohibited. All employees of Orange County are expected and required to treat all people with whom they work with respect and courtesy. Harassment, including sexual harassment, is contrary to basic standards of conduct between individuals and is prohibited by Title VII of the Civil Rights Act of 1964, the Texas Commission on Human Rights Act (TCHRA), and this policy. In addition, all Orange County employees are prohibited from engaging in conduct in the workplace involving the use of racial or ethnic jokes or disparaging remarks. Sexual or other forms of harassment of an employee by any county employee will not be tolerated. Sexual harassment by or of a non-employee is also prohibited.
- B. Retaliation for Complaint Prohibited. Retaliation or discrimination against an employee by any other employee, department head, or elected official of the county for alleging discrimination or harassment or for filing a grievance or charge of discrimination with the Equal Employment Opportunity Commission (EEOC) or the Texas Commission on Human Rights (TCHR) is strictly prohibited.

IV. DEFINITIONS

- A. Harassment. Verbal, physical or visual conduct of a sexual, racial, ethnic, or other type which interferes with an employee's ability to perform his or her job. Such harassment includes jokes, slurs, or other disparaging remarks based on race, color, ethnicity, religion, age, sexual orientation, or disability.

- B, Harasser. A harasser or perpetrator may be the victim's employer, supervisor, co-worker, or employee.
- C. Sexual Harassment. Sexual harassment has been defined by the courts and the EEOC as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature when (1) submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment. This definition encompasses many forms of offensive behavior, including conduct of sexual nature that creates an offensive, intimidating or hostile work environment, as well as coerced sexual conduct by a person in a position of authority in the workplace. An employee who is unsure as to whether any given conduct constitutes sexual harassment should refrain from engaging in such behavior. Examples of prohibited sexual harassment include, but are not limited to:
- Unwelcome sexual flirtations, advances, or propositions;
 - Offering employment, promotions, or other benefits in exchange for sexual favors;
 - Making or threatening reprisals for refusing sexual advances; demanding sexual favors, accompanied by implied or overt threats involving one's employment, compensation, promotion, or job assignment; denying employment, promotions, or other benefits for refusing sexual advances; exerting subtle pressure for sexual favors including implying or threatening that an applicant or employee's cooperation of a sexual nature (or refusal thereof) will have an effect on the person's employment, job assignment, wages, proposition, any other condition of employment or future job opportunities; repeatedly asking a co-worker out after being rebuffed;
 - Visual conduct such as leering; making sexual gestures; displaying sexually suggestive objects, pictures, posters, or calendars; cartoons or posters; suggestive or obscene letters, notes, or invitations; exposing genitalia;

- Verbal conduct such as derogatory comments; epithets; slurs; sexual innuendo; sexual jokes; whistling; catcalls; graphic verbal commentaries about an individual's body; sexually degrading words used to describe an individual; disparaging remarks related to an individual's gender; intrusive questions about an employee's personal or sex life; graphic descriptions of the harasser's own sexual experiences; the unwelcome use of familiarities or diminutives such as "honey," "sweetheart," or "baby";
 - Physical conduct such as unwanted, unnecessary, suggestive or offensive touching, including rubbing, patting, pinching, kissing, tugging at another's clothing, and constant and/or intentional brushing against another's body; physical or sexual assault; impeding or blocking movement; defacing the personal property of an employee for purposes of sexual "joke".
- D. Retaliation. Discrimination against an employee or any applicant for employment because such employee or applicant has opposed an unlawful employment practice, including refusing to submit to sexual advances or protesting sexual overtures, or because such employee or applicant has made a complaint or charge of discrimination or harassment to the EEOC or the TCHR or pursuant to Policy No. 123-A, or has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing regarding an unlawful employment practice.

V. PROCEDURE

- A. Reporting Without Reprisal. Employees who feel they have been discriminated against on the basis of sex, or sexually or in any other manner harassed, should immediately report such incidents, following the grievance/complaint procedures established for that purpose, without fear or reprisal. See Policy 123-A: Grievance and Complaint Procedures.
- B. Confidentiality. Confidentiality of reports regarding harassment shall be maintained to the extent permitted by the circumstances and by the Texas Public Information Act and any other applicable law. See also Policy No. 123-A: Grievance and Complaint Procedures; Policy No. 180: Administration of Personnel Records; Policy No. 420: Security and Confidentiality.

- C. Disciplinary Action. Any employee, who engages in any of the acts or behavior defined in this policy, as well as any other harassing or discriminatory behavior, violates county policy, and such misconduct will subject an employee to disciplinary action up to and including immediate discharge.
- D. Non-Employee Compliance. All department heads, elected officials, and other appropriate employees should establish appropriate procedures to make non-employees (vendors, contractors, trades people, etc.) who conduct business with the county on county premises aware of the intent of this policy.

SEXUAL HARASSMENT GRIEVANCE AND COMPLAINT PROCEDURES

I. PURPOSE

To promote a workplace environment that is free of sexual harassment, sexual exploitation, and intimidation by allowing for specialized procedures to complain about such behavior.

II. SCOPE

These procedures apply to all county employees. Such procedures may be modified as to some employees by a collective bargaining agreement or other applicable document. Employees wishing to report or complain of unlawful harassment other than sexual harassment should utilize the grievance and complaint procedures at Policy No. 122-A or Policy No. 560, as appropriate.

III. POLICY

- A. Reporting Encouraged Without Retaliation. Any employee who believes that he or she has been subjected to harassment, retaliation, or any other discriminatory practices is strongly encouraged to file a grievance, utilizing the procedures stated herein, without fear of reprisals or retaliation. An employee may report the sexual harassment of him or herself, of any other employee, or of anyone else with a business relationship to the county. An employee should not assume that his or her department head/elected official is aware of such behavior, but should make the department head/elected official promptly aware of such behavior, so that prompt remedial action to correct any such situation may be taken.
- B. Investigation and Cooperation. A confidential investigation shall be conducted of all complaints of harassment. All employees are required to cooperate with such an investigation.

IV. PROCEDURE

- A. Reporting Procedure.
 - 1. An employee may initially report any such conduct verbally, or may report the conduct in writing, by utilizing the Sexual Harassment Grievance/Complaint Form made a part of this manual as Appendix G. Due to the serious nature of such a complaint, the employee shall be required to reduce the complaint to writing prior to or during the investigation.

2. Departments under Control of Commissioners Court.

- a. Department Head Not Alleged Harasser. Where an employee has a complaint regarding sexual harassment regarding an employee or official other than his or her department head, the employee should report the matter directly to his or her department head, bypassing any other chain of command, or to the Human Resources Department, so that appropriate action may be taken.
 - I. If the complaint is made to the department head, he or she shall refer the complaint to the Human Resources Department for completion of an investigation of the complaint by that department with the assistance and cooperation of the department head.
 - II. If the complaint is made directly to the Human Resources Department, that department shall inform the relevant department head of the complaint, so that the department head may assist in the investigation of the complaint by the Human Resources Department.
- b. Department Head Alleged Harasser. When a complaint of sexual harassment is against a department head, the employee should file the complaint directly with the Human Resources Department, so that the matter can be investigated and resolved in accordance with the procedures described herein.
- c. Resolution. The Human Resources Department shall promptly report the results of its investigation to the department head, if he or she is not the alleged harasser, or to the Commissioners Court, if the department head is the alleged harasser. If deemed necessary by the Human Resources Department, in consultation with the County Attorney's Office, or where necessary by law prior to the imposition of disciplinary action, the complaint may be presented to Commissioners Court for further investigation and remedial action.
- d. Appeal to Commissioners Court. If no satisfactory resolution is reached within fifteen (15) days of reporting the conduct to the department head or the Human Resources Department, the employee making the complaint should report the matter directly to the County Judge for Commissioners Court consideration.

- I. The Commissioner Court shall promptly investigate the complaint, utilizing any employees or resources deemed necessary, and take any necessary and appropriate remedial action as promptly as possible, but no later than thirty (30) days after the date the report is made to the county judge.
 - II. In the Commissioners Court's discretion, the court may consider any such complaint in a closed court session, pursuant to the Texas Open Meetings Act, Section 551.001, et seq., Texas Government Code. Any such meeting shall be opened to the public upon request of the employee who is the subject of the complaint, i.e., the alleged harasser.
 - III. All necessary parties, including the complainant, the alleged harasser, the Human Resources Department, and the department head should be notified of the hearing and given an opportunity to participate. The parties may be represented during the hearing, and may present evidence, including witnesses, as deemed necessary and appropriate by the court.
 - IV. The Commissioners Court shall conduct the hearing in such a manner as to prevent intimidation of any of the parties or witnesses, i.e. by hearing each party outside the presence of the other party, etc.
3. Department Under Control of an Elected Official or a Department Head Who Is Not Under Commissioners Court Control.
- a. Department Head/Elected Official Not Alleged Harasser. The employee should report the matter directly to his or her department head/elected official, so that prompt appropriate action may be taken. An individual department head/elected official may require an employee to follow a prescribed chain of command in reporting such behavior. However, the chain of command should be bypassed and the report made directly to the department head/elected official if any employee in the chain is the individual accused of engaging in sexual harassment, or if the employee feels uncomfortable reporting the conduct to anyone in the chain of command. In addition, if no action is taken within a reasonable time after reporting the behavior through the chain of command, a complaint should be made directly to the department head/elected official.

- b. Department Head/Elected Official Alleged Harasser. If the department head/elected official is the individual accused of engaging in sexual harassment, the complaint shall be made to the County Attorney and the County Judge, who shall take any prompt remedial action as necessary and available.
- c. If the County Judge is the individual accused of engaging in sexual harassment, the complaint should be made to the County Attorney and at least one County Commissioner, who shall take prompt remedial action as necessary and available.

B. Additional Investigation and Resolution Procedures.

- 1. An employee other than the person allegedly being subjected to sexual harassment may report the harassment to the parties specified within this policy, by utilizing the Sexual Harassment Grievance/Complaint Form. However, the alleged victim of the harassment shall be notified of the complaint and requested to participate in the investigation of the complaint. Refusal by the alleged victim to participate in the investigation or denial of the complaint by the alleged victim may result in no action being taken regarding the complaint.
- 2. **All written complaints shall be investigated** in a professional manner, maintaining confidentiality to the greatest extent possible, to protect both the employee making the allegation and the employee accused of engaging in harassing behavior.
- 3. A department head, elected official, or supervisor who receives a sexual harassment complaint from any county employee shall take reasonable action to prevent or remedy any retaliation against the complainant.
- 4. No written complaint shall be made a part of the employee's regular personnel file, but shall be maintained by the Human Resources Department in a separate, confidential file. Such information may be subject to public disclosure upon request, however, under the Texas Public Information Act, Section 552.001, et seq., Government Code, unless it meets one of the statutory exceptions for public disclosure, i.e., that the requested information constitutes a clearly unwarranted invasion of personal privacy. All requests for such public information must be forwarded to the Human Resources Department, who should consult with the County Attorney's Office prior to disclosing any such information

5. Persons determined to have engaged in sexual harassment or to have submitted a knowingly false report of sexual harassment may be subject to disciplinary action, up to and including termination of employment, and may face administrative and/or legal action.

EMPLOYEE REPORTS OF ILLEGAL ACTS: NO DISCRIMINATION OR RETALIATION

I. PURPOSE

To communicate Orange County's policy regarding the reporting of illegal acts, and to express the county's intent to comply with the provisions of the Texas Whistleblower Act, Chapter 554, and Texas Government Code.

II. SCOPE

This policy applies to all employees, department heads, and elected officials of Orange County.

III. POLICY

It is the policy of Orange County to comply in all respects with the provisions of the Texas Whistleblower Act, as described above, which prohibits a public employer from suspending, terminating, or otherwise discriminating against an employee who in good faith reports a violation of law to an appropriate law enforcement authority.

IV. PROCEDURE

- A. Reporting in Good Faith Protected. If an employee determines or, in good faith believes, that another employee, supervisor, or department head/elected official has committed or is committing an act which violates the laws of the State of Texas or of the United States of America, such employee should, in addition to reporting the act to appropriate law enforcement agency, report such act to the supervisor or department head/elected official of either the reporting employee or of the employee reportedly committing the illegal act, or to the Human Resources Department, the County Judge, or any Commissioner, without fear of any adverse disciplinary action. The county shall take every such report seriously and investigate the reported activity, as described below. **To be afforded the protection of the Whistleblower Act and this policy, such reports must be made in good faith.** Knowingly false reports or reports made in bad faith may subject the reporter to disciplinary action, up to and including termination of employment.

B. Investigation by Human Resources Department.

1. If a report of an alleged illegal act is made to a supervisor, department head/elected official, the County Judge or a Commissioner, that employee or official should notify the Human Resources Department as soon as possible.
2. Upon receipt of a report of illegal activity made by an employee, the Human Resources Department shall conduct an investigation of the allegations of illegal activity, in consultation with the County Attorney's Office, and any other individuals or entities necessary. The investigation may include interviewing the employee or official who allegedly committed or is committing the illegal activity.
3. Upon completion of the investigation, the Human Resources Department shall report back to the department head/elected official of the employee allegedly committing the illegal act, or to Commissioners Court, if the individual allegedly engaged in illegal activity is a department head controlled by the court, regarding the outcome of the investigation. The department head/elected official or Commissioners Court, as appropriate, shall take appropriate action to remedy the illegal activity, including appropriate disciplinary action against the employee found to be engaging in illegal or improper activity, up to and including termination of employment. If the individual alleged to have committed or to be committing the illegal act is an elected official, the Human Resources Department shall notify the County Attorney's Office, who shall take any remedial action necessary and available.
4. If the reported activity violates or may violate any criminal law of the State of Texas or the United States, the Human Resources Department shall make a report to the appropriate law enforcement agency as quickly as possible.

C. Grievances. Any employee who feels that he or she has been retaliated against or otherwise discriminated against in violation of this policy and/or the Whistleblower Act, as well as any employee who feels that he or she has been wrongly disciplined as the result of a false report of illegal activity, is encouraged to file an employee grievance, following the procedures outlined in Policy No. 540: Grievance and Complaint Procedures.

**EMPLOYEE CLAIMS FOR WORKERS' COMPENSATION BENEFITS: NO
DISCRIMINATION OR RETALIATION**

I. PURPOSE

To communicate Orange County's policy regarding the protection to be afforded workers' compensation claimants, and to express the county's intent to comply with the provisions of the Texas Workers Compensation Act, Chapter 451, Texas Labor Code, including those provisions prohibiting retaliation for filing a workers' compensation claim.

II. SCOPE

This policy applies to all employees of Orange County and applicants for employment as well as all department heads and elected officials.

III. POLICY

- A. Compliance with Applicable Law. Orange County provides workers' compensation insurance for its employees, in compliance with law. See also Policy No. 360: Workers' Compensation. It is the policy of Orange County to comply in all respects with the provisions of the Texas Workers' Compensation Act, which provides that a person may not discharge or in any other manner discriminate against an employee because the employee has (1) filed workers' compensation claim in good faith; (2) hired a lawyer to represent the employee in a claim; (3) instituted or caused to be instituted in good faith a workers' compensation proceeding; or, (4) testified or is about to testify in such a proceeding.
- B. No Discrimination or Retaliation.
 - 1. Employees. An employee who files a claim in good faith in accordance with county procedures (see Policy No. 360), or engages in any of the other conduct described above, shall not be subjected to retaliation, discrimination, or any other adverse employment action on that basis.
 - 2. An applicant for employment shall not be asked about any history of filing workers' compensation claims, and shall not be subjected to retaliation, discrimination, or any other adverse employment action based on any prior claim.

IV. PROCEDURE

- A. An employee who feels that he or she has been the subject of discrimination in violation of this policy and/or the Texas Workers' Compensation Act, should report such conduct to his or her department head/elected official or to the Human Resources Department, who shall take any and all appropriate corrective action to remedy the situation. Such an employee is also encouraged to utilize the county grievance procedures outlined in Policy No. 560.
- B. An applicant for employment should report any retaliatory or discriminatory conduct to the Human Resources Department or the County Judge for remedial action.
- C. The Human Resources Department shall report any complaints made to that department to the relevant department head/elected official, to the County Judge, or to the County Attorney's Office for remedial action.

RECRUITING AND SELECTION

I. PURPOSE

To establish the authority and responsibility of County personnel in recruiting and selecting employees, and to maximize County efforts and resources in selecting the best employees available.

II. SCOPE

This policy applies to recruiting and selection of employees and applicants for non-elected positions.

III. POLICY

- A. Internal Promotion. When a personnel vacancy occurs, department heads and elected officials are encouraged to attempt to promote from within their respective departments if a qualified individual is available. If the vacancy can be filled in this manner, no notice of the vacancy is required. *See also* Policy No. 620: Promotions, Demotions, & Lateral Transfers.
- B. Posting by Commissioners Court and Department Heads Controlled By Commissioners Court. If a vacancy cannot be filled by promotion within the department, the Commissioners Court and department heads controlled by the Commissioners Court shall follow the procedures set forth in this policy for posting and advertising.
- C. Posting by Elected Officials and Department Heads Not Controlled By Commissioners Court. Elected officials and heads of departments not controlled by Commissioners Court are encouraged, but not required, to follow the procedures set forth herein this policy for filling a vacancy that cannot be filled by promotion within the department.
- D. Hiring Freeze Eliminated. The hiring freeze/six-week waiting period that went into effect on February 24, 2014 was removed, effective July 24, 2018.

IV. PROCEDURE FOR SELECTION

The following steps govern the filling of vacancies where no qualified employee exists within the department in which the vacancy occurs or when the department head/elected official, in his or her discretion, deems the vacancy should be filled by outside personnel or that outside applicants should be sought prior to filling the position.

- A. Posting of Notice of Job Vacancy. Upon notification from a department head or elected official of a job vacancy, the Human Resources Department shall post such notice of vacancy for a minimum of five days on the bulletin boards and/or other official posting areas of each county-controlled office or building, as well as on the Orange County Human Resources website, which can be accessed at: http://www.co.orange.tx.us/Employment_Opportunitites.html.
- B. Advertisement in Local Newspaper. Upon request of the department head/elected official, and within budgetary constraints, the Human Resources Department shall advertise the existence of the position in a newspaper of county-wide or area-wide circulation in the manner and for the length of time requested by the department head/elected official, within his or her budget.
- C. External Recruiting Sources. A department head/elected official may utilize external recruiting sources to fill a vacant position, but department heads controlled by the Commissioners Court must obtain prior Commissioners Court approval before utilizing any external recruiting firm other than the Texas Workforce Commission.
- D. Selection and Acceptance by Employee.
 - 1. At the end of the specified posting period or other period specified by the department head/elected official in the advertisement or other recruiting source, the receipt of applications shall be closed and any applications received by the Human Resources Department shall be forwarded to the department head/elected official.
 - 2. The department head/elected official shall have full and final discretion in the evaluation of applicants' qualifications and selection of an employee for the vacant position, subject to all applicable state and federal laws, the anti-discrimination policies contained in this manual, and the grievance and complaint procedures contained in this manual.
 - 3. Upon notification of selection of an employee for a position, the selected employee or applicant shall have a reasonable time, as determined by the department head/elected official, to notify the department head/elected official of his or her acceptance. In the alternative, the employee or applicant may communicate his or her acceptance to the Human Resources Department, who shall promptly communicate the acceptance to the appropriate department head/elected official.

EMPLOYMENT OF MINORS AND INTERNS

I. PURPOSE

To establish guidelines to hire minors during school breaks and at peak work periods, as well as to hire temporary employees on an internship basis.

II. SCOPE

This policy applies to all county departments.

III. POLICY AND PROCEDURE

- A. Interns. An elected official or a department head that is not under Commissioners Court control may hire an intern on a temporary basis to work in his or her office, subject to the restrictions stated herein and subject to budgetary constraints. A department head who is under Commissioners Court control may hire an intern on a temporary basis to work in his or her office, subject to the restrictions stated herein, subject to budgetary constraints, and subject to the approval of Commissioners Court.
- B. Minors. As a general rule, employees of the county must be 18 years of age or older. Occasionally, the county may hire students or others who are 14-17 years of age under special circumstances to be approved by the department head/elected official or by the Commissioners Court, if the relevant department head is under the court's control. No one under the age of 14 shall be hired for any purpose.
 1. Minors ages 14-15 may work subject to the following restrictions:
 - a. Number of Hours Worked. Such minors may work up to eight hours per day and 40 hours per week when school is not in session; and no more than 18 hours during any week or three hours during any day when school is in session.
 - b. Hours of Employment. Work must be performed between the hours of 7:00 a.m. and 7:00 p.m. Work may not be performed during school hours.
 2. Wages. Regardless of age, minors will be paid at least the federal minimum wage and overtime pay, unless the minor has been issued a special certificate by the U.S. Wage and Hour Administrator, allowing employment at wages below the minimum for apprentices, learners, messengers, students, and workers with disabilities.

3. Proof of Age. Prior to employment, a minor must provide proof of age in the form of either a federal certificate of age issued by the Wage and Hour division of the U.S. Department of Labor, a certificate of age issued by the Texas Workforce Commission, or a certified copy of the minor's birth certificate. Proof of age shall be maintained in the minor's permanent personnel file.
4. Hazardous & Restricted Occupations. No person under the age of 18 may be employed in an occupation considered to be hazardous. This includes work with most power-driven machinery, although exceptions may be made for minors employed in apprenticeship training programs. The prohibitions are specifically applicable to:
 - Driving a motor vehicle, with some exceptions
 - Wrecking, demolition, and shipbreaking occupations
 - Roofing, except for student learners and apprentices

ANTI-NEPOTISM AND EMPLOYMENT OF RELATIVES

I. PURPOSE

To help prevent favoritism and related morale problems, conflicts of interest, violations of security, and unlawful discrimination, to promote honesty and integrity in the operation of county business, and to comply with the provisions of Chapter 573 of the Texas Government Code which prohibits nepotism in public employment.

II. SCOPE

This policy applies to all Orange County employees, department heads, and elected officials.

III. POLICY

- A. Nepotism Prohibited. It is the policy of Orange County to comply with the nepotism prohibitions governing public employment as set forth in Chapter 573 of the Texas Government Code. That statute prohibits a public official from employing individuals who are related to the public official within the third degree of consanguinity or within the second degree by affinity, under the conditions outlined in the statute.
- B. Employment of Relatives Falling Outside the Nepotism Prohibitions. Applications for employment submitted by close family relatives of employees, and which fall outside the state nepotism prohibitions, shall be considered with other qualified applications when personnel vacancies occur. However, even situations where the anti-nepotism statute does not prohibit such employment, some restrictions in hiring and job placement of close family relatives may apply, as described in Section V of this policy, to prevent problems of supervision, safety, security, and morale.
- C. Discrimination Prohibited. Under no circumstances and in no respect are employment decisions regarding close family relative to be based on factors such as race, color, religion, sex, national origin, age, or disability, or any other characteristic or classification protected by law, or any factor other than those related to performance and the efficient operation of the county's business.

IV. DEFINITIONS

- A. Close family relatives for purposes of anti-nepotism laws. An individual related to a public official within the third degree of consanguinity or within the second degree by affinity. Two individuals are related to each other by consanguinity if one is a descendant of the other or if they share a common ancestor (including an adoptive parent-child relationship). Two individuals are related to each other by affinity if they are married to each other, if they have been married and a child of that marriage is living, or if the spouse of one of the individuals is related by consanguinity to the other individual.
- B. Close family relatives for purposes of employment falling outside the anti-nepotism laws. Such relatives include current spouse, children, parents, grandparents, brothers and sisters, including adoptive, step, and in-law relationships. For the purpose of this policy "spouse", as it pertains to close family relatives falling outside the anti-nepotism prohibitions, means those employees having a legal marital relationship, as well as employees involved in relationships, which in the judgment of the relevant department head/elected official, are characterized by the permanence, duration, and stability normally associated with marriage or a blood relationship, as described in Paragraph IV. A. above, and which could lead to the same problems of disruption in the workplace as a legal marital or blood relationship.
- C. Nepotism. Favoritism based on kinship, as prohibited by law.
- D. Position. A position includes any office, clerkship, employment, or duty with the county.
- E. Public official. A public official includes any officer of the county or any officer or member of a board of the county.

V. PROCEDURE

- A. Illegal Action. A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if: (1) the individual is related to the public official within the third degree of consanguinity or within the second degree by affinity (i.e., the individual is a close family relative of the public official), or (2) the public official holds the appointment or confirmation authority as a member of a local board or a court, and the individual is related to another member of that board or court (i.e., the individual is a close family relative of anyone on the board or court).

1. If an employee is employed for at least one year prior to a close family relative being elected in a general election to a public official position that has appointment, confirmation, or other employment authority over the employee, the employee may continue in his or her position held at the time of election of the close family relative. However, the close family relative may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the employee, if the action applies only to the individual employee and not to a class or category of employees. (See Chapter 573 of the Texas Government Code for different time periods applicable to the appointment of public officials, and the election of a public official at other than a general election).
 2. An employee employed for less than one year at the time a close family relative is elected in a general election to a public official position automatically loses his or her position, if the position held by the employee is one over which the close family member who has been elected has employment, appointment, or confirmation authority, or if the close family member is elected as a member of a board or group that has employment, appointment, or confirmation authority over the employee's position.
- B. Other Prohibited Action. Irrespective of the prohibitions of the Texas Government Code, and subject to the discretion of the relevant department head/elected official, close family relatives should not be hired into a department where they directly or indirectly supervise or are supervised by another close family relative, or where they work in positions which have an audit or control function over another close family relative.
1. If employees become related after employment and a conflict of interest or management problem of supervision, safety, security or morale result, or if a reorganization creates such a conflict, reasonable time may be provided to the employees to resolve the matter. An attempt should be made to transfer employees to comparable positions where possible. If transfer is not possible or practicable, the employees may, in the discretion of the department head/elected official, decide among themselves which individual is to resign. If the employees fail or chose not to decide which individual is to resign, or if resolution is not otherwise possible, the department head/elected official may terminate both employees or request both to resign, or may terminate the employee with the least seniority, or request that employee to resign.

- C. Access to Confidential Information/Conflict of Interest. Relatives should not be placed in positions where they work with or have access to sensitive or confidential information regarding other close family relatives, or where there is an actual or apparent conflict of interest.
- D. Violations/Disciplinary Action. Nepotism violations by an elected official should be reported directly to the County Attorney's Office. Violation of this policy and/or the anti-nepotism statute may lead to adverse action, including disciplinary action, up to and including termination, removal from office, criminal penalties and fines, and withholding of employment compensation.

PHYSICAL FITNESS, COMPETENCY, AND SKILLS REQUIREMENTS

I. PURPOSE

To establish guidelines by which a department head/elected official can evaluate the physical ability, competency, and skills of a county employee to perform his or her job duties in a satisfactory and safe manner, within the bounds of the law.

II. SCOPE

The policies listed below apply to all county employees, and may apply to job applicants, as specified in each policy.

III. POLICIES

- A. Policy No. 141: Physical Fitness Examinations
- B. Policy No. 142: Drug and Alcohol Testing
- C. Policy No. 143: Driving Standards

PHYSICAL FITNESS EXAMINATIONS

I. PURPOSE

To establish guidelines by which a department head/elected official can evaluate the physical ability of a county employee to perform his or her job duties in a satisfactory and safe manner.

II. SCOPE

This policy applies to all county employees, as well as job applicants, after a job offer has been made.

III. POLICY AND PROCEDURE

A. Job Applicants:

1. **Applicants for a county position shall not be required to submit to a physical examination prior to an offer of employment with the county being extended to any such applicant.** See also Policy No. 122: Americans with Disabilities Act Amendment Act; and Policy No. 720: Life-Threatening Illnesses and Contagious Diseases.
2. **After an offer of employment is made**, an applicant may be required to complete a physical examination, and the county may condition the job offer on the examination results, so long as **all applicants** for employment in the relevant job categories, as designed in advance by the relevant elected official/department head, are required to complete a physical examination after an offer of employment is made. No one, including an employee with an obvious disability, shall be singled out for a physical examination if the department does not generally require such examinations for the position or job category sought. Medical examinations of employees within a given job category must be job-related and consistent with business necessity.
3. The elected official/department head, or the Human Resources Department, where appropriate, should inform a job applicant at the time an offer of employment is made, that employment is made contingent upon the results of a physical examination.
4. An applicant required to obtain a physical examination after a job offer is made, shall be informed by the Human Resources Department that failure of the applicant to appear for the physical may be considered a rejection of the offer.

B. Employees:

1. Physical examinations, including X-rays, may be requested of an employee at any time by the department head/elected official to determine the employee's fitness for duty, and ability to perform the essential functions of his or her job. **However, employees shall not be required to test for AIDS, cancer, or any other condition, and shall not be required to complete a medical examination or answer inquiries as to whether an employee is an individual with a disability or as to the nature or severity of the disability, unless such examination, testing, or inquiry is job-related and consistent with business necessity.** See also Policy No. 122: Americans with Disabilities Amendment Act; and, Policy No. 720: Life-Threatening Illnesses and Contagious Diseases.
2. Employees not physically qualified to perform the essential functions of their positions, even with accommodation, or who are not able to be reasonably accommodated without undue hardship to the county, may be reassigned or terminated. See Policy No. 122: Americans With Disabilities Act Amendment Act.
3. Determination of the physical requirements necessary to perform any particular function shall be based upon the guidelines from the Department of Labor's Dictionary of Occupational Titles, as well as any applicable regulations promulgated by the Equal Employment Opportunity Commission, and any job descriptions promulgated by the relevant department head/elected official prior to requiring physical examinations for the given job category. A department head/elected official should consult with the Human Resources Department and/or the County Attorney's Office in determining whether an individual employee meets the physical requirements for a given job.

C. Selection of Physician and Scheduling of Appointments. The county shall select the physician to complete the physical examination. The Human Resources Department shall schedule all physical fitness examinations, upon request by the department head/elected official, and all such examinations shall be paid by the county.

D. Psychiatric Examinations. Psychiatric examinations may be required of applicants or current employees on the same basis as physical examinations.

1. Applicants. After making a job offer, a department head/elected official may require an employee to complete a psychiatric examination, if all entering employees in the same job category are required to submit to the same examination.
 2. Employees. A department head/elected official may require a psychiatric examination of a current employee if the employee asks for a reasonable accommodation and the need for the accommodation is not obvious, or if the department head/elected official reasonably believes, based on objective evidence, that the employee is having difficulty performing essential functions or poses a direct threat to his or her own safety or to the safety of the workplace because of a mental or emotional illness or condition.
- E. Compliance with the Americans with Disabilities Act. This policy shall in no way be applied in any given situation to violate the Americans with Disabilities Act Amendment Act or the county's policy of compliance with that statute. See Policy No. 122.
- F. Maintenance of Records. For reasons of confidentiality, all information regarding physical examinations, psychiatric examinations, medical conditions, and medical history shall be maintained on separate forms and in separate files by the Human Resources Department. See also Policy No. 180: Administration of Personnel Records.
- G. Results of Physical Examinations. Applicants and employees shall be provided the results of physical examinations, upon request.
- H. Confidentiality of Information. The information regarding an employee's physical condition shall be kept confidential, to the extent permitted by the Texas Public Information Act, Chapter 552, Texas Government Code, and any other applicable law, except that for the employee's safety and health, appropriate supervisors, safety personnel, and other relevant employees or officials, including those investigating the county's compliance with the Americans With Disabilities Act Amendment Act, may receive information about necessary work restrictions and accommodations.

DRUG AND ALCOHOL TESTING

I. PURPOSE

To establish drug and alcohol testing standards for county employees in order to develop and promote a drug and alcohol-free workplace to ensure a safe and productive work environment. To provide education and treatment to employees in need in order to further those goals.

II. SCOPE

This policy applies to all departments and employees of the county. Employees performing safety-sensitive functions for the county are, in addition to this policy, governed by:

- (1) The Orange County Alcohol and Drug Testing Policy & Procedures for Employees Performing Jobs Requiring a Commercial Driver's License (Appendix H)
- (2) Drug and Alcohol Testing for Transit Safety Sensitive Employees Policy promulgated by the Southeast Texas Regional Planning Commission (Appendix R).
- (3) Drug Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991, and the federal regulations implementing those statutes
- (4) This policy may be modified or preempted by the provisions of a collective bargaining agreement for those employees covered by the agreement

III. POLICY

- A. It is the county's objective to promote a safe and productive workplace, free of the influence of drugs and alcohol, by requiring drug testing upon reasonable suspicion or when an accident occurs involving a certain employee, or upon employment with the county, when mandated by the department head/elected official, and by providing education and treatment options to employees.
- B. **Orange County will not tolerate any drug or alcohol use on county premises by both current and prospective employees.** The unlawful manufacturing, distribution, dispensation, possession, sale, purchase, or use of a controlled substance, illegal drug, or drug paraphernalia, or attempting to or assisting another to do so, is prohibited on any county premises, while in the course of employment or conducting any county business, and while engaging in any county-sponsored activity. Being under the influence of illegal drugs or alcohol in the workplace or while conducting any county business or engaging in any county-sponsored activity is also strictly prohibited. See Policy No. 413: Substance Abuse, for additional information.

- C. Any employee who engages in any of the activity described in Paragraph III.B., as well as any employee who is convicted of a statutory offense involving use of illegal drugs or alcohol, may be subject to disciplinary action, up to and including termination of employment.
- D. Switching, adulterating, or attempting to tamper with any sample submitted for drug or alcohol testing, or otherwise interfering or attempting to interfere with the testing process is prohibited and may subject the offending employee to disciplinary action, up to and including termination of employment.
- E. Drug addiction and alcoholism are recognized as diseases responsive to proper treatment, and employees with substance abuse problems are encouraged to seek treatment for such. Employees who identify themselves to a county official, department head or the Human Resources Department as being addicted to drugs and/or alcohol may be referred to a drug or alcohol abuse treatment/rehabilitation center or program. Voluntary inquiries will be maintained in confidence, except where disclosure is necessary to protect the health or safety of the employee, other employees, or members of the public.

IV. DEFINITIONS

- A. County Premises: All county property including but not limited to vehicles, heavy equipment, precinct barns, lockers, and parking lots.
- B. County Property: All county-owned or leased property used by employees, such as vehicles, lockers, desks, closets, etc.
- C. Controlled Substance: Any substance listed in Schedules I-V of Section 202 of the Federal Controlled Substance Act, 21 U.S.C. Section 812, et seq., as amended.
- D. Drug: Any chemical substance that produces a physical, mental, emotional, or behavioral change in the user.
- E. Drug and Alcohol Test: A blood, breath, saliva, or urine test to determine chemical, drug, or alcohol content or any other means as determined. Testing may occur in the following instances:
 - (1) Pre-employment or upon employment
 - (2) Upon reasonable suspicion
 - (3) Upon a work-related accident or on-the-job injury to the employee or another

- F. Drug Paraphernalia: Equipment or material used or intended for use in concealing an illegal drug or injecting, ingesting, inhaling, or otherwise introducing into the human body an illegal drug or controlled substance.
- G. Fitness for Duty: The ability to work in a manner suitable for the job.
- H. Illegal Drug: Any drug or derivative thereof, the use, possession, sale, transfer, attempted sale or transfer, manufacture or storage of which is illegal or regulated under any federal, state, or local law or regulation, and any other drug, including but not limited to a prescription drug, used for any reason other than a legitimate medical reason, and inhalants used illegally. Included is marijuana or cannabis in all forms.
- I. Illegal Use of Drugs: The use of drugs, the possession or distribution of which is unlawful under the Controlled Substance Act, 21 U.S.C. § 812, et seq., as amended. Such term does not include the use of a drug taken under the supervision of a licensed healthcare professional, or other uses authorized by the Controlled Substances Act or other provision of federal law.
- J. Intoxication (Under the Influence): A physical state of having a blood alcohol concentration constituting legal intoxication under the applicable provisions of state and federal law (currently 0.08 or more under Chapter 49 of the Texas Penal Code), with "alcohol concentration" having the meaning assigned to it under Chapter 49 of the Texas Penal Code or not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance, into the body.
- K. Negative Test Results: Results of a drug test that indicate no drugs or alcohol in an employee's system other than medications prescribed for that employee.
- L. Reasonable Suspicion: The county may require a current county employee to undergo drug and alcohol testing if there is a reasonable suspicion that the employee is under the influence of drugs or alcohol during work hours. "Reasonable suspicion" means an articulable belief, based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Circumstances which constitute a basis for a "reasonable suspicion" may include, but are not limited to:
 - 1. A pattern of abnormal or erratic behavior
 - 2. Information provided by a reliable and credible source
 - 3. A work-related accident
 - 4. Direct observation of drug and alcohol use

5. Physical symptoms of drug or alcohol use, i.e., glassy or bloodshot eyes, odor of alcohol on breath or person, slurred speech, poor coordination, lack of concentration, and/or poor or uncontrolled reflexes
 6. Recent history of alcohol and/or drug use
 7. Unprovoked anger or physical or verbal altercation
 8. Possession of alcohol or illegal drugs
 9. Self-admission of intoxication or of being under the influence of illegal drugs
 10. Direct observation or knowledge of unlawful manufacturing, distribution, dispensation, or possession of illegal drugs or controlled substances
- M. Safety-Sensitive Function/Position: A position involving job duties when if performed with inattentiveness, error in judgement, or diminished coordination, dexterity or composure may result in mistakes that could present a real or imminent threat to the personal health and safety of the employee, co-workers or the public.

V. PROCEDURE

- A. Each department head/elected official may elect to have all new employees or job applicants, within the department or within a specific job category, tested for the illegal use of drugs. Any such election should be communicated directly to the Human Resources Department by the department head/elected official.
- B. An individual employee may be tested upon reasonable suspicion, as defined in IV.L, or when involved in an accident or an on-the-job inquiry.
- C. A department head/elected official will contact the Human Resources Department to arrange to have an employee undergo substance abuse testing.
- D. All substance abuse tests will be conducted at a licensed medical or laboratory facility, using generally recognized procedural safeguards and confidentiality requirements.
- E. All drug testing is to be administered and all related records are to be maintained by the Human Resources Department. All employees or applicants to be tested are to be referred to the Human Resources Department.
- F. A positive drug or alcohol test may be grounds for the withdrawal of an employment offer to a job applicant, and may subject an employee to disciplinary action, up to and including termination of employment, as well as civil and criminal legal action. See Policy No. 450: Corrective Action - Disciplinary Procedures, for more information.

- G. Refusal by an employee to submit to a drug or alcohol test as required by the department head/elected official, or testing positive for illegal drugs or alcohol, may result in disciplinary action, up to and including termination, depending upon the facts and circumstances involved in the individual situation. See Policy No. 450: Corrective Action - Disciplinary Procedures, for more information.
- H. Employees suffering from alcoholism (but not those engaged in current illegal drug use) shall be reasonably accommodated as required by the Americans with Disabilities Act Amendment Act. See Policy No. 122.

DRIVING STANDARDS

I. PURPOSE

To establish standards for county employees who routinely drive county vehicles in order to ensure the safety of employees and members of the public.

II. SCOPE

This policy applies to all departments, employees, and applicants for employment. Employees performing jobs for the county requiring a commercial driver's license are, in addition to this policy, governed by the Orange County Alcohol and Drug Testing Policy & Procedures for Employees Performing Jobs Requiring a Commercial Driver's License, made a part of this manual as Appendix H, as well as the Drug Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991, and the federal regulations implementing those statutes.

III. POLICY AND PROCEDURE

A. Disclosure of Driving Record.

1. Prospective county employees. An applicant for a position that requires the regular operation of a county vehicle shall, upon an offer of employment with the county, provide, at the request of the relevant department head/elected official, and at the applicant's own expense, a copy of his or her driving record for the preceding five years. Employment may be conditioned on the contents of the driving record. Such report shall be provided to the Human Resources Department, along with other requested employment information and documentation.
2. Current county employees. For insurance purposes, the Human Resources Department shall obtain, on a yearly basis and at the expense of the county, the driving records for the past five years from the Texas Department of Public Safety, of all county employees who routinely operate county vehicles. The Human Resources Department shall make the results available to each affected department.

- #### **B. Designation of Positions by Department Heads/Elected Officials.**
- Each department head/elected official shall be responsible for designating those positions within their departments which require regular operation of a county vehicle, and communicating that information to the Human Resources Department. Such designation may be based on U.S. Department of Transportation regulations and any other applicable law.

- C. Poor Driving Record. An existing employee may be disciplined, reassigned, or terminated, and a prospective employee may be denied employment, if the applicant's or employee's position involves the regular use of a county vehicle and his or her driving record reveals violations that, when evaluated under the point system established by the Texas Department of Public Safety, as set forth below, equal or exceed an unacceptable score, or if the employee's supervisor, department head, or elected official otherwise determines that the employee's driving record, regardless of the number of moving violations, otherwise indicates a pattern of unsafe driving. Employees with a score of ten points or more are ineligible under the county's insurance policy, to operate the county's vehicles. The county's policy of employment at will is unaffected by the point system.

D.	<u>Driver's Point System.</u>	<u>Points</u>
1.	Vehicular Homicide	12
2.	Vehicular Manslaughter	12
3.	Negligent Homicide	10
4.	Hit and Run	10
5.	Driving Under the Influence of Drugs/Alcohol	10
6.	Driving With Suspended License	10
7.	Unlawful Use of Driver's License	10
8.	Leaving the Scene of an Accident	8
9.	Accidents in Which the Employee Is At Fault	4
10.	Speeding in a School Zone	4
11.	Failure to Yield to School Bus	4
12.	Pedestrian Violations	4
13.	Unsafe Speed	3
14.	Failure to Yield Right of Way	3
15.	Disregarding a Stop Sign	3
16.	Failure to Appear	3
17.	Driving In an Improper Lane	3
18.	Driving On the Wrong Side of the Road	3
19.	Driving In the Wrong Lane	3
20.	Turning from Wrong Lane	3
21.	Failure to Control Vehicle	3
22.	Illegal Passing	3
23.	Speeding	3
24.	Accident (Not at Fault)	2
25.	Expired Inspection Sticker	2
26.	Expired Driver's License	2
27.	Defective Equipment	2

- | | | |
|-----|---|---|
| 28. | Failure to Use or Dim Lights | 2 |
| 29. | Any Other Moving Violation not Listed Above | 2 |

E. Review Upon Request of Department Head/Elected Official. In addition to the disclosure of driving records required upon an offer of employment and on an annual basis, the driving record of any employee who routinely operates a county's vehicle may be obtained by the Human Resources Department at the expense of the county, upon request of the relevant department head/elected official, and reviewed by that department head/elected official, at any time.

DATE OF HIRE/DATE OF TERMINATION

I. PURPOSE

To standardize the method and manner by which an employee's date of hire and date of termination are determined.

II. SCOPE

This policy applies to all employees and department heads of Orange County.

III. POLICY

A. Effective Date of Hire.

1. An employee's date of hire is the first day he or she is required to be physically present at the job site to perform the duties of his or her job.
2. The date of hire for a regular full-time position filled by a part-time or temporary (extra-help) employee shall be the first day the employee is required to be physically present at the job site to perform the duties of his or her full-time position.

B. Effective Date of Termination.

1. Except as provided in Paragraph II B. below, an employee's termination date shall be the employee's last day physically present at the job site, or, if the employee is on leave at the time of termination, the last day the employee is eligible for leave.
 - a. An employee who is terminated loses eligibility for continued leave and other benefits, except when otherwise provided by law or county policy.
2. When existing employee is not rehired or retained by a newly-elected official, his or her termination date shall be the date the prior elected-official's term of office or commission expired.

ORIENTATION PERIOD

I. PURPOSE

To establish a probationary period during which new employees shall become oriented to their new positions, and demonstrate their skills and capabilities for performing their duties, as well as their commitment to their positions.

II. SCOPE

This policy applies to all newly hired and rehired regular, full-time employees.

III. POLICY

- A. During the first 90 days of employment with the county, a new employee and a rehired employee whose period of employment is not bridged as described in Policy No. 170 shall be subject to a probationary period during which the employee is to become oriented with the job. During that time, an employee shall not be eligible to receive employment benefit of sick leave, although leave benefits shall accrue during the initial 90 days. The employee shall receive health benefits after 60 days. See also Policy No. 313: Sick Leave; Policy No. 350: Insurance Benefits.

REHIRE AND REINSTATEMENT OF BENEFITS AND SENIORITY

I. PURPOSE

To establish guidelines for rehiring former employees, and administering the benefits and conditions accompanying such rehires.

II. SCOPE

This policy applies to all former employees rehired by the county to regular, full-time positions.

III. POLICY

Where a former employee applies to be rehired, he or she will be evaluated on the same basis as other applicants. However, special consideration may be given to past job performance, the circumstances surrounding separation from previous county employment, the amount of time elapsed from the date of separation, and the former employee's knowledge of county's procedures and functions.

IV. PROCEDURE

- A. Bridging Employment Upon Rehire. An employee rehired within thirty consecutive working days after the termination of his or her employment with the county will have his or her service bridged. As such, the employee will retain the original date of hire and will continue to accrue benefits, including vacation and sick leave, at the same rate as before separation. Insurance benefits previously in effect shall also continue, unless changes in family status, etc., are designated by the employee, requiring modification in insurance benefits. Benefits shall not accrue or be paid for the period of unemployment.
- B. New Date of Hire. An employee rehired after a period greater than thirty consecutive working days shall receive a new date of hire, and shall be treated the same as a new hire for purposes of benefits and seniority.
- C. Reinstatement of Benefits and Seniority. An employee with previous employment with the county, who is rehired before July 1, 2013, as specified in Paragraph IV.B. above, may, after 24 months of additional continuous service beginning on the date of rehire, have his or her seniority restored, receive longevity pay, and receive any increased vacation benefits and increase in pay matrix benefits (revised October 5, 2009) as a result of the increased seniority. Any rehire as of July 1, 2013 is not entitled to reinstatements of benefits or seniority of any previous service and will receive the same benefits as any new

hire. (Effective July 1, 2013)

D. Retiree Rehire: Retired employees shall be eligible to apply for open positions with Orange County as long as the following provisions are met.

1. The retiree has been retired for at least 30 days/1 calendar month
2. No prior arrangement or agreement was made between Orange County and the retiree for re-employment

Any retiree who meets all other TCDRS requirements, who is rehired consistent with this policy, must establish a new membership with TCDRS and will be considered to be a new member for the purpose of beneficiary determination and benefit selection.

ADMINISTRATION OF PERSONNEL RECORDS

I. PURPOSE

To establish standards by which information contained in personnel records will be managed to achieve accuracy, privacy, and compliance with state and federal law.

II. SCOPE

This policy applies to all departments and employees of the county.

III. POLICY

- A. Maintenance of Records. Personnel records shall be maintained which contain information on each county employee to meet state and federal legal requirements and to insure efficient personnel administration. **Such records shall be maintained by the Human Resources Department, and department heads and elected officials should forward all personnel records to that department for filing and maintenance,** although department heads and elected officials may maintain duplicate copies of personnel records in their own departments, except those records designated in Policy No.'s 122,123,141,142,720, and this policy. The file maintained by the Human Resources Department shall be the employee's permanent county personnel file.
- B. Notification of Changes. Changes of address, telephone number and/or family status (births, marriage, death, divorce, legal separation, etc.) must be reported immediately to the Human Resources Department, as an employee's income tax status and group insurance may be affected by such changes. **NOTE: By the terms of the county's group insurance plan, changes affecting group medical insurance, such as new additions to an employee's family, must be reported to the insurance company by the Human Resources Department within 30 days of the date of the change (i.e., during the open enrollment period), or the additional coverage will not be provided under the policy. Therefore, the Human Resources Department must receive any such information as soon as possible after the change.**
- C. Records Access.
 - 1. Employee personnel records are available in the Human Resources Department to the employee, an agent of the employee who has the written release of the employee to obtain such information, and, except as specified in this policy or other policies in this manual, the employee's supervisor and elected official or department head or his or her designee.

2. Personnel records, with certain exceptions, are also subject to public disclosure upon receipt of a written request for such information, pursuant to the Texas Public Information Act, Chapter 552, and Texas Government Code. Personnel files are the property of the county and the originals may not be removed from the Human Resources Department, except upon express permission of the Human Resources Director.

- D. Information Requests and Employment References. Requests for personnel information received from other departments and from members of the public, including requests for references on current or former employees, should be directed to the Human Resources Department or forwarded to that department by the department head/elected official receiving such a request.

IV. PROCEDURE

- A. Personnel File Contents. When an employee is hired at the county, a permanent personnel file shall be established in the Human Resources Department generally containing the following information, as received:
 - Application for employment and related hiring documents, such as resumes, college transcripts, and references from previous employers
 - Personal information changes and notices of pay and employment status changes, including changes affecting income tax withholding
 - Performance documents including performance appraisals and disciplinary action reports
 - Certificate reimbursement documentation
 - Pay advance requests and Affidavits in Support of Absence From Work
 - Other documents pertaining to employment such as appreciation letters, employment contracts, driving records, employment verifications, training records and certificates, and records of outside achievements
 - Request to view the employee's file.
- D. Contents of Separate Files. The following information shall be maintained in separate files by the Human Resources Department only. The information may be exempt from disclosure under the Texas Public Information Act.

- Medical records, including any results of medical examinations and drug tests, worker's compensation records, certifications by health care providers, documents necessary for the administration of county benefit programs, and any investigatory information
- I-9 forms for the Department of Immigration & Naturalization
- Sexual Harassment Grievance and Complaint Forms and related investigations

C. Examination of an Employee's Personnel File. Inspection of an employee's personnel file may be accomplished at reasonable times during office hours under the following conditions:

1. Employee.

- a. Employees may examine their own files, at reasonable times, by submitting a "Request to Review Personnel Records" form to the Human Resources Department, at least 24 hours prior to the time the employee wishes to review the records. A copy of this form is made a part of this Appendix I, and additional copies are available through the Human Resources Department. Due to the limited time and resources of the Human Resources Department, requests to review files should be limited to those necessary to complete personal or county business. Any such review of an employee's file shall take place in the Human Resources Department with an employee of the Human Resources Department present. Notes of pending legal or disciplinary investigations in progress, if any, shall be removed before the employee views the file.
- b. An employee may obtain a copy of documents in his or her file upon request, with 48 hours advance notice to the Human Resources Department. The Human Resources Department shall charge five cents per page for all copies made.
- c. An employee may view the file of another employee or elected official, and obtain copies of any such records, only by making a proper written request under the Texas Public Information Act. See Paragraph IV.C.4. below. The Request to Review Personnel Records form is not to be utilized for this purpose. The Human Resources Department shall charge five cents per page for all copies made.

2. Supervisors, Department Heads/Elected Officials. Supervisors, department heads, and elected officials may examine active and terminated employee files on a "need to know" basis as determined by the Human Resources Department, excluding those documents listed in Paragraph IV.B. above, except as access to those documents is authorized by another county policy or by law.
 3. Government Inquiries. All inquiries from federal, state, and local government agencies investigating an employee shall be referred to the Human Resources Department, who shall consult with the County Attorney's Office to determine the propriety of responding to such requests and the procedures for doing so. Outside counsel may be consulted if the employee being investigated is an employee of the County Attorney's Office. The investigator(s) shall be required to furnish proper identification and proof of legal authority to investigate. As deemed appropriate by the Human Resources Department, in consultation with the County Attorney's Office, the county may permit a government investigator to review a personnel file on county premises, or to remove or reproduce the information.
 4. Public Information Requests. As a governmental entity, the county is subject to the provisions of the Texas Public Information Act (formerly the "Texas Open Records Act"), Chapter 552, Texas Government Code. As such, personnel records, with the exception of certain information exempted from disclosure by the statute are subject to disclosure to the public upon a written request for such information. It is the policy of the county to comply with requests for public information, except when the information requested is exempt from disclosure by law. Every employee, department head, and elected official may choose whether to allow public access to the individual's home address, home telephone number, and social security number, as well as to information that reveals whether the person has family members, by written election of the employee upon employment. See Appendix J.
- D. Information Requests and Employment References. Requests for information and employment references on current or former employees will be provided by the Human Resources Department, as follows:

1. References with Written Approval. If an employee wishes the county to verify information requested by outside sources for credit or other purposes, a release form with the employee's signature must accompany the request. Employees may utilize the "Authorization for Release of Employment Information" form, made a part of this manual as Appendix K, for that purpose. Additional copies of the form are available through the Human Resources Department. Upon a written request for information by another employer or creditor, salary history, job chronology and performance information may be released, with the written approval of the employee or ex-employee. The requested information will be released in writing by the Human Resources Department only and a copy maintained in the employee's personnel file along with a copy of the Authorization for Release of Employment Information.
 2. Verification of Information. The following information may be verified only by the Human Resources Department without specific written approval of the employee and upon receipt of a written request via facsimile transmission, or U.S. mail:
 - Date of hire and date of termination
 - Job title(s)
 - Salary stated by inquirer
 3. Telephone Inquiries. The Human Resources Department will not respond to any telephone inquiries for information pertaining to a current or former employee.
- E. File Retention. Originals of personnel records shall be maintained in the Human Resources Department. The Human Resources Department will forward at the end of each calendar year the personnel files of all employees separated from employment during that year, excluding those records listed in Paragraph IV.B. above, to the Records Preservation Department for microfilming, archiving, and permanent maintenance. The hard copy of the personnel file shall be retained for five years after an employee's separation date, and maintained by Records Preservation. Records listed in Paragraph IV.B., as well as any other records specified by law to be maintained separately, shall be maintained by the Human Resources Department for at least five years after an employee's termination date.

200. WAGE AND SALARY ADMINISTRATION

HOURS OF WORK, WORKDAY, AND WORKWEEK

I. PURPOSE

To establish the hours of employment in the county's basic workday and workweek.

II. SCOPE

This policy applies to all regular, full-time county employees.

III. POLICY

The county follows a normal work schedule commencing on Monday and running through Friday, from 8:00 a.m. to 5:00 p.m., 40 hours per week. The schedule and requirements of some departments may vary, according to the guidelines set forth by the elected official/department heads and the business needs for the respective departments. Elected officials/department heads are responsible for determining the work schedule of each employee in the respective department, and may set alternate work schedules, such as ten hours per day for four consecutive days per week, based on the needs of the relevant position. However, schedules set by the elected officials/department heads should be made in a fair and equitable manner, and in such a manner as to prevent or eliminate as much overtime as possible.

PAY PERIODS AND PAYDAYS

I. PURPOSE

To establish the county's pay periods and paydays to efficiently administer the payment of wages, salaries and overtime.

II. SCOPE

This policy applies to all county employees.

III. POLICY

- A. Pay Periods. The payroll period encompasses a two week period beginning on Monday and running through Sunday of the second week ending at 12:00 midnight. There are normally 26 pay periods within a calendar year.
- B. Paydays. Employees shall be paid once every two weeks on the Thursday following the end of the two-week payroll period.

MINIMUM WAGE

I. PURPOSE

To establish a minimum level of compensation to be paid to all county employees.

II. SCOPE

This policy applies to all county employees.

III. POLICY

All county employees shall be paid according to the grade/step compensation program set forth in Policy No. 240 of the manual. Under no circumstance shall the grade/step classification assigned to any employee fall below the minimum wage rate set by federal and/or state law.

PAY MATRIX COMPENSATION PROGRAM

I. PURPOSE

To establish and maintain a fair and equitable grade step classification system that ensures internal compensation's equity, as well as market competitiveness with the private sector and other governmental entities.

II. SCOPE

This policy applies to all employees, except those specifically exempted as set forth herein.

III. POLICY

- A. Employees Exempted. The following county employees are exempt from the Pay Matrix classification system:
 1. Adult Probation & Court Reporters. The schedule of compensation for these individuals is determined by the State law, State of Texas and the Board of Judges or by the Commissioners Court, in accordance with state law
 2. Part Time And Temporary Employees
- B. Pay Group for Orange County Employees Pay Matrix. The classification system shall consist of 3 Pay Groups: (P) Professional; (E) Exempt, and (NE) Non-Exempt. Pay Groups are based upon the duties, responsibilities, qualifications, knowledge, skills and abilities required by the position.
- C. Levels for Orange County Employees Pay Matrix. Each Pay Group classification shall be divided into a total of five step increments based on years of service: (0) 0-4 years, (5) 5-9 years, (10) 10-14 years, (15) 15-19 years, and (20) 20 years and over.
- D. Pay Matrix Schedule: The Human Resources Department shall publish a Pay Matrix schedule reflecting the rate of compensation for each pay group and level offered by the county, and maintain and update such schedule as increases or changes are made by the Commissioners Court. The Human Resources Department shall maintain the official copy of the Pay Matrix schedules for the county that have been approved by Commissioners Court. See Appendix L for Pay Matricess. (L-1 Orange County Employees Pay Matrix, L-2 County Auditors Department Matrix, L-3 Sheriff's Office Matrix from the Collective Bargaining Agreement and L-4 Elected Official Matrix)

IV. PROCEDURE

A. Administration of Pay Matrix Classification System.

1. New Employee. New employees will be hired at level 0 of the grade to which the position is assigned until they reach one full year of service. Thereafter, they will reach new levels as follows:

New Hire -	Level 0
5 Years -	Level 5
10 Years -	Level 10
15 Years -	Level 15
20+ Years-	Level 20

2. Interdepartmental Transfers, Promotions, and Demotions.

- a. Lateral Transfers. Where a vacant position is filled by an existing employee holding a position of the same Pay Group within the same matrix prior to transfer, the transferring employee shall retain the same years of service level of pay within that Pay Group as held by that employee in his or her previous position; **unless**, the transferring employee moves to a department outside of their current Function Group of Government Departments, the employee would start over at level 0 and move up to each level based on years in current position not date of hire. See Policy 240 page 4 of 4 for a list of the Function Groups by Government Departments.
- b. Promotions. Where a vacant position is filled by an existing county employee who occupied a position of lesser pay group prior to the promotion, the employee who receives the promotion shall be placed at the pay group assigned to the position to which the employee is promoted, and at a level of pay based on the employees years of service **unless** the promotion is in another Function Group of Government Departments, the employee would start at a level 0 and move up to each level of pay based on their current position, not their date of hire. See Policy 240 page 4 of 4 for list of departments.
- c. Demotions, Disciplinary & Non Disciplinary. When an employee is demoted, the transferring employee shall assume the lower pay group assigned to the position to which the employee is demoted. Within that pay group the employee shall be placed at a level of pay based on the years of service unless the demotion is in another Function Group of the Government Departments, the employee would start at a level 0 and move up to each level of pay based on their current position not date of hire. See Policy 240 page 4 of 4 for list of departments.
- d. Longevity Pay. An employee's right to longevity compensation shall not be affected by any transfer, promotion, or demotion. See also Policy No. 260: Longevity Pay.

B. Changes in Compensation.

1. Cost of Living Adjustments (COLA). The Commissioners Court may authorize an across-the-board cost of living adjustment annually. All pay changes shall become effective beginning on the 1st full pay period following the pay increase event date beginning fiscal year October 1, 2012. (Revised: September 24, 2012) The cost of living adjustment shall be in the form of a percentage applied to every pay group and level uniformly. This COLA applies to employees whose pay is under the authority of Commissioners Court. Those employees under the authority of the Board of District Judges, as well as, the Sheriff's Office employees covered by the collective bargaining agreement are handled separately. The Human Resources Department, with the assistance of the County Auditor and/or the County Treasurer, shall publish a revised Pay Matrix schedule reflecting the across- the-board cost of living adjustment.

- C. Reclassification. Any department head or elected official may submit a reclassification to the Human Resources Department beginning June 1st of each year through June 30th. The reclassification should consist of a copy of the positions current job description and the new job description to include the specific changes that justify the reclassification. The Human Resources Department will submit the reclassifications to Commissioners Court for final approval and adoption. All changes for reclassifications should be effective upon fiscal year and budgeted for such changes.

[The rest of this page is intentionally blank; see Function Groups on following page]

Function Groups by Government Departments: updated 6/23/2020

Administrative/Financial

County Judge
Human Resources
Auditors
Purchasing
SO Administrative Staff
Tax Office
Treasurer

Legal/Judicial

County Attorney
County Clerk
County Courts at Law
Court Administrator
District Clerk
District Courts
Justice of the Peace Courts
Juvenile Probation
SO Clerical
Adult Prob – Supervision Clerk

Health & Welfare

Environmental Health
Emergency Management
Extension
Mosquito Control
Park
Social Services
Veterans

General Government

Elections Administration
Risk Management
Mailroom
MIS
Records Management

Maintenance/Public Works

Maintenance
Road & Bridge
SO Fleet
Transportation
Orange County Airport

OVERTIME: NON-EXEMPT EMPLOYEES

I. PURPOSE

To provide guidelines to administer overtime pay to comply with applicable federal and state wage and hour regulations.

II. SCOPE

This policy applies to non-exempt employees only.

III. POLICY

County overtime pay policy is intended to conform to the overtime provisions of the Federal Fair Labor Standards Act and any applicable state laws. Exemption from the overtime pay requirements will be claimed by the County for an employee only when it can clearly be established that the employee's duties and responsibilities meet the requirements for such exemption. *See also* Policy No. 111: Exempt/Non-Exempt Employee Status.

It is the policy of the County to authorize overtime only in cases of emergencies, or when otherwise determined by the Commissioners Court, or by the relevant department head/elected official operating within the budget set by the Commissioners Court, to be necessary for the efficient operation of the County's business.

IV. PROCEDURE

- A. Non-exempt employees will be paid overtime pay for hours worked in excess of the allowable number of hours under the Fair Labor Standards Act: 40 hours per seven-day workweek for non-law enforcement employees; 84 hours per 14-day work period for Patrol Division; and 85.75 hours per 14-day work period for Jail Division for certified law enforcement officers and certified jailers.
- B. Overtime for hours worked by non-exempt employees exceeding the maximum allowable hours as set out on Paragraph IV.A. above, will be paid at a rate of time-and-one-half (1.5) the employee's regular rate of pay.
- C. Employees who work on a day designated as a county holiday will receive eight (8) hours pay for the holiday, in addition to overtime pay at time-and-one-half (1.5) of their regular rate of pay for hours worked, so long as 40 hours, including the holiday, have been accumulated. A paid holiday not worked shall be credited as a regular workday to compute weekly overtime, except as modified by collective bargaining agreement. *See also* Policy No. 312: Holidays.

- D. Subject to Paragraph IV.C. above, only hours actually worked will be used to calculate overtime pay. Paid time off for jury duty, vacation, sick leave, or any leave of absence will not be considered "hours worked."
- E. Except in emergency situations, overtime hours to be worked by non-exempt employees must be authorized in advance by the department head/elected official. The department head/elected official determines what constitutes an emergency.
- F. Employees who are called out to work overtime shall be paid for a minimum of four hours straight time, or time and one-half (1.5) for actual hours worked, whichever is greater. The four hours straight time shall not count toward hours worked for purposes of overtime calculation, unless such hours are actually worked. Department head/elected officials shall maintain sufficient records to determine hours worked by employees on "call outs" to calculate overtime.
- G. **COMPENSATORY TIME** off in lieu of overtime pay shall be permitted exclusively as follows:
 - 1. When operating needs or other requirements cannot be met during regular working hours, employees may be scheduled to work overtime hours. When possible, advance notification of these assignments will be provided. All overtime work must receive prior authorization from the employee's supervisor, Department Head, or Elected Official. Overtime worked without prior authorization may result in disciplinary action.
 - 2. Overtime accrual is calculated for all nonexempt employees in accordance with federal and state wage and hour restrictions. Compensatory time is based upon actual hours worked in excess of the employee's regularly scheduled hours during a given pay period will be counted. Time off on sick leave, vacation leave, holiday or any leave of absence will not be considered hours worked for the purposes of performing compensatory time calculations. Additional hours worked in a pay period that includes leave taken or holidays may qualify for straight compensatory time.
 - 3. Non-exempt employees may be compensated for overtime in the following ways, listed in the County's order of preference:
 - a. equal time off within the same pay period;
 - b. compensatory time off at one and one-half times the number of hours actually worked; or
 - c. paid overtime, provided that overtime for the position is budgeted in department budgets and the employee has department head approval.

4. The maximum total amount of unused compensatory time a non-exempt employee may accrue at any time is 60 hours (i.e., 40 overtime hours compensated at one and one-half hours each).
 - a. If an employee has accrued compensatory time in excess of the permissible amount set forth herein, the employee's Department Head or Elected Official must identify a deliberate course of action to reduce the accrued hours to within the maximum limit in a reasonable amount of time. It is the Department Head or Elected Official's responsibility to monitor the plan and ensure compliance with this policy.
 - b. An employee's total amount of unused compensatory time must be within the maximum permissible limit before he or she can use accrued vacation.
5. This Section IV.G. shall become effective on January 1, 2022, with the first accrual period ending on September 30, 2022. Thereafter, the accrual period for compensatory time shall run each year from October 1st to the following September 30th.
 - a. Employees shall use any and all accrued compensatory time within the same fiscal year such time was accrued.
 - b. At the conclusion of each annual accrual period, the County shall "buy back" all unused compensatory time accrued in the prior fiscal year. Payout for such unused time will be included in the employee's second pay period in October.
 - c. In the event that an employee who receives a promotion, demotion, FLSA status change, or department change has unused accrued compensatory time, the County shall pay out the accrued compensatory time balance:
 - i. at the employee's pay rate immediately prior to such change, and
 - ii. not later than the second pay period following the effective date of such change
6. Employees may, and are encouraged to, use earned compensatory time within a reasonable period after it is requested provided that the employee's absence will not place an undue hardship on the operations of the department in which the employee works. Compensatory time may be used for any purpose desired by the employee, with supervisor approval. Orange County will have the right to require employees to use earned compensatory time at the convenience of the county.

7. An employee who leaves the employment of the County for any reason shall be paid for all unused compensatory time in accordance with the requirements of the FLSA.
 8. Each employee shall be responsible for recording any compensatory time accrued or used within a pay period on a form that shall be provided by the County. Such form must be signed by the employee's supervisor and submitted to Human Resources at the conclusion of the pay period during which such time was accrued or used.
- H. Department heads/elected official, as well as the Human Resources Department, shall maintain accurate and complete records of overtime hours worked by each and every employee. See also Policy No. 280: Employee Time Records.

Policy No. 260

Date: October 1, 1999

Revised: October 1, 2007

Revised: June 24, 2013

Revised: October 1, 2019

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LONGEVITY PAY

I. PURPOSE

To provide a schedule of extra compensation to county employees for long term employment and service to the County.

II. SCOPE

This policy applies to all regular full-time employees of the county.

III. ELIGIBILITY

A. Longevity pay shall accrue as follows, based on the number of years of continuous service and calculated as the applicable rate per service year per month:

- | | |
|--|--------|
| 1. Five to Nine Years of Service: | \$3.00 |
| 2. Ten to Fourteen Years of Service: | \$4.00 |
| 3. Fifteen to Nineteen Years of Service: | \$5.00 |
| 4. Twenty to Twenty-Four Years of Service: | \$6.00 |
| 5. Twenty-Five Years & Over: | \$7.00 |

IV. PROCEDURE

A. Accrual. An employee who has met the required number of years, as set forth in above Paragraph III.A., by September 30th of each fiscal year will receive longevity pay in a single lump sum on the 1st pay period of November of the year following the employee's completion of the required number of years of service. Such service must be continuous, except as specified in Paragraph IV.B. below.

B. Employees With Previous Employment. Employees with previous employment with the county rehired before July 1, 2013 shall have their longevity pay benefits restored after twenty-four months of continuous service following reemployment, by adding the employee's previous length of time with the county to the length of current employment to determine the amount of longevity pay for which the employee is eligible. Any rehire as of July 1, 2013 is not entitled to reinstatement of benefits or seniority of any previous service and will receive the same benefit as any new hire. See also Policy No. 170: Rehire and Reinstatement of Benefits and Seniority.

C. Unaffected By Transfers, Promotions, Demotions. An employee's longevity pay shall remain unaffected by any transfer, promotion, or demotion, including disciplinary demotions.

- D. Termination of Employment. Accrued longevity pay shall be paid upon termination of an employee's employment at a computed rate based on the rate earned upon termination. Longevity will not be paid upon termination of employment if termination is the result of disciplinary action taken against the employee, (*i.e.*, the employee is fired for disciplinary reasons).
1. Termination for disciplinary reasons does not include a reduction in force, elimination of the employee's position, voluntary resignation by the employee, failure of a newly elected official to rehire or redeputize the employee upon taking office, or termination required by the anti-nepotism prohibitions or the county policy governing employment of relatives within a department, unless the employee engages in illegal action or action warranting discipline under that policy.
 2. If accrued longevity is paid upon termination, pay will be computed based on the rate earned upon termination.
- E. In the event that payment of longevity compensation under this policy to any elected official results in that official's total compensation exceeding the statutory maximum permissible for the official's position, the County will reduce the official's longevity payment by such amount as is necessary to keep the official's total compensation within the statutory limits.

PAYROLL DEDUCTIONS

I. PURPOSE

To provide notice of all mandatory and discretionary deductions from the county employee's payroll check.

II. SCOPE

This policy applies to all county employees.

III. POLICY

A. Mandatory Deductions. Deductions will be made from the employee's payroll check for the following purposes:

1. Federal Social Security, including Medicare
2. Federal Income Taxes
3. Court-Ordered Child Support
4. Texas County and District Retirement System contributions (for all full-time employees and eligible department heads/elected officials)
5. Any other deduction required or authorized by law

B. Discretionary Deductions. In accordance with the policies and procedures approved by Commissioners Court, deductions from the employee's payroll check may be made for the following:

1. The employee's portion of group health/medical or dental premiums for the employee or dependents
2. Supplemental deferred compensation
3. Payments authorized by the employee, such as automatic loan repayments to the Sabine Credit Union
4. Any other deduction authorized by law or the Commissioners Court

EMPLOYEE TIME RECORDS

I. PURPOSE

To maintain an accurate system for recording and reporting of employee's hours of work.

II. SCOPE

This policy applies to all county employees.

III. POLICY

Each employee shall be responsible for maintaining accurate and complete records of all hours worked and leave time used by the employee. Each department head/elected official shall be responsible for ensuring that all hours worked and leave time taken by each employee within his or her department are accurately entered by electronic submission for payroll purposes. All supporting leave documents shall be forwarded to the Human Resources Department.

IV. PROCEDURE

- A. Each employee shall be provided a username and password to access the time keeping system. Each employee or assigned designee shall be responsible for accurately entering his/her time electronically. All such time shall be approved by Department Head/Elected Officials by the cut off time set forth by the Treasurer's Office. The Treasurer's Office will not be responsible for time not submitted and approved by the cut off time.
- B. Each employee and department head/elected official shall submit to the Human Resources Department documentation for all leave time taken by each employee during each pay period, on the form entitled "Orange County Pay Period Affidavit," made a part of this manual as Appendix M-1. Additional copies of the form are available online.
- C. Errors caused by untimely or inaccurate reporting must be reported to the Human Resources Department on the form entitled "Payroll Adjustment Form" made part of this manual as Appendix M-2, as soon as they are discovered. Such errors will be corrected on the pay period following the receipt of the adjustment notification to the Treasurer's Office.
- D. Errors caused by untimely or inaccurate reporting must be reported to the Human Resources Department as soon as they are discovered, but due to time constraints, such errors may not be corrected until the following pay period.

300. EMPLOYEE BENEFITS AND SERVICES

LEAVE BENEFITS

I. PURPOSE

To provide a leave benefits for employees to allow them to continue their employment with Orange County, while taking time off from work for a variety of personal reasons.

II. SCOPE

Leave policies apply to all eligible employees of the county, as specified in each policy.

III. POLICY

The following policies govern leave, paid and unpaid, for the county:

- A. Policy No. 311: Vacations
- B. Policy No. 312: Holidays
- C. Policy No. 313: Sick Leave
- D. Policy No. 314: Paid Personal Leave
- E. Policy No. 315: Paid Leave for Emergency County Office Closing and Weather Emergencies
- F. Policy No. 316: Unpaid Personal Leave
- G. Policy No. 317: Leave of Absence
- H. Policy No 318: Family & Medical Leave

Policy No. 311

Date: October 1, 1999

Revised: July 1, 2013

Revised: September 6, 2016

Revised: March 14, 2017

Revised: IV, B August 28, 2018

Revised: IV, B December 14, 2021

Clarified: IV, B & C April 5, 2022

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VACATION

I. PURPOSE

To provide a traditional paid time-off benefit that will provide a restful break in year-round work routine and support the county's goals of attracting and retaining quality employees.

II. SCOPE

This policy applies to all regular full-time employees of the county.

III. POLICY

The county encourages each employee to take annual vacation entitlement as paid time off away from work, in compliance with the following policies and procedures.

IV. ELIGIBILITY

- A. Employees begin to accrue vacation entitlement from date of hire; provided, however, that they are not eligible for payment of accrued vacation time until the completion of the 90-day Orientation Period described in Policy No. 160.
- B. Effective January 1, 2022, an employee shall be entitled to take vacation in designated increments based on the date of hire and the completion of the requisite length of continuous service as set forth below:
 - 1. Newly hired employees shall be eligible to take 40 hours, 80 hours, or 120 hours of vacation during their first calendar year of service, depending upon their date of hire as set forth below:
 - a. An employee hired between January 1 and April 30 shall accrue his or her first 40 hours of vacation time upon date of hire. Such employee shall accrue an additional 40 hours of vacation time on May 1 of that year, and an additional 40 hours on September 1 of that year, for a total maximum of 120 hours.
 - b. An employee hired between May 1 and August 31 shall accrue his or her first 40 hours of vacation upon date of hire, and an additional 40 hours on September 1 of that year, for a total maximum of 80 hours.

- c. An employee hired between September 1 and December 31 shall accrue 40 hours of vacation time upon date of hire. Such employee shall not accrue any additional hours of vacation time for that calendar year.
- 2. One Year of Service. Beginning in the first full calendar year after an employee's date of hire, the employee is eligible to take 120 hours of earned vacation each calendar year.
- 3. Eight Years of Service. Beginning in the calendar year in which the employee will complete eight full years of service, the employee is eligible to take 160 hours of earned vacation each calendar year.
- 4. Fifteen Years of Service. Beginning in the calendar year in which the employee will complete fifteen full years of service, the employee is eligible to take 200 hours of earned vacation each calendar year.
- 5. Twenty Years of Service. Beginning in the calendar year in which the employee will complete twenty full years of service, the employee is eligible to take 240 hours of earned vacation each calendar year.
- C. Vacation hours accrued pursuant to subsections B.2 through B.5 above accrue in full on January 1st of each year, without regard to the employee's specific anniversary date within the year.
- D. Vacation may be used for any purpose that does not constitute a conflict of interest with the County, including any purpose for which leave may be taken under the Family & Medical Leave Act of 1993 (FMLA) U.S.C. Section 2601, *et seq.*
- E. Vacation is to be used during each calendar year and may not be carried over into the succeeding calendar year, except as provided in section VII of this policy.
- F. An employee with previous County employment will be treated as a new hire unless the employee qualifies for bridging of employment under Policy 170.
- G. Employees shall continue to be covered under all insured benefit plans while they are on paid vacation.

V. SCHEDULING

- A. Each employee should consult his or her department head/elected official to schedule his or her individual vacation. Selection of vacation dates is subject to the approval of the employee's department head/elected official, and must be approved by the Department head/elected official before becoming effective. Preference in selection of dates will generally be granted based on length of employee service.
- B. An employee may, but is not required to, take all accrued vacation time continuously.

- C. **Vacation time shall not be taken in increments of less than four (4) hours**, except when a lesser increment (of no less than one hour) is specifically authorized in advance by the employee's department head/elected official.
- D. If a county-paid holiday falls during an employee's vacation, the holiday will not be counted as vacation taken. The employee may extend the vacation by one day or take the vacation day at a later date, as approved by the employee's department head/elected official.
- E. **An employee who becomes ill during his or her properly-scheduled vacation shall not be entitled to sick leave benefits in lieu of vacation pay, unless such illness involves a medically-documented major illness or accident.**
- F. Each department head and elected official should schedule vacations in such a manner as to provide adequate coverage for his or her office. Each department head/elected official shall maintain a department schedule and record of the vacation time taken by each employee. Funding for any temporary employee labor to cover the absence of any vacationing employee requires Commissioners Court approval. Such approval shall be granted only upon a showing of necessity for the use of temporary labor to replace that of the vacationing employee.

VI. PAYMENT OF ACCRUED VACATION BENEFITS

- A. The County does not provide vacation pay unless vacation time is actually taken as time off from work, or upon separation from employment.
- B. Vacation pay is based on the relevant employee's regular rate of pay and according to the employee's regular schedule.
- C. Unused vacation entitlement will be paid to employees upon termination provided they have completed at least one full year of continuous service, **unless termination is the result of disciplinary action taken against the employee, i.e., the employee is fired for disciplinary reasons.**
 - 1. Termination for disciplinary reasons does not include a reduction-in-force, elimination of the employee's position, voluntary resignation by the employee, failure of a newly elected official to rehire or redeputize the employee upon taking office, or termination mandated by the anti-nepotism prohibitions or the county policy governing employment of relatives within a department, unless the employee engages in illegal action or action warranting discipline under that policy. *See also* Policy No. 132.
 - 2. If unused vacation entitlement is paid upon termination, pay will be computed based on the rate earned upon termination.

VII. YEARLY ACCRUAL AND CARRY-OVER

- A. Employees with eight (8) or more years of service with the county may carry over into the succeeding calendar year up to forty (40) hours of vacation, without documentation

of unforeseen circumstances, as described in Paragraph VII.E. Any such vacation carried over must be taken by July 1st of the succeeding year, or the employee forfeits that vacation entitlement.

- B. Employees with eight (8) or more years of service with the county may carry over into the succeeding calendar year more than forty (40) hours of vacation when unforeseen circumstances, as described in Paragraph VII.E., prevent that employee from using his or her vacation during the calendar year in which such entitlement accrues. Any such vacation carried over exceeding forty (40) hours must be taken by March 1st of the succeeding year, or the employee forfeits that vacation entitlement.
- C. An employee whose hire date renders the taking of vacation within the calendar year impossible or excessively difficult may carry over up to forty (40) hours of vacation into the following year, as set forth below.
 - 1. An employee who is hired between September 1 and December 31 may carry over his or her first-year vacation hours into the succeeding year.
 - 2. Any such vacation carried over must be taken by July 1st of the succeeding year, or the employee forfeits that vacation entitlement .
- D. An employee with less than eight (8) years of employment, regardless of employment date, may, at the discretion of his or her department head/elected official, carry over vacation entitlement when unforeseen circumstances prevent that employee from using his or her vacation during the calendar year in which such entitlement accrues, as deemed appropriate and approved by the employee's department head/elected official. Any such accrued vacation carried over must be taken by March 1st of the succeeding year.
- E. Unforeseen circumstances, for purposes of this policy, include medical and family emergencies, job requirements, and other exigent conditions.
- F. An employee must obtain the written approval of his or her department head/elected official to carry over any accrued vacation. In addition, an employee with less than eight (8) years' service seeking to carry over vacation into the succeeding year must provide written documentation, upon request of the department head/elected official, of the unforeseen circumstances which prevented the employee from taking his or her vacation time in the calendar year in which it accrued.

HOLIDAYS

I. PURPOSE

To provide a competitive paid-time off benefit to recognize traditional holidays.

II. SCOPE

This policy applies to regular, full-time employees, except to the extent modified for employees covered by a collective bargaining agreement. Part-time and temporary (extra help) employees are not eligible for holiday pay.

III. POLICY

- A. Holidays shall be determined by the Commissioners Court by December of each year for the following year. The county generally recognizes thirteen (13) paid holidays per year, including:

New Year's	Independence Day
Martin Luther King Day	Labor Day
Texas Independence Day	Veterans Day
Good Friday	Thanksgiving
Memorial Day	Christmas

- B. The Commissioners Court may change the designation of days or number of days of holidays at any time, including during the calendar year in which the holidays fall.
- C. The Human Resources Department shall provide each department head/elected official with a list of holidays set by the Commissioners Court for each calendar year, after such determination is made and after a list of such holidays is forwarded to the Human Resources Department by the Commissioners Court. Each department head/elected official shall be responsible for disseminating that information to the employees within his or her department.
- D. If a change is made to the date of a holiday(s) during the calendar year in which that holiday falls, such change shall be communicated by the Commissioners Court to each department head/elected official as far in advance as possible. Each department head/elected official shall then be responsible for communicating the change to the employees of his or her department as soon as possible.

- E. To be eligible for holiday pay, a non-exempt employee must be on active job status and must work or otherwise be eligible for payment for the last regularly scheduled workday preceding the holiday and the first regularly scheduled workday following the holiday. An exempt salaried employee need only be actively on the payroll to qualify for holiday pay.
 - 1. An employee who separates from employment or who commences an unpaid leave of absence on the last scheduled workday preceding a holiday shall not receive holiday pay.
 - 2. An employee otherwise qualified to receive holiday pay who is permanently laid off (i.e., a layoff for over thirty (30) days) during the week in which a paid holiday occurs or is celebrated, and thus is not on active job status, shall be ineligible to receive holiday pay for that given holiday.
- F. If a county-paid holiday falls during an employee's scheduled vacation, the holiday shall not be counted as vacation taken. See also Policy No. 311: Vacation
- G. A paid holiday not worked shall be credited as a regular workday to compute weekly overtime, except as modified for employees covered by a collective bargaining agreement.
- H. Non-exempt employees required to work on a scheduled holiday shall be paid eight (8) hours holiday pay at the regular rate of pay, plus eight (8) hours pay at one and one-half the regular rate of pay, so long as 40 work hours, including the holiday, have been accumulated. See also Policy No. 250: Overtime: Non-Exempt Employees. Law enforcement employees in the Orange County Sheriff's Department shall be paid holiday pay in accordance with any collective bargaining agreement currently in effect as to those employees. When an exempt salaried employee is required to work on a holiday, his or her department head/elected official may authorize time off with pay equal to the amount of time worked on the holiday, at a later date mutually convenient to the employee and the department head/elected official, usually within 90 days following the holiday.
- I. According to state constitutional requirements, law enforcement employees in the Sheriff's Department who are not on active duty status, due to an on-the-job injury, and who may be receiving workers' compensation benefits, shall be paid for county holidays that the employee would have worked as part of his or her regular shift if he or she had been on active duty. Other non-exempt employees shall not be paid for holidays while not on active duty status and receiving workers' compensation benefits. See also Policy No. 360: Workers' Compensation.

SICK LEAVE

I. PURPOSE

To provide income protection for employees who, because of illness or accident or other qualifying reason, are temporarily disabled and absent from work for limited periods.

II. SCOPE

This policy applies to all regular full-time county employees, except as modified for those employees covered by a collective bargaining agreement.

III. POLICY

A. Uses of Benefit. Subject to approval of the relevant department head/elected official, employees may use sick leave for the following:

1. Personal illness or injury.
2. The birth or adoption of a child or the placement of a child with the employee for foster care.
3. Medical quarantine resulting from exposure to a contagious disease.
4. Doctors' appointments or treatment. An employee shall be required to obtain prior approval from his or her supervisor/department head/elected official for sick leave to be used for non-emergency doctors' appointments.
5. Illness of a member of the employee's immediate household, which requires the employee's personal care and attention. Paid sick leave for time off to care for members of the employee's immediate family who are not members of the same household (parent, grandparent, adult child or stepchild, grandchild, or sibling) is the discretion of the employee's department head/elected official, and may be limited.
6. Any other purpose for which an employee is eligible for leave under the Family & Medical Leave Act (FMLA), 29 U.S.C. Section 2601, et seq. See also Policy No. 318: Family and Medical Leave.

B. All Full Time Employees.

1. Amount of Benefit. Following an employee's orientation period, during absence from work caused by personal illness or accident, or any other eligible purpose set forth in this policy for which sick leave may be taken, the employee's wage or salary will be continued for the amount of time accrued by the employee for sick leave. Sick leave benefits accrue at the rate of 3.69 per pay period (26 pay periods) per fiscal year, if the employee works at least 48 hours in that pay period, including time taken as vacation. An employee who works fewer than 48 hours in a pay period shall not receive the 3.69 hours accrued sick time for that pay period. No sick leave shall accrue while an employee is on sick leave, including leave covered by worker's compensation insurance, or on unpaid status. **The number of sick leave days credited is not intended to establish a guideline for acceptable attendance. (Revised 11/1/2011 from 8 hours a month to 3.69 hours per pay period.) (Revised 10/10/16 to combine Exempt and Non Exempt employees to accrue sick leave.)**
2. Eligibility. Sick leave begins to accrue on the first day of service. However, an employee is not eligible for payment of sick leave benefits for any time off work taken before the employee has completed his or her initial orientation period of 90 days. An employee is not eligible to accrue paid leave while on unpaid status.
3. Accrual and Carry-Over of Unused Benefit. Unused accrued sick leave may be accrued and carried over into the succeeding calendar years, with a total of up to 1440 hours being accrued. For employee's hired on/or before September 8, 2015 when an employee's status changes from non-exempt to exempt, the amount of sick leave accrued prior to the status change shall be retained by the employee to be paid at a time of termination, up to a maximum of 480 hours, in accordance with Paragraph II.B.4. (Revised accrual –10/1/09 from 720 hours to 1440 hours)

4. Termination of Employment. Date of hire on or after September 8, 2015 - Accrued sick leave shall not be paid upon termination of an employee's employment. Date of hire on or before September 8, 2015 - all eligible employees sick time will be frozen at the hours they have accumulated and at the rate of pay they are making on September 8, 2015. Any future leave accumulated will be exhausted on a last in, first out basis up to and including the lesser of 480 hours or what the employee has accumulated. For Exempt Employees, no sick leave shall be paid upon termination of employment, excluding sick leave accrued by an exempt employee while on non-exempt employment status. Accrued sick leave shall be paid upon termination of an employee's employment, up to a maximum of 480 hours, if the employee has been employed by the county for 24 consecutive months prior to termination, unless termination is the result of disciplinary action taken against the employee, i.e., the employee is fired for disciplinary reasons.
 - a. Termination for disciplinary reasons does not include a reduction-in-force, elimination of the employee's position, voluntary resignation by the employee, failure of a newly elected official to rehire or redeputize the employee upon taking office, or termination required by the anti-nepotism prohibitions or the county policy governing employment of relatives within a department, unless the employee engages in illegal action or action warranting discipline under that policy. See also Policy No. 132.

C. Workers' Compensation.

1. Non-Law Enforcement Employees. For non-law enforcement employees, the first 64 hours under workers' compensation are deducted from accrued sick leave, and such employees do not accumulate sick leave while on workers' compensation, unless 15 days in a given month have been worked.
2. Law Enforcement Employees. Law enforcement employees have no deductions from sick leave while receiving workers' compensation, but do not earn sick leave benefits during such leave, unless 15 days in a given month have been worked.
3. Exhaustion of Benefits Not Required. Employees are not required to exhaust sick leave benefits before receiving workers' compensation benefits. For more information, see Policy No. 360: Workers' Compensation.

- D. Group Insurance Benefits. Employees shall continue to be covered under all insured benefit plans while they are on paid sick leave.

IV. DEFINITION

"Sick leave benefit" is cash compensation which, when combined with amounts for which an employee is eligible under workers' compensation when applicable, is equivalent to the employee's regular rate of pay.

V. PROCEDURE

- A. Minimum Unit. The minimum amount of sick leave that may be used at any one time is at the discretion of the department head/elected official and must be rounded to the nearest quarter hour. For exempt employees, sick leave benefits should be taken in full-day increments. For Example: 3:33 - Round to 3:30 and 3:08 - Round to 3:15.
- B. Notification to Supervisor.
 - 1. An employee must notify his or her supervisor/department head/elected official as early as practical on the first day of absence to request use of sick leave, but no later than 30 minutes after his or her scheduled arrival time or after the county switchboard opens, whichever is later, unless the employee can show good cause why a call was made at a later time.
 - 2. If an employee is unable to make the call personally, the contact may be made by the employee's spouse, adult family member, or other responsible party.
 - 3. If an employee's supervisor/department head/elected official is not available, the Human Resources Department should be contacted. The Human Resources Department shall then notify the relevant department head/elected official.
- C. Maintenance of Contact. Unless otherwise approved by an employee's department head/elected official, an absent employee is expected to call to report his or her absence on each day of absence, even when such days are consecutive. The employee must call his or her designated supervisor/department head/elected official, or the Human Resources Department, each day not later than thirty (30) minutes after his or her scheduled arrival time or after the county switchboard opens, whichever is later, in order to notify the supervisor/department head/elected official of the absence and to inform the supervisor/department head/elected official of the employee's estimated date of return to work. Where the nature of the absence necessitates an extended period of time off, longer reporting intervals may be approved by the department head/elected official. Sick leave benefits are contingent upon maintenance of regular contact.

- D. Disciplinary Action/Voluntary Resignation. Disciplinary action may be taken against an employee for failure to maintain contact. An employee who fails to contact his or her supervisor/department head/elected official or the Human Resources Department, as described above, may be considered as having voluntarily resigned.
- E. Documentation by Physician. A physician's certification or note shall be required for any sick leave absence exceeding three (3) days at one time. An employee's supervisor/department head/elected official may request acceptable documentation of the employee's illness or injury, including a medical certification of illness or disability, in support of a request for sick leave benefits, even for an absence of fewer than three (3) days, where it is deemed necessary by that supervisor/department head/elected official for approval of a sick leave request. Failure to provide certification from a physician, upon request by the supervisor/department head/elected official, or after a sick leave absence exceeding three (3) days, may lead to a denial of benefits and possible disciplinary action.
- F. Benefits May Be Denied. A department head/elected official may deny an employee's application for sick leave benefits, at the department head/elected official's discretion, if the department head/elected official determines that an employee is abusing such benefit or is otherwise not entitled to such benefit.
- G. Physician's Release Upon Return. Depending on the length and circumstances of an employee's illness or disability, an employee's department head/elected official may require a physician's written release or fitness for duty certification before the employee may return to work.
- H. Notification to Human Resources Department. The department head/elected official shall file an "Affidavit in Support of Absence From Work," made a part of this manual as Appendix M, for use of accrued sick leave by any non-exempt employee, including the number of days taken and the dates of such leave. **Benefits may be withheld or delayed if a properly completed affidavit is not submitted in a timely manner.**
- I. Termination of Benefits. If an employee's absence continues beyond the period covered by accrued sick leave benefits, the employee may be placed on family and medical leave of absence status without pay. Unused vacation and all other paid leave benefits ("qualifying paid leave") for which the employee is eligible must be exhausted before the employee may be placed on leave under the Family & Medical Leave Act. See also Policy Nos. 314-318.

Policy No. 314

Date: October 1, 1999

Revised: III, D April 10, 2006

Revised: June 24, 2013

Revised: III, D and IV,E June 13, 2023

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PAID PERSONAL LEAVE

I. PURPOSE

To provide a means for employees to secure limited time off when such time is needed for bereavement, jury and witness duty, voting, and military duty.

II. SCOPE

This policy applies to all County employees.

III. POLICY

Orange County grants paid leave for the following: bereavement, jury and witness duty, voting and military duty.

A. Bereavement.

1. In the event of death in an employee's immediate family, the County grants up to three working days, with pay, to handle family affairs and attend the funeral. "Immediate family" for this policy is defined as: current spouse, children (including stepchildren, sons-in-law, and daughters-in-law), parents (including stepparents, mothers-in-law, and fathers-in-law), grandparents, and siblings (including brothers and sisters, stepbrothers and stepsisters, brothers-in-law, and sisters-in-law).
2. At the discretion of the department head/elected official, paid time off not to exceed three working days, may be granted for the death of another family member not listed above or for the death of a close personal friend.

B. Jury Duty and Service as a Witness.

1. So regular employees may serve as a juror or as a subpoenaed witness in a federal, state, county, or municipal court, in any civil, criminal, legislative, or administrative proceeding, without loss of earnings, the County shall pay an employee's normal earnings for the period of jury or witness service. Such wages shall be paid for a period of up to 240 work hours, unless the relevant department head/elected official authorizes payment for a longer period of time.

2. **An employee shall not be terminated or suffer any other adverse employment action because of that employee's service as a juror or a subpoenaed witness.** However, service as a juror or as a subpoenaed witness shall not alter the employment-at-will relationship, and shall not prevent an employee from being terminated from employment or from being subjected to other adverse employment action for reasons unrelated to his or her service as a juror or a subpoenaed witness.
- C. Voting. Employees who are scheduled to work throughout the time the polls are open may take up to two hours off work with pay to vote in local, state, or national elections. Employees working voluntary overtime will not be paid for any time taken off from overtime hours to vote.
- D. Military Leave.
 1. **Orange County does not discriminate against any employee or prospective employee with regard to hiring, retention, or promotion, or any benefits of employment, because of that individual's membership, application for membership, performance of service, application for service, or obligation in a uniformed service.**
 2. All Orange County employees who are members of the National Guard or active reserve components of the United States Armed Forces, or a member of any other uniformed service protected by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. Sections 4301-4333, or a member of the Texas State Guard, shall be allowed up to fifteen (15) days off per federal fiscal year with pay to attend authorized training sessions and exercises.
 - a. The fifteen (15) day paid military leave shall apply to the Federal Fiscal year and any unused balance at the end of the year shall not be carried forward into the next Federal Fiscal year.
 - b. Pay for attendance at Reserve or National Guard training sessions or exercises shall be authorized only for periods which fall within the employee's normal work schedule.
 - c. An employee may use annual leave, earned compensatory time, or leave without pay if he/she must attend Reserve or National Guard Training sessions or exercises in excess of the fifteen day maximum.

IV. PROCEDURE

- A. General. Employees shall continue to be covered under all group health plans while they are on paid leave, except as modified below.
- B. Bereavement. An employee's department head/elected official may require written verification of the death of the relevant family member or friend (such as a death certificate), attendance at the funeral, and the relationship of the deceased to the employee.

- C. Jury and Witness Duty. Employees must notify their department head/elected official prior to taking leave, as soon as practicable after receiving a jury summons or subpoena, and must provide a copy of the notice of jury duty or the witness subpoena, to be maintained in the employee's permanent personnel file. When an employee has completed jury or witness duty or voting, he or she must report to the County for duty for the remainder of the workday. If the employee will be absent from work for more than one workday for jury or witness duty, he or she must notify the appropriate department head/elected official daily at the beginning of the workday. Upon the employee's return to work, he or she must submit a signed certificate of jury service from the court, or other written documentation acceptable to the department head/elected official, indicating the number of days of jury or witness service.
- D. Voting. Employees requiring time off must notify their supervisor at least two days before voting day. When an employee has completed voting, he or she must report to the County for duty for the remainder of the workday. An employee's department head/elected officials may require an employee to present a voter's receipt or other proof of voting on return to work from voting.
- E. Military Leave.
1. **The County is entitled to and requires advance notice of service, unless conditions make it impossible for the employee to provide notice.** Within two (2) business days of receiving orders for active or reserve duty, the employee shall notify and provide copies of such orders to his or her supervisor or department head/elected official, as well as the Personnel Department. The employee shall further provide to his or her supervisor or department head/elected official, as well as the Personnel Department, the approximate beginning and concluding dates of the employee's training or service. The supervisor, department head, or elected official shall notify the Personnel Department in writing of the approximate and actual dates of service.
 2. An employee will suffer no loss of sick leave, vacation benefits, or longevity pay, as a result of military service. An employee on military leave shall not accrue sick leave or other leave benefits; however, the accrual of vacation based on years of service shall be unaffected by any period of military service, and any such period of service shall be counted in determining the employee's entitlement to vacation.
 3. Employees engaged in military service will retain the right to continue in the County's group health plan for up to 18 months of service. Such employees are required to pay 102% of the group rate, except that employees serving 31 days or less are required to pay only the amount they would have paid if regularly employed.
 4. An employee who leaves his or her position as a result of being called to active military service or who voluntarily enter the Armed Forces of the United States shall be eligible for re-employment in accordance with state and federal laws in effect at the time of their release from duty.

- F. Group Insurance. Employees on paid personal leave shall continue to receive group health insurance benefits throughout any period of paid leave, and as otherwise provided by this policy.
- G. Accrual of Other Benefits. Except as otherwise set forth herein, no sick leave or other leave benefits shall accrue during any period while on paid or unpaid personal leave.

DISASTER / EMERGENCY CLOSINGS

I. PURPOSE

To recognize and accommodate the fact that the citizens of Orange County depend on County employees to work before, during, and in the aftermath of a disaster/emergency to assist in the preservation and restoration of essential public services required for the health, safety, and quality of life within the County. Nothing in this policy shall be construed as changing the “at will” status of any person employed by Orange County.

II. SCOPE

This policy applies to all regular full-time County employees and permanent, non-seasonal part time employees.

III. DEFINITIONS

The following are definitions specific to this policy:

- A. **Disaster / Emergency** – The occurrence or imminent threat of widespread or severe damage, injury or loss of life or property that results from natural or man-made cause, including but not limited to: hurricane; tornado; fire; flood; wind; storm; oil spill; water contamination; epidemic; air contamination; blight; drought; infestation; explosion; riot; nuclear, chemical, and biological emergencies; terrorist attack; or any other emergency that threatens public health or safety, or is declared by a federal, state, or local authority.
- B. **Disaster Declaration** – A formal order by the County Judge declaring a state of disaster or emergency for Orange County or a portion thereof.
- C. **Essential Personnel** – Employees whose expertise or assistance is critical in continuing to meet the needs of the citizens and the operations of the County during an emergency or when the County has otherwise temporarily suspended normal operations.
- D. **Non-Essential Personnel** – Employees whose presence or assistance is not critical in the event of a disaster, emergency, or the official closure of County operations.

- E. **Evacuation** – When the County Judge recommends or orders the citizenry to leave the area as a protective measure due to the occurrence or imminent threat of an emergency or disaster.
- F. **Premium/Extraordinary Pay** – Compensation paid to qualifying Essential Personnel for hours actually worked during an official County closure due to a declared emergency or disaster.
- G. **Emergency Operations Center (EOC)** – The physical location where an organization comes together during an emergency to coordinate resources, response and recovery actions, and make management decisions. Orange County’s EOC is located at:

Office of Emergency Management
11475 FM 1442
Orange, TX 77630

IV. **ESSENTIAL PERSONNEL**

- A. Employees classified as Essential Personnel have been assigned positions within the Emergency Operation Center (EOC) or in other positions that are necessary to protect the public and secure/protect property, or to ensure the continued operation of essential functions or departments. Such personnel may include: Corrections Officers, Deputy Sheriffs, Road & Bridge crews, Emergency Management personnel, Maintenance personnel and/or other personnel designated by the County Judge.
- B. Employees classified as Essential Personnel may be required to work immediately before, during, or immediately after an emergency or disaster as required by the circumstances of the event and determined by the County Judge and Emergency Management Coordinator.
- C. All employees classified as Essential Personnel must be designated and made aware of their respective assignments prior to an emergency closing. Each Department Head should provide a list of Essential Personnel and job duties during the emergency to the Emergency Management Coordinator and County Treasurer. Essential Personnel must be approved by the County Judge or Emergency Management Coordinator. The County Judge or Emergency Management Coordinator may also designate additional employees as essential during an emergency closing as necessary. Each Department Head should update the list for his or her department annually.
- D. Only those employees who have been designated and approved as Essential Personnel prior to or during the Disaster Declaration will be eligible to receive the premium/extraordinary pay described in section V(D)(2) below.
- E. In situations involving an “emergency evacuation order,” as defined by Chapter 22, Texas Labor Code, any employee who is designated as Essential Personnel and who fails to report to work as scheduled/requested during inclement weather or disaster may be subject to disciplinary action, up to and including termination, if such employee is necessary to provide for the safety and well-being of the general public or for the restoration of vital services.

- F. In any event where there is a Declared Disaster under Chapter 418 of the Government Code relating specifically to a public health crisis, any closures notwithstanding, any employee designated as Essential Personnel by the County Judge or Judge Pro Tem during and for said crisis shall be eligible for the extraordinary/premium pay described in sections III(F) and V(D)(2) of this policy for all hours actually worked while so designated. Each employee's or class of employees' entitlement to extraordinary/premium pay under this provision shall remain effective until discontinued by the County Judge or Judge Pro Tem, in their sole discretion.

V. POLICY

- A. Orange County will make every effort to provide all services to citizens in cases of extreme adverse weather or other emergencies. Therefore, the County will make every effort to always remain open to conduct regular business during normally scheduled hours. Under extraordinary conditions, however, the County may temporarily suspend or limit regular County business functions in any of the following ways:
1. **Close entirely while asking Essential Personnel to report/stay on duty.** This status may apply under unusual, extreme conditions. In the event of official County closure:
 - a. non-essential employees are not to report.
 - b. approved Essential Personnel may be asked to report for duty on a case-by-case basis, as necessary. These employees will be notified in response to each specific emergency.
 2. **Delay opening while asking Essential Personnel to report/stay on duty.** This status may apply when severe weather conditions interfere with employee travel but conditions are expected to improve. Operations may be cancelled during the time of the delayed opening, with only approved essential personnel expected to report. If conditions do not improve, a decision may be made later to close the County entirely, with only Essential Personnel reporting.
 3. **Release early while asking Essential Personnel to report/stay on duty.** This status may apply when severe weather conditions, or the anticipation thereof, are expected to interfere with employee travel. Offices may continue to operate, with the Department Head designating certain employees to remain on duty.
 - a. Approved Essential Personnel will be expected to remain until relieved or notified by the Department Head to leave.
 - b. Any shift employees should check with their Department Head to determine whether or not to report.
 4. **Localized and Temporary Closing.** This status may apply when extreme conditions, such as prolonged electrical outages, water leaks, fumes, or flooding, make working conditions in a particular building or location hazardous. In such circumstances, supervisors or employees in the affected location(s) should discuss the problem with their Elected Official/Department Head, who may consult with

the Human Resources Department. If the problem cannot be resolved, closing may be considered as a last resort.

- a. Closure of any office or department under the authority of the Commissioners' Court must be authorized by the County Judge; however, the County Judge may delegate decision-making authority to the affected Department Head.
 - b. Closure of the offices of any Elected Official is within the sole discretion of the Elected Official.
5. If conditions are such that County offices are safe and normal operations are proceeding or have resumed following closure or delayed start, but travel may be extremely difficult, the County may announce to non-essential staff to use their own discretion to decide whether or not to report to work.
 - a. Any days/hours not worked under such circumstances will be charged to vacation, personal leave, or leave without pay.
 - b. An employee choosing to take the day off must notify his/her supervisor immediately for approval of paid leave.
- B. Employees may be granted up to three (3) days emergency leave annually during the calendar year, as necessary, for circumstances caused by unforeseen weather conditions, including natural disaster, which prevent an employee from being able to travel to the county courthouse or other county office or job site. Such circumstances include, but are not limited to, road made impassible by heavy rains, and/or necessity of an employee remaining in his or her home to protect that home from the threat of flood waters, fire, or hurricane. This leave does not accrue or carry over, and will not be paid out if unused.
- C. **Procedures Relating to Closures:**
 1. Whenever a County Commissioner, the County Judge, or the Emergency Management Coordinator has reason to believe that an emergency situation exists or is imminent, and that such situation necessitates closure of County facilities, an emergency meeting of the Commissioners' Court shall be held, if time permits, to consider official action.
 2. If the County Judge or, in his absence, the County Judge Pro Tem, determines that insufficient time exists to hold an emergency meeting of the Commissioners' Court, then that individual shall, in consideration of the safety of County employees and other citizens as well as interest in the availability of governmental services, determine whether to close buildings, in whole or in part.
 3. Once a decision has been made to close any governmental building, the County Judge shall make every attempt to notify local media to inform citizens of such closure. All affected County Elected Officials/Department Heads will also be notified of the closure as and to the extent practicable.
 4. Each Elected Official/Department Head should determine and implement whatever actions would be necessary to protect employees, customers, visitors,

equipment, vital records, and other assets, particularly during the first three days of the event and during restoration of operations.

5. Each Elected Official/Department Head should maintain current contact information on his or her employees. All employees are strongly encouraged to maintain contact with their Department Head or Elected Official during any closure.
6. The County's operating status will be communicated to all media. The County will provide general information on its operating status through the emergency alerting platform service and through the County website: www.co.orange.tx.us.
7. Once an official closure is over, all employees are required to report to their designated work areas as soon as possible following the order/announcement for resumption of normal operations, or as otherwise instructed by their Elected Official or Department Head.

D. Pay Practices During Emergency Closure. Orange County will provide pay/paid leave for essential and non-essential employees in the event of certain disasters and emergencies, as set forth below.

1. In the event of an official County closure, delayed start, or early release, all regular full-time employees and permanent non-seasonal part time employees will be paid their regular wages, as the hour(s)/day(s) will be recoded as official closure. This time off is not considered time worked and will not be used to determine eligibility for overtime.
 - a. In the event of localized or temporary closing, the affected employees will be compensated in accordance with paragraph (1) above, and all unaffected employees' compensation will be the same as during regular working conditions.
 - b. Extraordinary pay as described in section III.F. and below will not apply in the case of delayed start, early closure, localized/temporary closing, or any other official closure outside of a Declared Disaster.
2. Whenever there is an official closure of all County operations resulting from a Declared Disaster, any employee that has been designated *and approved* as Essential Personnel and that is required to remain at work or report to work will be compensated at their regular rate of pay in the same manner as non-essential employees. In addition, such Essential Personnel shall receive, in addition to their regular rate of pay, premium/extraordinary pay at ½ times their hourly salary for all documented time actually worked during which **emergency-related work** is performed.
 - a. All hours worked in excess of 40 hours per designated work week will be paid in accordance with FLSA guidelines.

- b. The maximum number of work hours which may be recorded for any work day is limited to 24 hours per day during the first 72 hours of the emergency closure and 18 hours per day thereafter.
 - c. All hours must be documented on the appropriate form and personally signed by the Orange County Judge **and** County Judge Pro Tem.
 - i. No signature stamps will be permitted.
 - ii. If either the County Judge or County Judge Pro Tem is not available for signature for any reason, the next most senior member of the Orange County Commissioners' Court will sign.
 - d. During a Declared Disaster, all Essential Personnel classified as exempt employees that receive premium/extraordinary pay pursuant to this provision shall be temporarily reclassified as non-exempt employees.
 - i. The temporary status as set forth in this provision shall begin immediately upon the activation of the EOC by the Orange County Judge and shall cease immediately upon the deactivation of the EOC by the Orange County Judge.
 - ii. If exempt Essential Personnel are no longer required (demobilized) before the deactivation of the EOC, their temporary status will cease upon demobilization.
 - e. The extraordinary pay for qualifying Essential Personnel described above will be paid only for hours actually worked during the course of a Declared Disaster.
 - f. This provision does not apply to Elected Officials, who are not eligible for extraordinary pay.
- 3. Any employee who is off or scheduled to be off on sick leave, Family and Medical Leave Act (FMLA) or disciplinary leave without pay during a period of emergency closure shall have their leave recorded as such.
 - 4. Any essential employee who is off on paid leave may be required to return to work immediately.
 - 5. An employee who is on vacation at the time county operations are halted due an emergency courthouse or county office closing shall be credited with appropriate leave for the numbers of hours county operations have been suspended during a disaster or other emergency.

UNPAID PERSONAL LEAVE

I. PURPOSE

To provide a means for employees to secure limited time off when such time is needed for important personal reasons not covered by the Family & Medical Leave Act.

II. SCOPE

This policy applies to regular full-time employees of the county. The policy may be modified as to employees covered by a collective bargaining agreement.

III. POLICY

The county may grant to regular employees unpaid time off for substantial personal reasons, subject to the discretion of the employee's elected official/department head, provided such time does not materially affect the normal conduct of county business.

- A. Duration. The duration of personal time off ranges from a few hours to five days. For time off extending beyond five days, a leave of absence will be required. See Policy No. 317: Leave of Absence Without Pay.
- B. Conditions. In considering an employee's request for personal time off, the seriousness of the matter prompting the request should be considered by the department head/elected official. Such requests should be in response to serious personal needs rather than for occasional time off to rest or relax. Employees must make an effort to schedule ordinary personal and business affairs outside working hours.
 - 1. Examples of needs considered to be reasonable uses of unpaid personal time off include: extensive legal matters and the funeral of a friend or relative not covered by paid bereavement leave.
 - 2. Examples of causes not considered to be reasonable uses of unpaid personal time off include: chronic automobile trouble, non-emergency financial problems, visiting relative, other employment (moonlighting), and seeking employment outside the county.

IV. PROCEDURE

- A. The requesting employee's performance record and previously granted time off may be considered by the employee's department head/elected official prior to granting a time off request.
- B. When the need for absence from work is known in advance, the employee must notify his or her supervisor/department head/elected official immediately or as soon thereafter as possible.
- C. Employees will continue to be covered under all insured benefit plans while they are on approved personal time off, but will not accrue sick leave or any other leave benefits.
- D. An employee may choose to use vacation leave or any other appropriate accrued paid leave in lieu of unpaid time off.
- E. Department heads/elected officials should schedule any time off so as to avoid, to the greatest extent possible, the necessity of overtime or temporary help in the relevant department.

LEAVE OF ABSENCE WITHOUT PAY

I. PURPOSE

To enable employees to receive extended time away from work to satisfy military service obligations or to handle compelling personal business not covered under the Family & Medical Leave Act.

II. SCOPE

This policy applies to regular full-time employees. The policy may be modified for those employees covered by a collective bargaining agreement.

III. POLICY

Leaves of absence without pay may be granted to regular employees to maintain continuity of service only in instances where unusual or unavoidable circumstance require prolonged absence, in accordance with the following:

- A. Military Service Leave of Absence. An employee who volunteers or is called to active military duty in a branch of the U.S. Armed Forces will be granted a leave of absence according to applicable state and federal law for a period of active duty, for a period not to exceed five years. See Policy No. 314: Paid Personal Leave, for additional information regarding leave for military duty.
- B. Military Reserve Training. A regular employee on active military reserve status may take up to fifteen (15) days of unpaid leave a year for military reserve training, in addition to the paid leave benefit provided under Policy No.314.
- C. Personal Leave of Absence. A personal leave of absence to attend to compelling personal business may be granted to regular, full-time employees wholly at the discretion of the employee's department head/elected official. Length of a personal leave of absence may range from six (6) to thirty (30) consecutive calendar days, or longer, in the employee's department head/elected official's discretion, but should not exceed a total of ninety (90) days in one calendar year. To be eligible, the employee must have maintained a satisfactory record of employment with the county for a minimum of one year.

IV. "LEAVE OF ABSENCE" DEFINED

"Leave of absence" is defined as an excused absence without pay in excess of five working days. An absence involving paid time off (i.e., jury duty, sick leave or bereavement leave) is not considered a "leave of absence," nor is any absence which is less than five (5) days. "Leave of absence" for purposes of this manual does not include leave under the Family & Medical Leave Act, which is covered by Policy No. 318.

V. PROCEDURE

A. Application and Commencement.

1. Except in emergency situations where the need for leave is not known in advance, requests for leave of absence or an extension thereof, are to be submitted in writing to the employee's department head/elected official at least two weeks prior to the commencement date.
2. Employees must use all accrued sick and vacation leave before a personal leave of absence may commence, but not before a leave for military service may commence.
3. Excluding leave for military service, a personal leave of absence is approved at the discretion of the employee's department head/elected official, and may be denied if it would result in a significant interference with county operations, as determined by the department head/elected official.
4. There must be a reasonable expectation that the employee seeking a personal leave of absence will be available to return to regular employment on or before the expiration date of the leave.
5. Extensions of leaves of absence may be granted at the discretion of the department head/elected official.

B. Continuation of Benefits

1. No loss of accrued benefits with the county will occur as a result of the leave of absence, but not benefit credit will accrue toward vacation and sick leave entitlement for the duration of the leave, except for leaves for military service. See Policy No. 314.

2. For employees on personal leave for a leave of thirty (30) days or less, the county shall pay the cost of an employee's group health insurance. After thirty (30) consecutive day's leave of absence, the employee will be responsible for paying the entire cost of his or her group health insurance coverage and that of his or her dependents.
3. For employees on military leave, benefits shall be continued as set forth in Policy No. 314, and according to the applicable provision of state and federal law.

C. Reinstatement.

1. Upon return from a military service leave of absence, an employee shall be reinstated according to applicable law. See Policy No. 314: Paid Personal Leave.
2. Upon return from a personal leave of absence and any extension granted by the department head/elected official, an employee will be reinstated to a position in the following priority:
 - a. First: The employee's prior position, if available.
 - b. Second: A comparable position for which the employee is qualified, if available.
 - c. Third: A lesser position for which the employee is qualified, if available.
 - d. Fourth: If no work is available according to the reassignment priorities listed above, the employee will be terminated.
3. An employee on a personal leave of absence must notify his or her department head/elected official at least two weeks prior to end of leave regarding availability for return to work.
4. The county may require employees to have a physician's release or a physical examination, scheduled and paid by the county, to determine fitness for work prior to return from a personal leave of absence.

5. An employee's failure to return from a personal leave of absence, or to contact his or her department head/elected official or the Human Resources Department within three days after the scheduled date of return, may subject the employee to disciplinary action and may be considered as a voluntary resignation by the employee.

FAMILY AND MEDICAL LEAVE

I. PURPOSE

To comply with the provisions of the Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. Section 2601, et seq., and implementing regulations revised January 16, 2009, issued by the U.S. Department of Labor pursuant to that act, and to enable employees to receive up to twelve weeks away from work (or up to 26 weeks of military caregiver leave for a covered service member with serious injury or illness) within any twelve months to attend to specified family and medical needs with job protection and no loss of accumulated service or benefits. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

II. SCOPE

A. Eligibility. To be eligible for FMLA leave, an employee must:

1. Have been employed by the county for at least 12 months or 52 weeks (which need not be consecutive); Separate periods of employment will be counted, provided that the break in service does not exceed seven years. Separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service obligations or when there is a written agreement, including a collective bargaining agreement, stating the employer's intention to rehire the employee after the service break. 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 a week or if the employee is on leave during the week.
2. Have worked at least 1250 hours of service during the 12 month period immediately preceding the commencement of the leave; and
3. Be employed at a worksite
 - a. with 50 or more employees; or
 - b. where 50 or more employees are located within 75 miles of the worksite.

III. POLICY

A. Leave Entitlement. Eligible employees may be granted up to twelve (12) workweeks of family and medical leave during any 12-month period for the following situations:

1. Birth or adoption and/or care of a newborn or newly-adopted child. Eligible employees may request a leave of absence because of the birth of a child, or the placement of a child with the employee for adoption or foster care, and to provide care for such child. This leave must be taken within twelve (12) months after the child is born, adopted, or placed in the employee's home.
2. Illness of a family member. Employees may request a leave of absence to provide care for a child, parent, or spouse, as defined below, which has a serious health condition.
3. Illness of an employee. Employees may also request a leave of absence because of their own serious health condition which makes them unable to perform the functions of their job.
4. Qualifying exigency leave for families of members of the National Guard and reserves when the covered military member is on active duty or called to active duty in support of a contingency operation.
5. Military caregiver leave (also known as covered service member leave) to care for an ill or injured service member.

Military Leave may be extended up to 26 weeks in a single 12-month period for an employee to care for a spouse, son, daughter, parent or next of kin covered service member with a serious illness, or injury incurred in the line of duty on active duty. Next of kin is defined as the closest blood relative of the injured or recovering service member.

B. Paid vs. Unpaid Leave. FMLA provides eligible employees with up to 12 workweeks of unpaid leave. If an employee has accrued paid leave or is otherwise entitled to paid leave, the employee must use any qualifying paid leave first. "Qualifying paid leave" is leave that would otherwise be available to the employee for the purpose for which the FMLA leave is taken, and includes sick leave, vacation, and any other paid leave offered by the county for which the relevant employee is eligible. Any paid leave used for an FMLA qualifying reason will be charged against an employee's entitlement to FMLA leave. This includes leave for disability or workers' compensation injury/illness, provided that the leave meets FMLA requirements. The remainder of the 12 workweeks of leave, if any, will be unpaid FMLA leave. The substitution of paid leave for unpaid leave does not extend the 12 workweek leave period.

EXAMPLE: An employee with 40 hours of accrued sick time and 80 hours of accrued vacation time wishes to take off for a total of 4 weeks due to surgery.

The employee's sick leave is exhausted:	1 week (40 hours) Then
the employee's vacation leave is exhausted:	2 weeks (80 hours) The
balance of time is taken as unpaid leave:	<u>1 week (40 hours)</u> The
employee's total time away from work:	4 weeks (160 hours)

The employee has a remaining balance of 8 weeks of Family and Medical Leave available for the next 12 months for any FMLA qualifying purpose.

C. **Determining the "12-Month Period."** The method for determining the "12-month period" during which an employee may take his or her 12 weeks of family and medical leave is **a "rolling" 12-month period measured backward from the date an employee used any FMLA leave.**

1. **Calculating Leave Entitlement.** Each time an employee takes family or medical leave under the FMLA, the remaining leave entitlement will consist of any balance of the 12 weeks which had not been used during the immediately preceding 12 months.

EXAMPLE: If an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee uses four weeks beginning February 1, 1999, four weeks beginning June 1, 1999, and four weeks beginning December 1, 1999, the employee would not be entitled to any additional leave until February 1, 2000. However, on February 1, 2000, the employee would be entitled to four weeks of leave, on June 1, 2000, the employee would be entitled to an additional four weeks of leave, etc.

2. **Change of Method.** **The method of determining the "12-month period" set forth in this policy shall take effect on October 1, 1999, the effective date of this policy, as the policy was adopted more than 60 days prior to that date.** If the Commissioners Court, by order, changes the method for determining the "12-month period," the Human Resources Department shall provide at least 60 days' notice to all employees prior to the effective date of the change. Any change will be implemented to insure that each employee retains the full benefit of 12 weeks of leave under whichever method affords him or her the greatest benefit. The county will not adopt or implement any new method in an attempt to avoid the FMLA's leave requirements.
3. **Military Leave – 26 weeks** – An employee can take up to 26 weeks for the FMLA circumstance as stated above in Policy III A Leave Entitlement, for the military caregiver, during a single 12 month period. For this military

caregiver leave, the County will measure the 12 month period as a rolling 12 month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the 26 weeks available. If a husband and wife both work for Orange County and wish to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of leave.

- D. Intermittent Leave or Reduced Leave Schedule. Intermittent leave is leave taken in separate blocks of time. A reduced work schedule is a leave schedule that reduces an employee's usual number of hours per workweek or hours per workday.
1. Leave to care for a newborn or newly placed child **may not be taken intermittently or on a reduced work schedule unless the employee's department head/elected official agrees** with respect to an individual leave request.
 2. Leave because of an employee's own serious health condition, or to care for an employee's spouse, child, or parent with a serious health condition, may be taken all at once or, where medically necessary, intermittently or on a reduced work schedule.
 3. If an employee takes leave intermittently or on a reduced work schedule basis, the employee must, when requested, attempt to schedule the leave so as not to unduly disrupt county operations. When an employee takes intermittent or reduced work schedule leave for foreseeable planned medical treatment, the county may temporarily transfer the employee to an alternative position with equivalent pay and benefits for which the employee is qualified and which better accommodates recurring periods of leave.
- E. Benefits and Seniority.
1. No loss of seniority shall occur while the employee is on any leave of absence covered by the FMLA. **The taking of leave shall not result in the loss of any employment benefit accrued by the affected employee prior to the date on which the leave commenced. Seniority and employment benefits do not accrue during any period of FMLA leave.**
 2. An employee entitled to FMLA leave shall be entitled, on return from any such leave, to be restored:
 - a. to the position of employment held by the employee when the leave commenced, or

- b. to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.
- 3. **The taking of family and medical leave does not entitle any employee restored to employment to any right, benefit, or position of employment, other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.**
- 4. During the period of leave, the county shall maintain an employee's coverage under any group health plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.
 - a. Employees must continue to pay their portion, if any, of the cost of their group health and welfare insurance premiums throughout the leave period.
 - b. The county may recover the premium paid by the county for maintaining coverage for an employee under a group health plan during any period of unpaid leave, if the employee fails to return from leave after the period of leave to which the employee is entitled has expired, for a reason other than the continuation, recurrence, or onset of serious health condition, or other circumstances beyond the employee's control.
 - c. In cases where the employee fails to return to work after the end of the leave period to which the employee is entitled because of the continuation, recurrence, or onset of a serious health condition, or other circumstances beyond the employee's control, the county may require the employee to provide medical certification of the employee's or the family member's serious health condition.
- F. Spouses Employed by the County. For two employees employed by the county who are spouses, the aggregate number of workweeks of leave to which both are entitled is limited to twelve (12) workweeks during any 12-month period, if such leave is taken for the birth or placement of a child for adoption or foster care, or to care for such child after birth or placement, or to care for a parent who has a serious health condition. Each spouse may be entitled to additional FMLA leave for other qualifying reasons, but no more than a total of 12 workweeks per spouse per year.
- G. **Employment-at-Will. This policy does not create a contract between the county and any person, for employment or entitlement to benefits, and it does**

not alter the employment-at-will relationship. No commitments regarding employment or continuation of any benefit programs are made herein.

- H. **Prohibited Act.** The county strictly prohibits any interference with an employee's exercise of leave rights provided by the FMLA. No employee may be discharged or otherwise discriminated against for opposing any practice prohibited by the FMLA. In addition, an employee may not be discharged or otherwise discriminated against for instituting a claim for an alleged violation of the FMLA or for giving information or testimony with respect to such a claim.

IV. DEFINITIONS

- A. **Child, Son, or Daughter.** Anyone who is the employee's biological, adopted, or foster child, stepchild, or legal ward, and who is under 18 years of age or who is 18 years of age or older and incapable of self-care because of a mental or physical disability. This definition may also include a child for whom the employee has day-to-day responsibility, i.e., for whom the employee stands in loco parentis.
- B. **Employment Benefits.** All benefits provided or made available to employees by the county, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.
- C. **Health Care Provider.** A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices, or, any other person determined by the Secretary of Labor, as specified in the federal regulations, to be capable of providing health care services.
- D. **Parent.** The biological parent of an employee or an individual who played the role of a parent, i.e., who stood in loco parentis, to an employee when the employee was a son or daughter as defined in this policy and the FMLA.
- E. **Serious Health Condition.** An illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider.
- F. **Spouse.** A husband or wife, as the case may be.

V. PROCEDURES

- A. **Application and Commencement.**
1. **Notice of Intent to Take Leave/Leave Form.**

- a. Notice of intent to take leave under the FMLA should be made in writing, if possible, although verbal notice is sufficient. Notice may be given by the employee, or if he or she is unable to do so personally, by his or her spouse, adult family member, or other responsible party. Such notice should be made to the employee's department head/elected official or to the appropriate supervisory employee within the employee's department's chain of command, who shall promptly forward the notice to the department head/elected official. If notice is submitted to the department head/elected official or supervisory employee, the department head/elected official shall forward notice to the Human Resources Department for processing.
 - b. The Human Resources Department shall administer the leave and be responsible for obtaining the relevant certifications, as described below, and any other necessary information. In the event there is a doubt concerning the validity of any certification, the Human Resources Department shall consult the relevant department head/elected official, or the Commissioners Court, as appropriate, to determine the necessity for a second and/or third opinion as described below.
2. **Leave Foreseeable.** When leave is foreseeable for childbirth, placement of a child, or planned medical treatment for the employee's or family member's serious health condition, the employee must provide the county with at least thirty (30) days advance notice, or such shorter notice as is practicable (*i.e.*, within one (1) or two (2) business days of learning of the need for the leave). If an employee's need for leave is foreseeable, and the employee fails to give thirty (30) days notice, the employer may deny leave until thirty (30) days have elapsed from the date the employee provides notice of the need for leave.
3. **Leave Unforeseeable.** When the timing of the leave is not foreseeable, the employee must provide the county with notice of the need for leave as soon as practicable.
4. **Certification.** Leave for the serious health condition of the employee or a family member must be supported by a certification issued by the health care provider of the employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee may obtain a certification form from the Human Resources Department for this purpose, made a part of this manual as Appendix N, or the health care provider may provide, in letter form, the information specified below. The county may require the appropriate medical certification before leave is granted.

- a. When the leave is to care for a sick child, parent, or spouse, the requesting employee must submit a Certification of Health Care Provider for Family Member's Serious Health Condition form also available in the Human Resources Office. The employee must respond to such request within 15 days of the request or provide reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.
- b. In addition, in the case of intermittent leave or, leave on a reduced leave schedule, for the serious health condition of the employee's family member, certification must include a statement that the employee's intermittent leave or leave on a reduced leave schedule is necessary for the care of the son, daughter, parent, or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.
- c. When the leave is for the employee's own serious health condition, the employee must submit the DOL Certification of Health Care Provider for Employee's Serious Health Condition.
- d. In addition, in the case of intermittent leave or leave on a reduced leave schedule, for the employee's own serious health condition, certification must include a statement of medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule.
- e. In addition to the requirements specified above, when leave is for planned medical treatment, on an intermittent leave or reduced leave schedule basis, the employee must provide the dates on which such treatment is expected to be given and the duration of such treatment.
- f. When leave is for Qualifying Exigency for Military Family Leave the employee must submit DOL Certificate of Qualifying Exigency for Military Family Leave. Employee must respond within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave.
- g. When leave is for Serious Injury or Illness of Covered Service member for Military Family Leave.
- h. The county may require that an employee who has obtained certification obtain subsequent re-certifications on a reasonable basis, i.e., every thirty (30) days.

5. **Documentation of Family Relationship.** In addition to certification, when leave is taken to care for a family member, the county may require the employee to provide documentation or statement of family relationship (*e.g.*, birth certificate or court document). In compliance with HIPPA Medical Privacy Rules, the County will obtain the employee's family member's permission for clarification of individual identifiable health information.
6. **Planned Medical Treatment.** When the leave is for planned medical treatment, the employee must attempt where possible to schedule the treatment so as not to disrupt county operations.
7. **Second Opinions.** When leave is taken to care for a family member with a serious health condition or for the employee's own serious health condition, the county may require that the employee obtain, at county expense, the opinion of a second health provider designated or approved by the county concerning any information required to be certified by the employee's health care provider.
8. **Third Opinions.** In the event of a conflict between the first and second opinions, the county may require, at the expense of the county, that the employee obtain the opinion of a third health care provider designated or approved jointly by the county and the employee. In such an event, the opinion of the third health care provider shall be final and binding on both the county and the employee.
9. **County Notification.** The Human Resources Department shall notify the employee that leave has been designated as FMLA leave. The Human Resources Department shall also provide information to the employee, in writing, regarding any requirements for the employee to furnish medical certifications and a fitness for duty certification upon return to work, as set forth in this policy and in the FMLA, as well as the consequences of failing to provide such certification.
10. **Provisional Designation.** The county may provisionally designate the employee's leave as FMLA leave if the county has not received medical certification or has not otherwise been able to confirm that the employee's leave qualifies as FMLA leave.
11. **Designation After Leave.** If the employee has not notified the county of the reason for the leave, and the employee desires that leave be counted as FMLA leave, the employee must notify the Human Resources Department within two (2) business days of the employee's return to work that the leave was for an FMLA reason.

B. Time on Leave.

1. Any employee on FMLA leave must report to his or her department head/elected official or the Human Resources Department, as designated by the department head/elected official, on a weekly basis or other reasonable, non-discriminatory periodic basis, as determined by the department head/elected official, concerning the employee's status and intent to return to work.
2. Employees on family or medical leave may not work elsewhere while on leave, except as part of an approved rehabilitation program, and employees are to comply with any and all applicable personnel policies, such as confidentiality and conflict of interest, while on leave.
3. Failure to comply with applicable policies may lead to disciplinary action, up to and including termination of employment.

C. Reinstatement.

1. Upon return from a family and medical leave of absence, the employee will be restored to the position of employment held by the employee when the leave commenced or to an equivalent position for which the employee is qualified, with equivalent benefits, pay, and other terms and conditions of employment, and involving the same or substantially similar duties and responsibilities, entailing substantially equivalent skill, effort, responsibility, and authority. **An employee has no greater rights upon reinstatement than if the employee had been continuously employed during the FMLA leave period. Changes in assignments, duties, hours, schedules, and the like may occur due to the necessities of county operations.**
2. Where leave is granted for an employee's own serious health condition, that employee must submit to his or her supervisor, prior to returning to work, a medical fitness for duty certification from the employee's health care provider, with respect to the condition for which the leave was taken, stating that the employee is able to resume work. No second or third opinions shall be requested for a fitness for duty certification.
3. The county shall reasonably accommodate any employee with a disability released to return to work in accordance with the ADA, and shall otherwise comply with that statute and the county's ADA policy in any employee's return to work from FMLA leave.

4. **Limitations on Reinstatement.**

- a. **An employee is entitled to reinstatement only if he or she would have continued to be employed had FMLA leave not been taken. An employee is not entitled to restoration if the employee would have been laid off or terminated, due to reduction-in-force or other reason, including disciplinary reasons unrelated to any FMLA leave, during the time the employee was on leave had the employee remained at work.**
- b. An employee's supervisor (either the Commissioners Court or a department head/elected official) may deny reinstatement to a salaried, eligible employee who is among the highest paid 10 percent of the county employees employed within 75 miles of a county worksite (a "key employee"), if such denial is necessary to prevent substantial and grievous economic injury to county operations as a whole or to the relevant department. In any such case, the following procedures shall apply:
 - I. The Human Resources Department, after consultation with the Commissioners Court or the department head/elected official, as appropriate, and the County Attorney's Office, shall give written notice to the employee of his or her status as a "key employee" in response to the employee's notice of intent to take FMLA leave.
 - II. The Commissioners Court or the relevant department head/elected official shall notify the Human Resources Department of its decision to deny job restoration, as soon as the decision is made. The Human Resources Department shall in turn immediately notify the employee, in writing, that the county will deny job restoration and explain the reasons for this decision. Prior to forwarding any such notice to the employee, the Human Resources Department shall submit the written notice to the County Attorney's Office for review.
 - III. In any case where notice of intent to deny reinstatement is given after leave has commenced, the employee shall be offered a reasonable opportunity to return to work from FMLA leave.

- IV. If the employee requests restoration at the end of the leave period, the employer must give the employee a final written determination as to whether reinstatement will be denied.

D. Failure to Return to Work Following FMLA Leave.

1. An employee's failure to return from leave, or failure to contact his or her immediate supervisor/department head/elected official or the Human Resources Department on the schedule date of return, will be considered a voluntary resignation.
2. As set forth in Paragraph III.E.4.b. of this policy, the county may recover health insurance premiums that the county paid on behalf of the employee during any unpaid FMLA leave except that the county share of such premiums may not be recovered if the employee fails to return to work because of the employee's or a family member's serious health condition or because of other circumstances beyond the employee's control.

- E. Posting of Relevant Provisions. The county has posted, in accordance with the FMLA, in conspicuous places where notices to employees, applicants for employment, and members of the public are customarily posted, in the courthouse, the administration building, county courthouse annexes, and the Sheriff's Department, a notice setting forth the pertinent provisions of the FMLA. **Employees should refer to such notices, as well as the Human Resources Department, for additional information concerning the FMLA or this policy.**

MEAL PERIODS AND SHORT REST PERIODS

I. PURPOSE

To provide employees with a lunch period and breaks during working hours.

II. SCOPE

This policy applies to all employees.

III. POLICY

- A. The scheduling of employee meal periods shall be determined by the department head/elected official or his/her designee, in a manner to facilitate efficient department operations and service to the public.
- B. Short rest periods or "coffee breaks" promote the efficiency of the employee, and may be allowed at the discretion of the department head/elected official.

IV. PROCEDURE

- A. The normal length of the meal period shall be one hour.
- B. For computation of hours worked, employee shall be considered to be off-duty during bona fide meal periods, as defined by the Fair Labor Standards Act. "Bona fide meal period" means that the employee is completely relieved from duty for the purpose of eating regular meals. Meal periods are compensable where circumstances require an employee to remain in an on-duty status during the meal period.
- C. Short rest periods should normally be for a period of not less than five (5) nor more than twenty (20) minutes, at the discretion of the department head/elected official.
- D. Working during a scheduled break is not compensable, and is not to be used in calculating the employee's overtime eligibility.

TRAVEL

I. PURPOSE

To establish guidelines for travel related to county business.

II. SCOPE

All employees traveling on county business must adhere to this policy.

III. RESPONSIBILITIES OF COUNTY AUDITOR AND OFFICIALS

- A. Administration of this policy is the responsibility of the County Auditor, who shall develop and maintain any and all necessary forms, and present modifications to the Commissioners Court, as deemed necessary by the Auditor.
- B. Each department head/elected official is responsible for advising their employees to review this policy to understand its intent and requirements, prior to any such employee engaging in business travel.
- C. If extraordinary circumstance prevents compliance with the travel policy, travel arrangements must be approved by the department head/elected official and the Auditor.

IV. POLICY

Approval for Travel: All business travel plans require prior approval by the respective department head/elected official. When traveling for County business, the most economical and appropriate form meeting the traveler's needs should be used.

- A. Travel in excess of 800 miles for County business needs approval by Commissioner's Court.
- B. Expenses in Excess of Monthly Auto Allowance: Auto mileage reimbursements for personnel receiving monthly car allowances shall be limited to expenses for travel to destinations of fifty (50) miles or more from the courthouse.
- C. Travel Advances:
 - 1. An Employee may receive a travel expense advance, in the form of a check, for anticipated travel, by submitting a Traveling Expense Form, County Auditor Form 194, sufficiently in advance, as determined by the auditor, of travel plans
 - 2. If for some reason an employee's travel plans are cancelled after he/she obtains a travel advance, the employee must either return the advance check to the county or reimburse the county for the amount advanced within 72 hours of the

time the travel was cancelled, unless the trip is to be rescheduled for a departure date of within two (2) weeks of the date of the cancelled travel.

D. Credit Cards:

1. An employee may use credit cards, excluding p-cards, to pay county travel expenses.
2. An employee may be reimbursed for the use of his or her own personal credit card, supported by all relevant receipts.
3. An employee may use the card issued to the County Auditor, subject to availability and to any requirements of the issuing company. Any request for the use of the card must be made at least 48 hours in advance of the employee's departure.

E. Air Travel Policy:

1. Travel by air is acceptable without the approval of Commissioner's Court whenever travel by car is longer than 300 miles but less than 800 miles one way with a single person traveling or air travel is cheaper than travel by car (including cost of other transportation necessary besides the flight).
2. It is acceptable to travel a day early in order to receive a discounted air fare; however, the savings in air fare MUST exceed any hotel, meal and incidental expenses incurred due to early travel
3. Note: Consideration should be given to the number of personnel traveling to the same destination thus making travel by driving more economical as a whole.
4. Any request for such travel must be supported by appropriate documentation which sets out the necessity for such expenditure.
5. All domestic air travel (including Canada and Mexico) shall be in coach or economy class.
6. Travel arrangements should be made as far in advance as possible to take advantage of the most economical rate. Airline discounts are now generally available only when tickets are purchased at least 21 days in advance. Every effort should be made to take advantage of excursion fares.

7. Travel should be scheduled to allow for the most economical fares but should not force an employee to travel after 11:59 pm.
8. If there are charges associated with changing reservations, the county will pay for such charges, provided the county required the change or the change was beyond the control of the employee. Charges incurred for any other reason will be the responsibility of the employee. This includes changes to get on an earlier or later flight.
9. Travel to and from airport terminals is to be by the least costly method available consistent with business requirements, e.g., airport bus or shuttle, taxi, air commuter, or personal automobile. Parking and storage fees should be considered in determining the least costly method and those fees should also be the least costly available. On trips of more than one day's duration, long-term parking must be used and such receipts must be attached to the Traveling Expense Claim.
10. Charges imposed by a carrier on personal luggage that exceeds weight or other established limitations will be borne by the employee, unless a particular exception to this policy, such as for overweight charges for business materials that an employee is specifically authorized to carry in or as part of his/her personal luggage, is approved by Commissioners' Court.

F. Travel by Vehicle:

1. When two or more County travelers are traveling to the same site by vehicle, they should use only as many vehicles as are required to accommodate the number of travelers and business needs of the County. County travelers that must refrain from having contact with one another in numbers that create a quorum (commissioners) or for other legal requirements are exempt from this rule if adherence would create an undue burden in following the law.
2. Rental Car:
 - a. The use of a rental car is permitted when an employee travels to a destination by air and in other situations where it is in the interest of the county to do so and there is no other reasonable means of transportation, including walking. Rental charges must be supported by a receipt.
 - b. Personal medical insurance should NOT be purchased from the car rental agency since employees are already covered under workers

compensation insurance. Any such personal medical insurance purchased directly by the employee is not reimbursable and the employee must reimburse the county for any such insurance purchased on a county card.

- c. For fewer than three employees traveling together, the county will pay for or reimburse an employee for the cost of a compact rental car. Upgrades to mid-size are permissible if three or more employees travel together.
- d. Expenses for rental cars retained over weekend shall be borne by the employee, except when retained for travel on county business.
- e. The employee must comply with any rental car agreement in returning a rental car with the required amount of gasoline at the cheapest available means.

3. Use of Personal Vehicle:

- a. Employees traveling by personal automobile on county business are required to carry, at the employee's expense, public liability, and property damage insurance at the minimum required by law.
- b. **ONLY IF** a county vehicle is unavailable will mileage expenses for private vehicles be reimbursed at the current federal rate published on the travel request form, with the following provisions:
 - 1. Unavailability of a county vehicle must be verified by the office maintaining the checkout of the county vehicle(s).
 - 2. In all cases where standard distances in miles are available from the official state mileage tables or state maps, auto mileage expenses will be limited to such standard round-trip miles. Odometer readings of beginning and ending mileage should be included on all travel claims, subject to audit in accordance with such tables and maps.
 - 3. Mileage in addition to that described under a) above, is allowable for additional necessary travel in the course of a trip provided it is documented by a signed report showing departure point and specifically explaining the county business requiring such addition travel.

4. If a County traveler chooses to use a separate private vehicle because of personal preferences, he/she will be eligible for fuel and other expenses of an emergency nature with appropriate receipts.
5. If a County traveler chooses to use a private instead of an alternative mode of transportation chosen by the department head/elected official because of personal preference, his/her mileage reimbursement shall not exceed the cost of using the alternative mode of transportation unless the department head/elected official determines that the additional reimbursement is appropriate and justified and the county auditor signs off on the expenditure.
6. Use of County Vehicle:
 - a. Use of a county vehicle is required when a county vehicle is available, for all travel to destinations of fifty (50) miles or more from the Courthouse.
 - b. Reimbursable expenses for the use of a county vehicle include gasoline, oil, or other expenses of an emergency nature, which might arise in connection with the vehicle, subject to the following provisions:
 1. Receipts for all such allowable expenses must be submitted with an employee's claim for reimbursement. Receipts for any charges made on any county credit card(s) must also be submitted.
 2. Odometer readings of beginning and ending mileages on the county vehicle must also be submitted.

G. Miscellaneous Auto Expenses:

Other reimbursable expenses for travel by both county and personal vehicle include road tolls and parking fees, where unpaid parking facilities are not available. Employees are responsible for the full cost of any parking tickets, moving and non-moving violations, or any such traffic offenses, fees, or expenses.

H. Rooms and Meals:

1. Meal expenses are reimbursable, subject to the following provisions:
 - a. Meal expenses shall be reimbursable only for travel to destinations of fifty (50) miles or more from the Courthouse
 - b. Reimbursable meal expenses are limited to a total of \$45.00 per day, including meal tip. Documentation is not required to be submitted in support of meal expense; however, no food or drink expenses, other than those included with meals, are allowable, and no alcoholic beverages are allowable. Receipts for any meals charged on a county credit card must also be submitted for audit, and such charges shall be subtracted from the amount of reimbursement paid to an employee for meals.
 - c. Meals provided by conferences and airlines must be utilized and per diem will be reduced accordingly.
 - d. Breakdown for partial travel days is \$10-breakfast, \$13-lunch, and \$22-dinner.
2. Hotel/motel room costs are limited to \$175.00 per day excluding taxes for single or double occupancy.
 - a. Double occupancy of hotel/motel rooms is preferred in cases where any two or more county employees or officials of the same sex are traveling together.
 - b. Itemized hotel bills must be submitted for reimbursement of such expenses, and receipts for any such charges on county credit cards must also be submitted for audit. All hotel and related expense must also be itemized on the traveling expense report form, to show meals, telephone charges, WIFI, parking, etc. In-room movies and use of mini-bars are considered personal expenses and therefore are not reimbursable.

- c. If the above specified room rates are not available, an employee's department head/elected official may request an exception from Commissioner's Court to exceed the specified rate. Pre-approval by Commissioner's Court, at the request of the relevant employee's department head/elected official, is required for any hotel or lodging expense exceeding \$175.00 per day excluding taxes.
- d. Any cancellations must be made within the time specified by the hotel. The county will not pay for no-shows.

I. Miscellaneous Disallowed Expenses:

- 1. Miscellaneous/Unexplained Items - unexplained items labeled "Miscellaneous" on a bill or invoice are not allowable expense items. Some examples of items not considered allowable are: Newspapers, magazines, movies, shoe shines, personal expenses incurred for household services due to employee's absence on a business trip, etc.
- 2. Non-county Employee Expenses: no expenses for non-county employees (family or friends) traveling with an employee on county business-related travel shall be reimbursed. All meal receipts and hotel/motel bills must be redacted to demonstrate only those expenses related to county travel for employees. For example, hotel/motel bills should be reduced to the single rate, if only one employee occupied a room.
- 3. Entertainments Expenses: Entertainment expenses are not reimbursable.

V. PROCEDURE

- A. Traveling Expense Form, County Auditor Form 105, must be used to report all travel and entertainment expenses.
- B. All employees must make a full accounting of all travel expenditures within three business days of their return, if a travel advance has been obtained and prompt reimbursement to the Orange County Treasurer must be made for all travel advance money not used.
- C. All travel claims must be supported by proper documentation and must include receipts for any charges made on county credit cards, which are subject to the same provisions as cash expenditures. Any credit card charges in excess of established policy must be reimbursed by the employee to the county.
- D. In case of lost receipts for meals, lodging, or other reimbursable expenses, such expenses shall be reimbursable with the employee's signed statement affirming that such expenses were at least that amount.

CREDIT UNION

I. PURPOSE

To inform all Orange County employees regarding the benefits of the credit union, and to encourage employees to participate in the credit union.

II. SCOPE

This policy applies to all regular, full-time county employees.

III. POLICY

- A. All full-time employees are encouraged, but not required, to join the Sabine Federal Credit Union (Revised: September 24, 2012). Payroll deductions make it easy for employees to save a portion of their earnings. Personal, automobile and home improvement loans are available at low interest rates.
- B. Additional detailed information regarding credit union services may be obtained by contacting a credit union representative.

EMPLOYEE INSURANCE BENEFITS

I. PURPOSE

To provide county employees with comprehensive insurance coverage for themselves and their spouses and dependents.

II. SCOPE

This policy applies to all eligible county employees.

III. POLICY

The county provides a comprehensive group health program for regular, full-time employees. Literature detailing the benefits offered by the program will be distributed to each new employee. In addition, extra copies of all such material are available to employees in the Human Resources Department. In addition to the foregoing, the county also provides insurance programs as mandated by state and federal regulations for all employees.

The following are brief summaries of these programs. Employees are encouraged to contact the Human Resources Department for more information.

- A. Group Insurance. The county offers major medical, dental, life, and accidental death and dismemberment insurance to regular, full-time employees. The premiums for coverage to the employee are currently paid by the county. The county also currently pays a portion of the premiums for dependant coverage. An employee is not eligible to receive group insurance benefits during the first 60 days of employment. See also Policy No. 160: Orientation Period. Spouses of employees are not eligible for coverage, if coverage is offered to the spouse through their employer. The County will not provide secondary coverage for spouses. (Revised: September 8, 2015)
- B. Social Security. All employees are covered by Federal Social Security Act. A required percentage of an employee's salary is deducted to pay the employee's portion of this protection. This plan was designed for an employee's future security and that of his or her dependents by providing retirement, disability, death, survivor, and Medicare benefits.
- C. State Unemployment Insurance. This program is funded entirely by employers in this state. The program provides weekly benefits to employees who become unemployed through no fault of their own or circumstances described in the law.

- D. COBRA Benefits. After an employee's separation from employment with the county, benefits are available to provide continuing health and dental coverage to an employee under the federal COBRA statutes. See the Human Resources Department for additional information.
- E. Additional Insurance Benefits. The county, through various vendors, may offer additional health insurance benefits to employees, at the expense of the employees. See the Human Resources Department for additional information.

WORKERS' COMPENSATION

I. PURPOSE

To detail statutory workers compensation benefits offered by the county to all eligible employees.

II. SCOPE

This policy applies to all eligible county employees.

III. POLICY

- A. Compliance with State Law. The county shall comply with the Texas Workers' Compensation Act and all other applicable state and federal standards. The employment status of an employee shall not be affected by the filing or pursuit of a claim. In addition, the fact that a prospective employee previously filed a claim shall not be considered in a decision to hire that prospective employee. However, nothing stated herein shall prevent an otherwise lawful termination or discipline of an employee. See also Policy No. 125: Employee Claims for Workers' Compensation Benefits: No Discrimination of Retaliation.
- B. Administration of Program. The county currently has workers' compensation coverage through the Texas Association of Counties. The Human Resources Department shall process workers' compensation claims in accordance with all applicable standards and provisions of the Texas Workers' Compensation Act. An employee injured in the course of employment shall receive benefits in accordance with the act. Benefits are available to cover most of the economic loss resulting from an on-the-job injury, including loss of earnings and out of pocket expenses.
 - 1. Employees, their elected official/department head or supervisor are required to report a workplace accident or injury to the Risk Management Coordinator and the Human Resources Department within 24 hours of the time of the accident or injury or the next business date. See Policy No. 710: Accidents/Injuries Reporting. In addition, department heads/elected officials may establish their own guidelines for reporting of accidents within the relevant department.
 - 2. The requirement for utilization of sick leave benefits differs for non-law enforcement employees and law enforcement employees. See Policy No. 313 for the policy governing utilization of sick leave benefits.

3. Employees returning to work may be required to submit to a medical examination depending upon the employee's duties and the nature of the injuries sustained.
- D. No Admission. The processing of a claim or the awarding of workers' compensation benefits to an employee shall not be construed as an admission of guilt or negligence on the part of the county.
- E. Baseless compensation Claims. An employee, who files a baseless or merit less compensation claim, as determined by a court of competent jurisdiction, shall be subject to discipline up to, and including, termination of employment.

RETURN TO WORK

I. PURPOSE

This policy covers employees who are on leave due to an occupational injury or illness. Because employees are our most valuable resource, Orange County attempts to help employees return to work as soon as possible after their physician verifies their fitness to do so.

II. SCOPE

This policy applies to all eligible county employees.

III. POLICY

- A. Coordination with Attending Physician. - An employee on leave due to a work-related disability can return to work only when Orange County receives the attending physician's written medical release authorizing such return. Orange County Human Resource's Office is responsible for providing the physician with a copy of the employee's job description, copies of job descriptions for potential light-duty assignments, and written information explaining Orange County's return to work program.
- B. Job Descriptions. - Each Elected Official and Department Head is responsible for working with the supervisors to ensure that job descriptions accurately and completely describe the essential functions of each position. Each elected official works with the Human Resources Office and medical consultants to analyze any new light duty position and develop a job description describing the essential functions of that position.
- C. Return to Work Options. - Arrangements to facilitate an employee's early return to work are made in consultation with the employee's attending physician and/or other qualified medical professional retained by Orange County or its insurance carrier. The following options are explored.
 - 1. **Return to Prior Position** - An employee is offered the opportunity to return to his or her prior position if the attending physician certifies that the employee can perform the essential functions of the job with or without reasonable accommodations. The Human Resources Office is responsible for working with the employee's Department Head and attending physician (and third-party consultants, as necessary) to provide any reasonable accommodations.

2. Light Duty. - An Employee who is not yet able to return to their former duties is offered (subject to the restrictions set in section D of the policy) a temporary light-duty assignment that has been approved by the employee's attending physician. The Orange County Human Resources Office is responsible for working with the employee's supervisor, the elected officials, and the employee's attending physician to develop and implement the light-duty assignment. The assignment can consist of the employee's regular job with reduced working hours and/or activities of an alternate light duty position.
- D. Restriction on Light Duty Assignments - The following restrictions may apply to light duty assignments:
1. No Guarantee of Work. As provided in section C of the policy. Orange County must endeavor to return employees to gainful employment as soon as possible by exploring possible light-duty assignments. However, Orange County does not guarantee the availability of light duty work.
 2. Pay Rates and Workers Compensation Benefits. Employees on light duty are not guaranteed the rate of pay they received for the position they held at the time they sustained their work-related injury or illness. (Exception: Certain law enforcement personnel, deputies, and jailers are guaranteed 100% salary continuation as long as they are incapacitated under workers' comp. standards). The pay rate for a light-duty assignment is based on the knowledge, skills and abilities required for the job as well as general market conditions (Texas regulations prevail in situations where the pay rates differ). Employees who return to work in light duty position before they have reached maximum medical improvements are eligible for temporary partial disability benefits under Texas's workers' compensation program if they earn less than they earned in the position held at the time they sustained the work-related accident or illness.
 3. 12-Week Limit. Light duty assignments are temporary arrangements intended to complement and facilitate the healing process. Light-duty assignments cannot exceed 12 weeks without approval from Orange County elected Officials.

- E. Employee Refusal of Work/Training. In the event that an employee refuses to return to regular or light duties in the response to a written, bona fide offer of employment by Orange County sent via certified mail, the employee is separated from Orange County and his/her position will be filled permanently. (Note: An exception to the rule applies in the case of employees who have not yet exhausted their FMLA leave entitlement. See Section H).

A written offer of employment must clearly state:

1. The position offered and the duties of the position;
2. Orange County's agreement to any limitations or conditions set out in the attending physician's certification of the employee fitness to return to work
3. The job's essential functions; and
4. The job's wages, working hours and location.

- F. Permanent Disabilities: When reaching maximum medical improvement, an employee can have a permanent disability that impairs the employee's ability with or without reasonable accommodations, to return to his or her regular position. Orange County, in consultation with the employee's attending physician and Texas's Workers' Compensation Department, must evaluate the following options:

1. Securing vocational rehabilitation services from Texas's Employment Department or private consultants, as appropriate. Services can include assessment and testing, counseling, and training.
2. Finding a position at Orange County commensurate with the employee's knowledge, skills, and abilities.

Employees with permanent disabilities are paid partial or total permanent disability benefits as required under Texas's Workers' Compensation Program.

- G. Medical Information - All employee medical information is held in strict confidence in accordance with the American's with Disabilities Act. Medical inquiries are limited to those permitted under the Texas's Workers' Compensation statute and applicable federal law.
- H. Coordination With FMLA. - Nothing in this policy should be constructed as denying employees their rights under the Family and Medical Leave Act (FMLA) or any other federal or state law.

It is Orange County's policy to designate an employee's leave due to a work-related injury or illness as FMLA leave. To the extent permitted by the FMLA, Orange County counts the period of an employee's light duty assignment toward the employee's FMLA entitlement.

Employees entitled to FMLA leave can voluntarily accept light-duty assignments while they are recuperating, but they cannot be required to do so. Employees who lose their workers compensation benefits as a result of declining a light-duty assignment are required to substitute any available paid leave, such as accrued vacation, personal or medical/sick leave, for unpaid FMLA leave.

Until employees have exhausted their 12-week FMLA entitlement, they have the right to be reinstated to their original job or equivalent job provided that they are able to perform the job's essential functions.

Policy No. 370

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RETIREMENT BENEFITS

I. PURPOSE

To summarize the system of retirement benefits offered by the county to all eligible employees.

II. SCOPE

This policy applies to eligible employees of the county.

III. POLICY

The following is a summary of all retirement benefits offered by the county to its eligible employees. Employees should consult the Human Resources Department for additional information regarding retirement benefits.

A. **Texas County and District Retirement System.** Orange County is a member of the Texas County & District Retirement System (TCDRS) www.tcdrs.org. Regular employees, including regular part-time employees, are required to participate and are eligible for this benefit immediately upon employment. Under the TCDRS plan, each employee makes deposits into his or her personal TCDRS account by a payroll deduction of seven percent (7%) of their gross salary each paycheck. Employee accounts earn 7% interest each year, which is compounded annually based on the account balance at the beginning of year. The 7% interest earnings are guaranteed by Orange County. If the account does not earn at least 7% in interest in the market, then Orange County will make up the difference. An employee is vested after eight (8) years of service. Upon eligibility, the employees account is matched by the County at a benefit rate set by Commissioners' Court each year. You are eligible to retire when you are vested and meet one of the following requirements:

- i. At age 60;
- ii. When service time plus age equals 75; or
- iii. At any age with 20 years of service time.

- B. **Social Security.** All employees of the county are covered by Social Security. The county contributes to the Social Security system on behalf of each employee. See also Policy No. 350: Insurance Benefits.
- C. **Deferred Compensation.** The county sponsors a deferred compensation plan. Details regarding this plan are available through the Human Resources Department.
- D. **Retirement Health Insurance.** A retiree health benefit is a budgeted item that is approved by Commissioners' Court each budget year and is not guaranteed to provide life-long medical paid by the County. The eligibility requirements and benefits available are as follows:
 - i. **Eligibility Requirements.** To be eligible for retiree health insurance benefits, the employee must:
 - a. be a full-time employee at the time of retirement, and
 - (i) if hired before October 1, 2017, have at least eight (8) years of continuous full-time service with Orange County; or
 - (ii) if hired on or after October 1, 2017, have at least twelve (12) years of continuous full-time service with Orange County; and
 - b. meet retirement eligibility requirements with TCDRS as an active employee of Orange County; and
 - c. begin a monthly annuity from TCDRS at the time the employee leaves employment with the county.
 - ii. **Benefits Available.** If all conditions of eligibility set forth above have been met, the benefits available to the employee are dependent on the employee's hire date and, where applicable, retirement date, as set forth below:
 - a. **Group A: Employees hired before October 1, 2017, excluding employees in Group B, below.**
 - (i) Employees shall be eligible for 100% county subsidized health insurance.
 - (ii) Retirees are required to carry Medicare coverage parts A and B at age 65. Once retiree becomes Medicare eligible, they are required to switch to the Silver Choice Plan, and the County will pay 100% of the Silver Choice Plan premiums.
 - b. **Group B: Employees that have retired between October 1, 2016 and February 26, 2019.**
 - (i) Employees in this group shall be eligible for county subsidized health insurance, with the portion of the subsidy dependent upon the employee's cumulative years of service with the County:

- (a) Employees with at least 8 but less than 12 years of service shall be eligible to receive 25% of full health premium paid by County;
- (b) Employees with at least 12 but less than 16 years of service shall be eligible to receive 50% of full health premium paid by County;
- (c) Employees with at least 16 but less than 20 years of service shall be eligible to receive 75% of full health premium paid by County;
- (d) Employees with at least 20 years of service shall be eligible to receive 100% county subsidized health insurance.

- (ii) Retirees are required to carry Medicare coverage parts A and B at age 65. Once retiree becomes Medicare eligible, they are required to switch to the Silver Choice Plan, and the County will pay a portion of the Silver Choice Plan premiums at the rates corresponding with their years of service, as set forth above.

c. Group C: Employees hired on or after October 1, 2017.

- (i) Employees who retire before the age of 55 are not eligible for any retirement health insurance benefits, regardless of their years of service.
- (ii) Employees who retire between the ages of 55-64 shall be eligible for 100% county subsidized health insurance until they reach age 65. Once the retiree reaches the age of 65, they will receive no further county subsidized health insurance.
- (iii) Employees who retire after the age of 65 are not eligible for any retirement health insurance benefits, regardless of years of service.

- E. No Retirement Health Insurance benefits will be paid to or on behalf of an employee that has been terminated or discharged as the result of disciplinary action taken against the employee, (i.e., the employee is fired for disciplinary reasons). Termination for disciplinary reasons does not include a reduction-in-force, elimination of the employee's position, voluntary resignation, failure of a newly elected official to rehire or re-deputize the employee upon taking office, or termination required by the anti-nepotism prohibitions or the county policy governing employment of relatives within a department, unless the employee engages in illegal action or action warranting discipline under that policy. *See also* Policy No 132.

Employees who have previously retired from Orange County and have subsequently been reemployed by Orange County are still considered retired under the policy in effect at the time of their original retirement, unless the employee voluntarily elects to be governed by the policy in effect at the time of any subsequent retirement

**400. STANDARDS OF CONDUCT AND EMPLOYEE
CORRECTIVE ACTION**

STANDARDS OF CONDUCT

I. PURPOSE

To assure safe, efficient and harmonious county operations, and to inform employees of their responsibility to not engage in behavior/activities injurious to themselves, fellow employees, their department, or the public.

II. SCOPE

This policy applies to all employees of Orange County.

III. POLICY

- A. Employees are expected to conform to reasonable standards of conduct and behavior while on duty or while on county property or attending county functions.
- B. In addition to other behaviors/activities prohibited elsewhere in this manual, the following behaviors/activities are also prohibited:
 - 1. Violating any of the criminal laws of the State of Texas or the United States on county premises, including theft of county or fellow employee's property;
 - 2. Engaging in disorderly conduct, including fighting, wrestling, roughhousing, throwing things, horseplay, practical jokes, or other forms of disorderly conduct, or any other activity which may endanger the health and well-being of any employee or which may disrupt county operations;
 - 3. Insubordination or refusal to comply with instructions or failure to perform reasonable duties which are assigned;
 - 4. Rude or discourteous behavior to members of the public or fellow employees;
 - 5. Sleeping or napping on the job, or utilizing county time to complete personal business.
- C. The above list is representative of the types of activities which constitute unacceptable behavior and which may result in disciplinary action. The list is not comprehensive. There are many more unacceptable behaviors and behaviors prohibited by department heads/elected official which may result in disciplinary action.

- D. Breaches of the standards of conduct may subject the employee involved to discipline, up to and including discharge. The disciplinary penalty imposed may depend upon individual circumstances such as the seriousness of the offense, any previous infractions of the employee, etc. Department heads/elected officials have full discretion to impose disciplinary action on the employees within their respective departments.
- E. This policy is not intended to alter, in any way, the employment-at-will relationship between employees and the county.
- F. Department heads/elected officials may prescribe additional rules of conduct for the employees of their individual departments, and should make every effort to communicate such rules to the employees within their respective departments.
- G. Any employee who has been the subject of disciplinary action which resulted in loss of employment or an employment benefit may file a grievance under the procedures set forth in Policy No. 560 of this manual.

TIMELINESS AND ATTENDANCE CONTROL

I. PURPOSE

To assure a balance in work loads among employees in the same position, to assist in the timely completion of projects and the efficient provision of county services to the public, and to inform employees of their responsibilities in this regard.

II. SCOPE

The policies stated herein apply to all non-exempt employees of Orange County.

III. POLICY

- A. Goals. Because the county and each of its departments depend heavily upon its employees, it is important that employees attend work as scheduled. Dependability, attendance, punctuality, and a commitment to do the job right are essential at all times. Employees are to be punctual in reporting for work, keeping appointments, and meeting schedules for completion of work.
- B. Employee's Responsibility and Disciplinary Action. Absenteeism and habitual lateness, as well as habitually leaving work early without authorization, lessen an employee's chances for advancement and may result in disciplinary action, up to and including termination of employment. Every employee has the responsibility to maintain a good attendance record.

IV. DEFINITIONS

- A. Absence. An absence is defined as any absence from work during scheduled working hours (including during overtime hours scheduled to be worked), excluding absence for work-incurred injuries, legitimate illness, vacation, family and medical leave, and other leave authorized by this manual.
- B. Lateness or Leaving Early. Lateness means arriving at work after the designated time. Leaving work early means leaving work prior to the specified time for the end of the workday.

V. PROCEDURES

- A. Attendance Standards. Department heads/elected officials should seek to maintain an attendance level among employees which promotes the efficient administration of county business.
- B. Notification.
 - 1. Advance Notice. Employees are required to give advance notice, when possible, of lateness or absence. When the need for being absent from work is known in advance, the employee is required to notify his or her supervisor or department head/elected official or the Human Resources Department immediately. If the need for absence is not known in advance, notification by phone must be given by the employee to his or her supervisor or department head/elected official, in accordance with Policy No. 313. Employees should schedule appointments for personal reasons and medical appointments outside working hours, if possible.
 - 2. Timing of Notice and Maintenance of Contact. An employee is to give prompt notice of any lateness or absence as specified in Policy No. 313, and to maintain daily contact in accordance with that policy.
- C. Absence without Notice. An absent employee who fails to contact his/her immediate supervisor, department head/elected official, or the Human Resources Department, in accordance with this policy, and Policy No. 313, may be considered as having voluntarily resigned, and/or may be subjected to disciplinary action, up to and including termination. The employee may be eligible for reinstatement only if exceptional circumstances explain why the employee could not have called in. Whether such exceptional circumstances exist is determined by the employee's department head/elected official.
- D. Disciplinary Action. Frequent tardiness or unexcused absence is not permissible, and is grounds for disciplinary action up to and including termination.
- E. Variances by Department. A department head/elected official may require a different reporting schedule than that described above, that he or she determines to be more efficient to the operation of the particular department. An employee should consult his or her department head/elected official regarding the specific requirements of the particular department.

SOLICITATION AND DISTRIBUTION

I. PURPOSE

To ensure a productive work environment where employees and business operations may function without disruption.

II. SCOPE

This policy applies to employees and non-employees during work time and while on county premises.

III. POLICY

The county strives to establish a work environment that is productive and free from undue disruptions to the workday. Therefore, soliciting by one employee of another, or collecting from one employee by another, distributing literature, or circulating petitions during work time or in work areas, as well as soliciting or distributing literature by non-county employees, is restricted to only those times and areas of the workplace that are compatible with the efficient and orderly operation of county business, as determined by the department head/elected official for each department.

IV. DEFINITIONS

- A. Work time. All time on county premises other than before and after work, at meal periods and break times.
- B. Work areas. All areas on county premises other than employee break rooms, where available, and rest rooms.

SUBSTANCE ABUSE

I. PURPOSE

To establish the county's policy prohibiting use, possession, manufacture, sale, purchase, or transfer of alcoholic beverages, illegal drugs or other intoxicants, and being under the influence of alcoholic beverages, illegal drugs or other intoxicants at any time on county premises or while attending county business.

II. SCOPE

This policy applies to all county employees and applicants for employment.

III. POLICY

- A. The county strives to reasonably ensure safety in the workplace to protect its employees and members of the public. **Consequently, the following actions are strictly prohibited and may result in immediate disciplinary action, up to and including termination of employment:** reporting to work under the influence of intoxicating liquor or illegal drugs; or the use, possession, manufacture, purchase or transfer by an employee on company premises or property (including storage in a desk, locker, car, etc.), or during work time, of an intoxicating liquor, controlled or illegal substance, a drug not medically authorized, or any other substances which impair job performance or pose a hazard to the safety and welfare of the employee, the public, or other employees; or, the sale of any such item. See Policy No. 142: Drug and Alcohol Testing, for a more in depth description of prohibited actions.
- B. Upon reasonable suspicion, as defined in Policy No. 142, a department head/elected official may require an employee to be tested for substance abuse when it appears that the employee's work performance or on-the-job behavior is being affected in any way by drugs or alcohol, or when an employee is involved in an accident involving county property or on county premises or when an employee sustains an on-the-job injury. An employee may be also be tested prior to or upon employment with the county, as determined by the relevant department head/elected official. For more information concerning policies and procedures, regarding substance abuse testing policies and procedures, see Policy No. 142.
- C. The county reserves the right to inspect and/or search all county property for intoxicating liquor, controlled or illegal substances, or any other substances which impair job performance. Refusal to cooperate in any such investigation may subject the employee to disciplinary action, up to and including suspension or termination of employment. See Policy No. 450: Corrective Action - Disciplinary Procedures.

DRESS, PERSONAL APPEARANCE, AND PROFESSIONAL CONDUCT

I. PURPOSE

To establish guidelines for appropriate dress and appearance during county business hours and county functions.

II. SCOPE

This policy applies to all county employees.

III. POLICY

Every employee of Orange County is a representative of the county to the public, as well as to fellow employees. Work attire should complement an environment that reflects an efficient, orderly, and professionally operated organization. Employees are expected to maintain a businesslike, neat, and clean appearance, and to be properly attired for the environment in which they work. In addition, employees are required to conduct themselves in a professional and polite manner. Appropriate appearance and behavior includes:

- A. Apparel. Generally, employees should wear appropriate, clean, pressed business attire for office positions and positions requiring contact with the public. Employees in other non-office or non-public contact positions should dress in appropriate attire for their positions.
 - 1. The following are some examples of inappropriate dress for any employee:
 - a. Faded and/or tattered jeans.
 - b. Overalls (except in appropriate departments), sweatshirts/pants, or jogging suits.
 - c. Shorts or tank tops.
 - d. Any clothing with spaghetti straps, any clothing that reveals bare backs, midriffs or shoulders, or any revealing or provocative clothing.
 - 2. Employees required to wear uniforms as part of their employment with the county, including Sheriff's Department officers, shall comply with the requirements of their departments for the maintenance and use of such uniforms.

- B. Hair. Hair should be clean, combed and neatly trimmed or arranged. This pertains to sideburns, moustaches and beards as well.
- C. Personal Hygiene. Good personal hygiene habits must be maintained.
- D. Professional Demeanor. The county requires order and discipline to serve the public and to promote efficiency, productivity, and cooperation among its employees. The orderly and efficient operation of county services requires that employees maintain proper standards of conduct at all times. Every employee shall conduct him or herself in a professional, courteous, and helpful manner with the public and other employees, and shall make every attempt to effectively and efficiently deliver services to the public. See also Policy Nos. 120-125 and 410.

IV. PROCEDURE

- A. Each department head/elected official is responsible for evaluating the behavior of the employees under his or her supervision, and for instituting guidelines for professional conduct. Employees who fail to maintain proper standards of conduct toward their work, their co-workers, or members of the public who seek county services, may be subject to disciplinary action, up to and including termination of employment.
- B. Each department head/elected official is also responsible for evaluating the dress and appearance of employees under his or her supervision. If an employee is not dressed appropriately, the employee may be sent home to change clothes immediately, and may be given an oral or written warning to be retained in the relevant employee's personnel file, or other appropriate disciplinary action. Pay for the day that the employee is sent home shall begin when the employee returns to work properly dressed. See also Policy No. 450: Corrective Action - Disciplinary Procedures.

TOBACCO-FREE WORKPLACE

I. PURPOSE

Orange County strives to provide a healthy work environment. In order to protect its employees and citizens, Orange County is a tobacco free workplace and acknowledges that there are studies by the Surgeon General of the United States, the National Academy of Sciences, and other health organizations which link passive exposure to tobacco smoke, referred to as secondhand smoke, to a variety of negative health conditions. Orange County also recognizes that tobacco use is one of the most preventable causes of life-threatening disease; therefore it is Orange County's responsibility to establish a tobacco-free work environment for our employees.

II. POLICY

- A. Employees, Elected Officials, vendors and the public are prohibited from smoking and tobacco use inside all County buildings, County owned vehicles, and County owned equipment. Smoking will not be permitted anywhere inside County facilities or within 25 feet of any entrance of a County owned building.
- B. Smoking or the use of any Tobacco Product by any member of the public shall also be strictly prohibited on Orange County Premises. Signs will be posted on Orange County Buildings that explain the policy. This policy will also be posted on Orange County's website.
- C. An employee who violates this policy may be subject to disciplinary action.

BURNING OF CANDLES IN THE WORKPLACE

I. PURPOSE

For reason of fire hazards and in order to provide a healthier and safer workplace for all County Employees and citizens.

II. SCOPE

This policy applies to all Department Heads/Elected Officials and employees.

III. POLICY

- A. The burning of candles and incense or other scents that involve a flame is prohibited in all county buildings and county offices.
- B. Department Head/Elected Officials, upon receiving notification of candles being burned should investigate and report incident to the Risk Management Dept. or Human Resources Department.

SECURITY AND CONFIDENTIALITY

I. PURPOSE

To set forth security measures necessary to maintain the proper conduct of county business and to protect employees, members of the public, and the integrity of public records, to the greatest extent possible.

II. SCOPE

This policy applies to all county employees, as well as visitors to the courthouse, the county administration building, and other county buildings.

III. POLICY AND PROCEDURE

A. Public Disclosure.

1. Much of county business is subject to disclosure to members of the public. Specifically, most of the documents maintained on record with the county are subject to disclosure under the Texas Public Information Act (formerly the Texas Open Records Act), Chapter 552, Government Code. The Public Information Act sets forth what documents and information governmental bodies, including the county, are required to disclose to the public and the procedures by which such disclosures are to be made.
2. All department heads and elected officials should be familiar with the requirements of the Public Information Act. A copy of any request for information pertaining to personnel files should be forwarded to the Human Resources Department. Any questions which arise concerning the propriety or necessity of disclosing information under the act should be addressed to the County Attorney's Office. An employee with questions concerning whether any document(s) should be disclosed, should consult his or her supervisor/department head/elected official, who should consult the County Attorney's Office, if necessary.
3. Some information is exempted from the requirement of disclosure, and may be highly confidential. It is vital that such information be held in strict confidence, and not discussed by employees with access to such information with individuals outside their departments, on or off the job, except for the purposes of conducting county business. Employees should not discuss, outside the workplace, personnel information pertaining to other employees or any other confidential information. If a department has any question concerning the identification of confidential information and/or documents, the County Attorney's Office should be consulted.

B. Prohibited Use of Information:

Use of confidential information gained by reason of an employee's position with the county to advance any personal interest, financial or otherwise, or to harm the interests of the county is a violation of county policy, and may result in disciplinary action, up to and including, termination of employment. See also Policy No. 422: Conflict of Interest.

C. Security of County Offices:

Maintaining security of the county courthouse and other county offices and records is important to the proper conduct of county business. Because of the confidential nature of some documents, as well as the need to maintain accurate and complete public records, the following security measures are necessary to maintaining the integrity of county records:

1. Non-employees and employees not assigned to work in a certain department should not be allowed access to secured or confidential materials within that department or office.
2. Visitors of employees and members of the public should not be allowed in areas of any office not open to the public, unless specifically authorized by the department head/elected official of that department, and supervised by an employee of that office.
3. Courthouse-wide security measures are necessary for the protection of county employees and member of the public who visit the Courthouse, and such measures must be adhered to as developed and implemented by the Commissioners Court.
4. Employees should be aware of their surrounding at all times, and be alert to any unusual circumstances or individuals. An employee who becomes aware of any suspicious circumstances should notify his or her department head/elected official or other supervisory employee immediately.

COMPUTER HARDWARE AND SOFTWARE SECURITY

I. PURPOSE

The purpose of this policy is to protect against the unauthorized use of county data and electronic communications, equipment and software. These rules are in place to protect the employee and Orange County. Inappropriate use exposes Orange County to risks including virus attacks, compromise of network systems, services, and legal issues.

II. SCOPE

This policy applies to all employees of the county.

III. POLICY AND PROCEDURE

The county's data and electronic communications, equipment and software are valuable county assets, as well as public property. Therefore, Orange County reserves and intends to exercise the right to access and monitor the use of such equipment as deemed necessary. Unauthorized use of these assets may result in disciplinary action, up to and including, termination of employment.

A. Hardware and Other Equipment.

1. County Business Only. Computer and related office automation equipment leased or owned by the county shall be used only to conduct county business. County computers may not be used to develop programs for outside use, without prior approval by the employee's supervisor/department head/elected official.
2. Department Guidelines. Each department head/elected official should develop and disseminate guidelines for the use of computer and office automation equipment for his or her department, as he or she deems necessary.
3. Modification. County computer hardware shall not be modified by employees without the prior written approval of the Management Information Systems (MIS) Department. This includes adding new equipment to county computers or changing existing equipment in county computers.
4. Equipment Relocation. County computer hardware with an asset number should not be moved to another department or to surplus without prior approval from the Management Information Systems (MIS) Department. All County owned equipment shall remain on County premises unless specifically authorized to be taken off-site.

5. Program Requests. A program request should be filled out and turned in to the MIS Department for all support requests (i.e. new employee setups, moving employees and/or equipment within a department). The request should be turned in before the date that the work is to be completed in order to give the MIS Department time to prepare and complete the request in a timely manner.
- B. Software. Software shall not be installed on any county computer without the prior written approval of the MIS Department.
1. County Software.
 - a. Computer software developed by county employees, contracted on behalf of the county, or purchased for the use of the county, is county property and may not be distributed to outsiders, unless such distribution is authorized in writing by the relevant department head/elected official, or unless authorized by action of the Commissioners Court.
 - b. Contracts for programming work to be performed by outside personnel must clearly spell out ownership of the software. All copies of programs and program documentation owned by the county must include the appropriate copyright line (e.g. ©2013 "Orange County, Texas").
 2. Purchased/Leased Software.
 - a. Contracts with vendors of proprietary software packages clearly define the limits of their use. Employees are forbidden to copy or use software contrary to the provisions of any such contract.
 - b. Products purchased and/or leased to run on a specific central processor may not be copied or run on additional processors until an agreement which provides for such usages is obtained from the vendor.
 - c. Personal computer software products may not be copied except to the limit provided by the relevant vendor's contracts (e.g., a backup copy for protection).
- C. Network. Employees logging onto the County Network are encouraged to save all County related documents and computer files to the County server. Doing so allows for nightly backup and guarantees the preservation of all such County documents and/or files. Employees who need help understanding how to accomplish this task should contact (or have their immediate supervisor contact) the County MIS Department.
1. Email. County E-mail is provided for County employees at the written request of their immediate supervisor. E-mail is also provided for all Department Heads and Elected Officials.

- a. When a County employee, Department Head or Elected Official leaves their position with the County their e-mail account will be removed their last day of employment. It is the Department Head's responsibility to let the MIS Department know of any terminations/resignations/retirements within their department.
 - b. The County prohibits the use of e-mail in ways that are disruptive to others. Foul, inappropriate, or offensive messages or documents containing racial or religious slurs or sexually explicit language/photographs are prohibited.
 - c. All e-mail on County equipment is the property of Orange County. E-mail messages are public record and open to public inspection in accordance with the Open Records Act of the State of Texas.
 2. Internet Use. Internet use on county computers shall be limited to conducting official county business.
 - a. The County prohibits the use of internet in ways that are disruptive to others. Foul, inappropriate, or offensive messages or documents containing racial or religious slurs or sexually explicit language/photographs are prohibited.
 - b. The MIS Department keeps a log of all computers that have contracted a virus due to internet usage. If a computer is repaired multiple times within a one year period, their Department Head or immediate supervisor will be contacted and disciplinary action may be taken.
 3. Bandwidth Usage. Bandwidth is limited to a fixed amount supplied to the County by the Internet Service Provider. The following are examples that reduce bandwidth resulting in slower network speeds and productivity and are discouraged:
 - Viewing online videos
 - Listening to internet radio
 - Downloading music or videos
- D. Security. Personal files should not be stored on any Orange County computer if confidentiality is to be retained. All files found on Orange County computers are to be considered Orange County property and subject to review by Orange County management at any time without prior notice.
1. Network. No one outside the County shall be granted access to the network or County computers without the knowledge/approval of the MIS Department.
 2. Physical Access. Only County employees should be allowed physical access to County computer equipment unless otherwise authorized by the MIS Department.
 3. Personal Equipment. Personal computers, phones, tablets, or laptops are not allowed on the County network unless authorized by MIS Department.

- E. Social Media. While the Orange County website (www.co.orange.tx.us) is the County's primary internet presence, the County recognizes that, when used appropriately, social media may be useful in furthering the goals of the County and the missions of its departments. Official county use of social media should be used to deliver public information to county residents and to communicate directly to the public especially during emergencies.

1. Definitions.

- a. County Social Media Sites – Those pages in social media websites established or maintained by an employee of the County authorized to do so as part of the employee's job and that are used to communicate with the public on County business.
- b. Social Media – Internet-based applications that allow the creation and exchange of user-generated content. These applications include social networking sites, forums, blogs, online chat sites, and video/photo posting sites or any other such similar output or format. Examples include Facebook, Twitter, and YouTube.

2. Responsibilities.

- a. If a department desires access to Facebook, they may make a request by placing an item on the agenda for Commissioner's Court.
- b. Each Department Head is responsible for monitoring and maintaining the Social Media Site for their department.
- c. Each Department's social media site should be reviewed regularly to ensure the content is appropriate, professional, and consistent with the County's policies and the purpose for which the site exists.
- d. Social media should not be used for personal use during working hours.
- e. County social media sites should make clear that they are maintained by the County of Orange and that they follow the County's Social Media Policy.
- f. If you identify yourself as a county employee on social media platforms, then you must indicate your views are not the official view of Orange County Government. If you publish content on any website that relates to your work or subjects associated with the county, then use a disclaimer such as, "The views expressed on this site (or in this post) are my own and do not necessarily represent Orange County's positions, strategies, or opinions."

- F. Security Awareness Training. As required by Chapter 2054 of the Texas Government Code, County employees who do at least 25% of their work on a County computer are required to do Security Awareness training annually. Each employee upon hire and at least annually thereafter will be required to complete Basic Cyber Security Training. Certain staff may be required to complete additional training modules depending on their specific job requirements. Staff will be given a reasonable amount of time to complete each course so as not to disrupt business operations.
1. Simulated Social Engineering Exercises. The Orange County MIS Department will conduct periodic phishing (email) exercises. These tests will be conducted at random throughout the year with no set schedule or frequency. The Orange County MIS department may conduct targeted exercises against specific departments or individuals based on a risk determination.
 2. Remedial Training Exercises. Occasionally Orange County employees may be required to complete remedial training courses as part of a risk-based assessment.
 3. Compliance. Compliance with this policy is mandatory for all employees with access to the Orange County network. The Orange County MIS department will monitor compliance and non-compliance and report results to the Orange County Commissioner's Court. Penalties for failing to complete the required training are described below:
 - a. First Failure: Mandatory completion of Basic Cybersecurity training with IT staff present.
 - b. Second Failure: Mandatory completion of Remedial Cybersecurity Training with IT staff present.
 - c. Third Failure: Face to face meeting with their Department Head/Supervisor/Elected Official.
 - d. Fourth Failure: Face to face meeting with their Department Head/Supervisor/Elected Official and Head of Human Resources.
 - e. Fifth Failure: Potential for Termination of Employment or Employment Contract.

CONFLICT OF INTEREST

I. PURPOSE

To protect the integrity of county operations and services to the public, and to reduce the risk of litigation against the county and county officials and employees.

II. SCOPE

This policy applies to all county employees, including department heads/elected officials.

III. POLICY

Employees are expected to devote their best efforts to the interests of the county and service to the public. The county recognizes the right of employees to engage in activities outside of their employment with the county which are of a private nature and unrelated to county business. However, due to the nature of public employment, the following policies and procedural safeguards must be complied with by employees.

IV. PROCEDURE

- A. Gifts and Gratuities. A county officer or employee may not accept any gift, tip, or free service that might tend to influence his or her official actions or impair his or her independence of judgment in performance of duties for the county.
- B. County Elected Officials. Members of the Commissioners Court and certain other county officials, who exercise responsibilities beyond those that are advisory in nature, as defined by Section 171.001 of the Texas Local Government Code, shall not participate in a vote or decision affecting a business or real estate in which the member or official has a substantial interest.
- C. County Employees. An employee may not:
 - 1. Solicit or accept or agree to accept a financial benefit, other than from the county, that might reasonably tend to influence his or her performance of duties for the county or that he or she knows or should know is offered with intent to influence the employee's performance;
 - 2. Accept employment or compensation that might reasonably induce him or her to disclose confidential information acquired in the performance of official duties;

3. Accept outside employment or compensation that might reasonably tend to impair the employee's independence of judgment in performance of his or her duties for the county;
 4. Make any personal investment that might reasonably be expected to create a substantial conflict between the employee's private interest and his or her duties for the county;
 5. Solicit or accept or agree to accept a financial benefit from another person in exchange for having performed duties as a county employee in favor of that person; or
 6. Engage in any other activity clearly set out by the employee's department head/elected official as being contrary to the interests of that office, but the prohibition of which does not interfere with the employee's rights under the First Amendment or any other federal or state law.
- D. Disclosure of Interest. Any employee or official who has a substantial private interest, direct or indirect, in any individual or entity involved in any decision pending before the employee or official, or Commissioners Court, shall not vote or otherwise participate in any action or consideration of action taken on the matter. If any action is pending on a matter in which an employee or official has a substantial interest, such employee or official shall disclose such interest in writing to his or her department head/elected official and the Human Resources Department.
- E. Questions and Concerns. Any questions regarding a possible conflict of interest or outside work should be discussed with the employee's department head/elected official, in consultation with the County Attorney's Office, as necessary.
- F. Disciplinary Action. Any use of information or other advantage gained by reason of an employee's employment with the county to advance any personal interest, financial or otherwise, or to harm the interests of the county is a violation of county policy, and may result in disciplinary action, up to and including, termination of employment. See also Policy No. 420: Security and Confidentiality.

REPRESENTATION OF AND BEFORE THE COUNTY

I. PURPOSE

To protect the conduct of county operations and to define the circumstances under which an employee may represent the county or other persons or interests before the county.

II. SCOPE

This policy applies to all county employees; including department heads/elected officials.

III. POLICIES AND PROCEDURES

- A. An employee of the county may not act as a representative, either directly or indirectly, for any private individual, group, or interest, before any meeting or proceeding before any county department, board, agency, or commission, including the Commissioners Court, except where otherwise provided by law.
 - 1. This policy does not prevent an employee from appearing before the Commissioners Court or other county governmental body for purposes related to the employee's employment with the county, or the employment of another employee, as otherwise provided in this manual, or from appearing as a witness in a proceeding.
 - 2. This policy also does not prevent an employee from appearing before the Commissioners Court to address private matters not prohibited by Policy No. 422: Conflict of Interest, or by any other policy contained in this manual, or by state or federal law.
 - a. For example, an employee could address Commissioners Court regarding the need to pave a county road on which the employee resides or to notify the court of a violation of a county ordinance or regulation.
- B. Unless otherwise authorized by law, an employee may not represent another individual, group, or interest, in any action or proceeding against the interests of the county, or in any litigation in which the county is a party.

- C. An employee may not represent or purport to represent the county, in any capacity, or attempt to act as an agent for the county, before any private or public interest, without specific authorization by the Commissioners Court, acting in its capacity as the governing body of the county, or as otherwise authorized by law. The actions of an individual department head, elected official, or employee in executing a contract or agreement with any third party, without specific legal authorization, or authorization of the Commissioners Court, does not bind the county to any such agreement, and the employee or official may be held individually liable in any action instituted by the third party.
- D. This policy does not operate to prevent any employee from filing an employee grievance in accordance with the policies provided in this manual. Nor does it prevent any employee from instituting a claim or suit against the county or its officials for redress, where authorized by law.
- E. Failure to comply with the provisions of this policy may result in disciplinary action, up to and including, termination of employment.

USE OF COUNTY EQUIPMENT AND OTHER PROPERTY

I. PURPOSE

To set forth general supervisory guidelines to avoid improper use and abuse of county vehicles and property.

II. SCOPE

This policy applies to all county employees.

III. POLICY

County property shall not be appropriated for personal use. All county property shall be used for its proper and intended purpose, and shall be used in a manner so as to minimize abuse of such property, as well as wear and tear on the property.

- A. Protection of Office & Other County Equipment. All office equipment, tools, and any other county equipment, shall be returned to their proper storage locations at the close of each business day. County property shall not be removed from county premises, except where specifically authorized by the relevant department head/elected official.
- B. Damage to County Property. Intentional or negligent damage to county property shall not be tolerated. Employees who do so may be subject to discipline, including, but not limited to, termination, and may be required to pay restitution for the damaged property. See also Policy No. 410: Standards of Conduct.
- C. County Vehicles. County vehicles shall be utilized for work related purposes only. Only authorized county employees shall drive or otherwise utilize county vehicles.
 - 1. Overnight Travel. Where an employee is authorized to utilize a county vehicle for overnight travel, the employee's spouse and children may accompany the employee on the travel. See also Policy No. 330: Travel.
 - 2. Sheriff's Department Personnel. Nothing in this policy shall be construed to prohibit Sheriff's Department personnel from utilizing county vehicles to transport prisoners from location to location, as necessary as part of their job duties.

3. Improper Use of County Vehicles. Any employee who is found to have utilized a county vehicle for personal reasons, other than an emergency, may be subject to discipline, up to and including, termination, and may be required to pay restitution for the value of the misappropriated use.

OFF-DUTY CONDUCT

I. PURPOSE

To govern the off-duty conduct of employees that may reflect negatively on the conduct of county business or on an employee's ability to complete his or her duties and to adequately serve the public trust.

II. SCOPE

This policy applies to all county employees.

III. POLICY

- A. The county seeks to always respect the dignity and privacy of its employees. However, occasions may arise, when, in order to safeguard other employees, members of the public, and/or the integrity of county operations, that the actions of an employee off duty must be reviewed. The county reserves the right to take action when the off-duty conduct of an employee impacts the conduct of county business.
- B. In general, the county shall engage in disciplinary action directed only to the off-duty conduct of employees that affects the conduct of county business. Off-duty conduct, such as membership in organizations to promote civil rights or social organizations, religious practices protected by law, smoking, and other lawful off-duty conduct, as well as participation in campaign and other political activities while off-duty, are not matters of concern to the county, and **shall not be considered as a factor in any employment action.**
- C. While it is impossible to list all of the potential off-duty conduct that may impact the county's interest, general guidelines for employees follow. Generally, such off-duty conduct involves an illegal activity that affects the county's business. If an employee has a question about any specific activity or instance, he or she is encouraged to consult the pertinent provision(s) of this employment manual, his or her department head/elected official, or the Human Resources Department.
- D. In general, while on county property, county employees are expected to behave in the same courteous manner while off-duty as when they are working.
- E. The following is a non-exhaustive list of off-duty behaviors that will not be tolerated as in conflict with an employee's ability to conduct his or her job and that may lead to disciplinary action, up to and including termination:

1. Sexual or other discriminatory harassment of county employee's off-duty, and other threatening behavior directed at members of the public or other employees.
2. Violent acts and illegal conduct that indicates the potential for violence.
3. Illegal conduct on county property while off-duty.
4. Illegal conduct off-duty that causes the employee to be unable to perform his or her essential job functions.
5. Disruptive actions on county property or at a county-sponsored event while off-duty.
6. Disclosure of confidential information.
7. An employee unable to arrive at work on time due to his or her arrest, resulting in an unexcused absence from work.
8. Off-duty conduct that could result or does result in the loss or denial of an operating license necessary for employment.
9. Use of illegal intoxicants or illegal intoxication off-duty. See also Policy Nos. 142 and 413.

IV. PROCEDURE

- A. An employee shall be expected to cooperate with any review of his or her off-duty conduct. The employee whose conduct is being reviewed should be given an opportunity to explain his or her actions.
- B. Engaging in conduct listed under Section III of this policy, as well as other off-duty conduct that, in the department head/elected official's discretion, reflects negatively on the employee's ability to complete his duties or adequately serve the public trust, may subject an employee to disciplinary action, up to and including, termination of employment. An employee, who receives disciplinary action for off-duty conduct that results in loss of employment or a benefit of employment, may follow the grievance procedures outlined in Policy No. 540.

OUTSIDE EMPLOYMENT

I. PURPOSE

To provide guidelines for employees who engage in outside employment.

II. SCOPE

This policy applies to all employees of Orange County.

III. POLICY

- A. Employees shall devote their time and efforts to employment with Orange County during assigned work hours and shall not engage in outside employment to any extent that conflicts with the employee's duties to the county.
- B. Employees shall not be permitted to engage in the exchange, purchase and sale of goods and services with the county as an additional income source beyond his or her paid employer/employee relationship, except where specifically authorized by law or the Commissioners Court. See also Policy No. 422: Conflict of Interest.
- C. Nothing in this policy shall be interpreted to prohibit a county employee from engaging in outside employment that does not adversely affect, and is unrelated to, the employee's county employment. However, the relevant department head/elected official shall have the discretion to prohibit such outside employment that is in conflict with the employee's county duties, or to require that any such employment be approved by the department head/elected official, as not constituting a conflict of interest with the employee's position with the county, prior to the employee engaging in any such outside employment.

POLITICAL ACTIVITIES AND CONTRIBUTIONS; OFFICIAL DONATIONS

I. PURPOSE

To establish guidelines for political activities on county property and prevent undue influence upon employees to participate in or contribute to any organized political activity.

II. SCOPE

This policy applies to all employees of Orange County; including department heads/elected officials.

III. POLICY

- A. No employee shall be required to contribute or make donations to any fund or collection process.
- B. Any solicitation or collection efforts made during office hours must be approved by the relevant department head/elected official prior to the conduct of the activity.
- C. Employees shall not be required to participate in any political activity as a condition to obtain or retain any county employment. No employee shall be terminated for refusal or failure to participate in any political activity.
- D. Employees shall not engage in political services, campaigning, or other such related activities not related to their employment duties during normal working hours or during hours for which the employee is compensated by the county.
- E. Employees shall not use any county property for political service or involvement in political service not related to their employment duties.
- F. No employee shall use his or her position to interfere with, disrupt, or in any way affect the results of an election or nomination for public office.
- G. No employee shall dictate or restrain any other employee from the free exercise of political beliefs, political affiliations, or the free exercise of the right to vote.
- H. Nothing in this section shall prohibit any elected official from making or receiving private political endorsements during off-duty hours, nor prevent any holder of a public office from making political endorsements that involve the use of the elected official's title.

- I. Violations of this policy may subject an employee to disciplinary action, up to and including immediate termination of employment, as well as civil and criminal legal liability.

CORRECTIVE ACTION - DISCIPLINARY PROCEDURES

I. PURPOSE

To establish guidelines for disciplining employees and to help correct inappropriate or insufficient work conduct.

II. SCOPE

This policy applies to all employees of Orange County.

III. POLICY

All employees are to conduct themselves reasonably at all times, and to strive to complete their duties in a competent and professional manner. Employees are expected to follow the policies contained in this manual, as well as the conduct and performance standards established and expected by their respective department heads/elected officials. Failure to do so may subject the employee to disciplinary action, up to and including termination of employment.

IV. PROCEDURE

- A. The county encourages a system of progressive discipline geared to correct rather than to penalize employees. This system includes, but is not limited to, the following progressive disciplinary measures:
 - 1. Verbal counseling or oral warning: a verbal conference with the employee by the relevant supervisor/department head/elected official, to discuss the behavior or performance problem to be corrected, as well as ways for the employee to improve his or her performance. This step is informal and serves as initial notice to the employee of a performance problem or a violation of county or departmental policy, and the necessity for correcting such action.
 - 2. Written warning: formal written notice of a performance problem or inability to follow established policy. This step serves as notice that continued violations cannot be tolerated.
 - 3. Probation: placing an employee on notice that if his or her behavior does not improve within a specific time period set by the department head/elected official, his or her employment will be terminated.

4. Suspension or demotion: removing an employee from his or her duties with or without pay for a time set by the department head/elected official, but no more than 30 days, or placing an employee in a position of lesser responsibility, where available. A suspension may be paid or unpaid, in the discretion of the relevant department head/elected official. A suspension or demotion may be the last opportunity for an employee to improve his or her performance prior to termination.
 5. Termination: an employee's failure to respond to the above disciplinary measures may result in termination of employment.
- B. There are some infractions which are so serious as to be considered to be beyond correction and to constitute a basis for immediate termination of employment, without attempting the progressive disciplinary steps listed above. Examples include, but are not limited to: theft, fraud, insubordination, being under the influence of illegal drugs or alcohol, fighting, and willful property abuse or destruction.
- C. Although department heads/elected officials are encouraged to follow the above progressive disciplinary procedures, every employee is employed at the will of the department head/elected official or other governing entity, such as the Commissioners Court or the Board of Judges, and may be terminated at any time with or without reason or notice. Department heads/elected officials may, in their discretion terminate an employee or otherwise discipline an employee without following the above-described procedures, and may institute other disciplinary procedures to govern their respective departments.
- D. The relevant department head/elected official should notify the Human Resources Department in writing of all disciplinary actions taken against an employee, excluding verbal counseling/oral warnings. Department heads/elected officials may utilize their own inter-office disciplinary forms, or record disciplinary actions by letter or other written instrument.

500. EMPLOYEE COMMUNICATIONS

OPEN DOOR COMMUNICATIONS

I. PURPOSE

Orange County wishes to take all reasonable steps to preserve the relationship between the employee, department head/elected official and the county, and to maintain a positive employment environment.

II. SCOPE

This policy applies to all county employees; including supervisors/department heads/elected officials.

III. POLICY AND PROCEDURE

The county encourages two-way communication between employees and supervisors/department heads/elected officials, to discuss work-related problems and issues. Department heads/elected officials are responsible for listening to employee complaints and work-related issues, and to respond, if necessary, in a timely fashion. Department heads/elected officials shall not retaliate against any employee for submitting a complaint to or about a department head/elected official, in good faith. Nothing contained herein, however, prohibits a department head/elected official from taking other appropriate disciplinary or corrective action against an employee.

SUGGESTIONS

I. PURPOSE

To encourage employees to suggest ways to improve the quality or efficiency of county business.

II. SCOPE

This policy applies to all county employees.

III. POLICY AND PROCEDURE

The county encourages employees to suggest ideas and methods to improve the quality of work, to increase the efficiency of county business, and to reduce costs or otherwise create identifiable and measurable savings to the county and the taxpayers. Employees should submit any such suggestions to their respective department head/elected official or the Human Resources Department. The suggestions should be in writing, when possible, and should be sufficiently detailed so that the idea, method, or procedure can be adequately evaluated. The Human Resources Department shall forward all such ideas received by that department to the appropriate department or official. Employees should also be receptive to work-related suggestions and comments from the public and relate those to their respective department heads/elected officials.

MAIL

I. PURPOSE

To maximize processing and delivery of the county's mail.

II. SCOPE

This policy applies to all county employees.

III. POLICY AND PROCEDURE

- A. Employees shall not use postage meters or overnight delivery service for their personal mail.
- B. Overnight delivery services should be used only when absolutely necessary, and only for purposes of county business. Normally, the U.S. Mail should be used.
- C. In addition to warranting disciplinary action, a violation of this policy may constitute criminal theft.

TELEPHONE AND VOICEMAIL USE

I. PURPOSE

To provide general guidelines for using county telephones and the voice mail system.

II. SCOPE

This policy applies to all county employees.

III. POLICY AND PROCEDURE

- A. Efficient and courteous telephone service is vital to county business. Department heads/elected officials should establish procedures for handling phone calls within their respective departments.
- B. Each department may utilize the county voice mail system, at the option of the department head/elected official. Department heads/elected officials should establish procedures for utilizing the voice mail system within each respective department. The system should be used properly, following all available instructions, and for county business only.
- C. Employees shall hold personal calls, both incoming and outgoing, to emergencies or essential personal business that cannot be completed at other times, and keep all such calls as brief as possible. Personal calling cards or collect calls should be utilized for any personal long distance calls. Employees are financially responsible for all personal toll and long distance calls charged to the county. Use of long distance service, cell phones, and fax machines for personal business, in addition to warranting disciplinary action, may constitute criminal theft.

MEDIA RELATIONS

I. PURPOSE

To preserve confidentiality of protected information within the county, and to ensure the proper dissemination of information to the public.

II. SCOPE

This policy applies to all employees of the county.

III. POLICY AND PROCEDURE

In general, any contacts with the news media must be referred to the appropriate county official for comment. Further, all papers, articles, speeches or presentations to non-county persons regarding county business should be submitted to the employee's supervising department head/elected official prior to dissemination for approval.

Each department head/elected official is encouraged to establish guidelines within his or her own office for the dissemination of information to the media.

GRIEVANCE AND COMPLAINT PROCEDURES

I. PURPOSE

To provide a system in which an employee can seek redress of a grievance where the employee believes he or she has been treated unfairly. The county provides separate specific grievance procedures for dealing with complaints of (1) discrimination under the Americans with Disabilities Act (see Policy No. 122A) and, (2) sexual harassment (see Policy No. 123A).

II. SCOPE

This policy applies to all county employees. However, an individual employed by an elected or appointed official, and covered by a collective bargaining agreement or other agreement providing for complaint procedures, may be required to utilize those procedures either in lieu of or prior to the procedures set out in this policy.

III. POLICY

County employees are allowed to grieve, in good faith, any complaint regarding the terms and conditions of their employment, including termination of employment, by following the procedures listed below. Employees should be aware that the grievance procedures vary depending on whether an employee is employed within a department ultimately governed by Commissioners Court or a department governed by an elected official or department head not under the control of Commissioners Court.

IV. GRIEVANCE PROCEDURES

A. Review of Grievance within Chain Of Command.

1. If an employment dispute is not resolved informally, an employee may submit a written grievance to his or her department head/elected official on a standard form supplied by the Human Resources Department. See Appendix O.
2. The department head/elected official may respond to the written grievance, within five (5) business days from the date of receipt of the written grievance. Any such response shall be in writing. If the department head/elected official fails to respond within the five (5) day period, or if the response of the department head/elected official fails to resolve the dispute, the employee may proceed to Step B below.

B. Appeal of Grievance to the Grievance Committee.

1. If the written grievance procedure in Step A above fails to resolve the dispute, or, if there is no response from the department head/elected official, upon expiration of the time period for the elected official/department head to respond to the written grievance, the employee may submit the grievance to the Grievance Committee to review the complaint. To receive review of the grievance, the employee must submit the grievance to the committee within ten (10) days after receipt of the response by the elected official/department head, or after the expiration of the time period for the elected official/department head to respond, if there is no response.
2. The Grievance Committee shall timely review the grievance. The committee may determine the procedures for review of the grievance, and may hold a hearing to review the grievance, if deemed necessary by the committee. If a hearing is conducted, the employee may be present and/or represented at the hearing, and the relevant elected official/department head may also attend the hearing, with or without representation. The Grievance Committee may set time limits for the presentation of the grievance, and may consider the input of any person or the introduction of any document helpful to the committee's investigation of the grievance.
3. Any hearing of the committee shall be posted in accordance with the Texas Open Meetings Act, Section 151.001, et seq., Texas Government Code, and may be open or closed to the public at the discretion of the committee, in accordance with that statute, although the employee whose grievance is being heard or the employee who is the subject of the grievance may request that the hearing be opened to the public. See Paragraph D.2 below.
4. The Grievance Committee shall, within twenty (20) days of the hearing, issue a written report stating its findings and recommendations, if any, for resolving the grievance. **THE ROLE OF THE GRIEVANCE COMMITTEE IS ADVISORY ONLY. THE COMMITTEE HAS NO AUTHORITY TO REINSTATE AN EMPLOYEE OR TO OTHERWISE AFFECT AN EMPLOYEE'S TERMS AND CONDITIONS OF EMPLOYMENT.**

C. Submission of Grievance Recommendation to Commissioners' Court or Elected Official/Department Head.

1. The Grievance Committee shall submit its report and recommendation to the employee, as well as the employee's department head/elected official on the date of issuance. The department head/elected official may review the recommendation of the Grievance Committee and respond in writing to the employee within ten (10) days of the date of receipt of the Grievance Committee's recommendation.
2. If the department head/elected official fails to respond, or responds in opposition to the recommendation of the Grievance Committee, and the department is one not under the control of Commissioners Court, the action of the department head/elected official shall be final.
3. However, the employee may submit the grievance to the Commissioners Court by following the procedures set forth in Step D below, if the grievance concerns a loss of pay or benefits, such as loss of vacation and sick leave benefits upon termination of employment resulting from disciplinary action. The Commissioners Court may, upon review of the grievance, instruct the payment of such benefits by the county to the employee. **THE COMMISSIONERS COURT HAS NO AUTHORITY TO ORDER THE REINSTATEMENT OF AN EMPLOYEE TERMINATED BY AN ELECTED OFFICIAL OR A DEPARTMENT HEAD WHO IS NOT UNDER THE COURT'S CONTROL.**

D. Review by Commissioners Court for Relevant Departments.

1. For all departments under the control of Commissioners Court, an employee may, within ten (10) days after the response of the department head to the Grievance Committee's recommendation, or, if no response, of the expiration of the time for such response, request that the Commissioners Court review the grievance, by notifying the County Judge in writing of such request. In support of such request, the employee is required to submit a copy of the original grievance and the response by the department head, if any, as well as a copy of the recommendation and report of the Grievance Committee. The court may, in its discretion, review the recommendation. If the court does not review the grievance, the action of the department head shall be final.

2. If the court does review the grievance, it shall do so within thirty (30) days of the date of receipt of the request for review, by hearing, under the provisions of the Texas Open Meetings Act, Section 551.001, et seq., Texas Government Code. The Commissioners Court may hold the hearing either open or closed to the public, unless the employee requests that the meeting be opened to the public pursuant to Section 551.074 of the Government Code. **The employee has no right to determine that the hearing be held in closed session.**
3. Within ten (10) days after review, the Commissioners Court shall notify the employee, in writing, of its decision regarding the grievance. The decision of the court shall be final.

POLICY/GRIEVANCE COMMITTEE

I. PURPOSE

To provide procedures for election of members to the county's Policy/Grievance Committee.

II. SCOPE

This policy applies to elections of members to the Policy/Grievance Committee, to all members appointed to the committee, and to all employees, department heads, and elected officials of Orange County, where applicable.

III. POLICY

The county desires to have a committee made up of non elected, non department head, and non union law enforcement employees of the county to serve the following functions:

- A. To periodically review personnel policies within this handbook, and submit recommendations to the Commissioners' Court regarding changes or additions to such policies; and,
- B. To hear grievances of employees, in accordance with Policy No. 560 of this manual.

IV. PROCEDURE

- A. The Policy/Grievance Committee shall be comprised of seven (7) members, all of whom shall be employees of Orange County.
 - 1. The Commissioners Court shall appoint five (5) full-time employees to the committee.
 - 2. The court shall also pick two alternates on a bi-annual basis, or as otherwise needed, to serve in case of incapacity of another committee member.
- B. A term of the committee shall generally be two (2) calendar years; provided, however, that the Commissioners' Court may designate up to two (2) appointed employees to serve terms of one (1) year or less in the event such designation is necessary to obtain staggered terms.

- C. Employees interested in serving on the committee shall submit their names to the current committee or to the non-law enforcement union representative (if the employee is a member of a non law enforcement union and wishes to be appointed by the union representative) or to the County's Human Resources Director (if there is no current committee) by November 30th of each year, who in return shall then submit the nominees to Commissioners Court. The Commissioners Court shall choose members from all names submitted, as presented to the court by the current committee, by December 31st of each year for the following calendar year, by drawing lots or by another game of chance specified by the court, and the court shall assign each employee chosen to either a one term or two term position on the committee, as set forth in Paragraph IV.B. above. The union representative shall notify the Commissioners Court of his or her appointment by November 30th of each year, and the court shall recognize that appointment in court by December 31st of each year.
- D. If any committee member resigns or, for any reason, cannot serve the entirety of his or her individual term, and such resignation or other incapacity occurs prior to November 1st of the last year of the employee's term, the Commissioners Court shall appoint one of the alternates to serve on the committee. If no alternate is available to serve, the Commissioners Court shall appoint a member to serve for the remainder of the resigning employee's term, by choosing such member, in the manner specified in Paragraph IV.C. of this policy, from the list of employees desiring membership on the committee submitted by November 30th of the preceding calendar year.
- E. Five members of the committee constitute a quorum for purposes of reaching decisions regarding policy and grievance recommendations.
- F. The committee shall establish procedures for processing grievances, posting notice of meetings, and conducting meetings to hear grievances and to review personnel policies, in compliance with Policy No. 560; the Texas Open Meetings Act, Section 551.001, et seq., Texas Government Code; and any other applicable policies or laws. The committee should elect a chairperson to serve during each term of the committee, and establish such other reasonable administrative procedures necessary to conduct the business of the committee in a harmonious and productive manner.
- G. Upon completion of any employee's second term of membership on the committee, an employee shall not be eligible for membership on the committee for a period of three (3) calendar years. An alternate is not a member of the committee for purposes of this provision.

600. TRAINING AND DEVELOPMENT

EMPLOYEE PERFORMANCE APPRAISALS

I. PURPOSE

To provide a process by which the job performance of each employee is for purposes of job development, performance improvement, and counseling.

II. SCOPE

This policy applies to all regular county employees.

III. POLICY

The employee performance appraisal process will be managed to accomplish the following objectives:

- A. To enhance individual employee performance and ensure effective operations.
- B. To summarize both formal and informal performance discussions held with employees throughout the review period.
- C. To document performance areas in which employees do well and those areas which require improvement, and to give notice to employees of needed improvements. To establish performance goals and plans to correct performance shortcomings.

IV. PROCEDURE

- A. Setting and Communicating Performance Standards. Each department head/elected official is responsible to set and communicate clear performance standards for his or her employees at the beginning of, and throughout each employee's initial and annual review periods. In addition, each supervisor is also responsible for observing and discussing with his or her employees positive and negative aspects of each employee's performance in relation to those standards throughout the annual review period. Employees should address any questions concerning performance standards and what is expected of employees under such standards to their department heads/elected officials.
- B. Completion of Performance Appraisal.
 - 1. Duties of Department Head/Elected Official.
 - a. New Hires.

- I. 90-Day Review. Employees' may receive a written performance review at the expiration of his or her 90-day orientation period, which shall be forwarded to the Human Resources Department for maintenance in the employee's permanent personnel file. However, the employee shall receive no wage increase at that time (except in cases where such an increase is specifically prescribed by a collective bargaining or other agreement to which the county is bound). The purpose of the review is to evaluate the employee's performance to date, to notify the employee of any problems with his or her performance, and give the employee a chance to correct any such deficiencies. Standard performance appraisal forms available through the Human Resources Department may be utilized for the purpose of completing the review. See Appendix P.
 - II. Existing Employees. All department heads/elected officials shall conduct an annual review of performance of each and every employee in their respective departments. The review may be completed during each calendar year at the discretion of the Department Head or Elected Official. The review may consist of an interview with the employee as well as a written review of the employee's performance over the preceding year.
2. Performance Review Document. A department head/elected official may complete the performance reviews of his or her employee by utilizing the standard county form included in this manual as Appendix P, a form adopted by the department head/elected official for the purpose of completing performance appraisals reviews, or a form supplemented by a letter or an additional form adopted by the department head/elected official. Any form adopted by a department head/elected official must include the same identical criteria for every employee within a given job classification, i.e., secretary, clerk II, etc.
 - a. Performance Appraisal Discussion. Each department head/elected official should hold a discussion with the employee regarding the annual performance review, and any need for change or improvement on the employee's part. It is suggested that the discussion be held at a prearranged time in a private location free from interruptions.

- b. Employee Signature. The employee will be asked to comment on the appraisal and acknowledge receipt of it by signing the form. He or she will then be given a copy of the signed appraisal. If the employee declines to sign the form, he or she should be encouraged to discuss any concerns and perhaps write a rebuttal. If the employee still declines to sign the appraisal, the department head/elected official shall write "employee declined to sign" at the bottom of the form, add his or her initials and the date, and give the employee a copy of the appraisal.
 - c. Determination of Performance Acceptability. In completing the written evaluation, the department head/elected official shall make a determination that the employee's performance is unsatisfactory, satisfactory, or excellent, and indicate this conclusion on the written review document.
 - d. Filing of Performance Review. The original written review document shall be forwarded to the Human Resources Department upon completion for placement in the employees permanent personnel file. The employee shall receive a copy of the written review document by the department head/elected official.
3. Unsatisfactory Review. Where the department head/elected official determines the employee's performance to be unsatisfactory, the department head/elected official shall review the reasons for the unsatisfactory determination with the employee and make suggestions as to how satisfactory performance may be achieved. A written evaluation should be completed and submitted to the Human Resources Department for retention in the employee's personnel file.
4. Duties of Human Resources Department. The Human Resources Department shall establish and maintain a system to assist department heads/elected officials in completing performance appraisals in a timely fashion, and shall provide copies of performance appraisal forms to department heads/elected officials upon request.

PROMOTIONS, DEMOTIONS, AND LATERAL, INTERDEPARTMENTAL TRANSFERS

I. PURPOSE

To support the basic organization-building process of promoting qualified employees to positions of greater responsibility and recognition, demoting or terminating unqualified employees, and allowing employees to transfer to different positions within the county for which they are qualified.

II. SCOPE

This policy applies to all county employees.

III. POLICY

A. Promotions.

1. A "promotion" is a change in the duty assignment of an employee that results in advancement to a higher level position, requiring higher qualifications and involving greater responsibility. A promoted employee shall receive a pay increase in an amount within the pay group, as defined in Policy No. 240: Pay Matrix Compensation Program, for the new position, and commensurate with the employee's qualifications for that position. If no pay group exists for the new position at the time of promotion, the Commissioners Court will establish a pay group for the position, and the promoted employee shall receive a pay increase of at least the amount of difference from the pay group of the employee's position occupied prior to promotion to the next higher grade.
2. Promotions are to be approved by the relevant department head/elected official within the staffing patterns and budget limits authorized and approved for the department by the Commissioners Court. Any promotion requiring a substantive change in the staffing pattern or an increase in the budget limits of a department must be approved by the Commissioners Court.

3. Upon promotion, an employee shall serve an orientation period of 90 days in the new position, to allow the department head/elected official to assess the employee's ability to complete the tasks of that position. A promoted employee should be evaluated at the end of the 90-day orientation period, in accordance with Policy No. 610: Employee Performance Appraisals. An employee may be returned to a lower position or terminated at any time during the orientation period or thereafter, if the employee's performance is determined to be inadequate for the requirements of that position by the employee's department head/elected official. If returned to a lower position, the position that the employee is returned to shall involve similar duties as the position occupied before promotion, and the employee's salary in that position shall be set at a grade and step within the pay group established by the Commissioners Court for that position. See Policy No. 240: Pay Matrix Compensation Program.
4. When a vacancy in a position occurs, the relevant department head/elected official may explore opportunities to promote from within his or her department where possible, consistent with the ultimate goal of filling a position with the most capable individual available. Department heads required by the Commissioners Court to post vacancies shall post any such vacancy in accordance with Policy No. 130: Recruiting and Selection. A department head/elected official not required to post vacancies may choose to post a vacant position in accordance with Policy No. 130.
5. Receipt of a promotion does not, in any way, modify the employment-at-will relationship between the county and any employee, and does not constitute a commitment for continued employment with the county for any specific time. There is also no guarantee that an employee will be able to return to his or her former position if he or she performs unsuccessfully in the new position.

B. Demotions: Voluntary and Involuntary.

1. A "demotion" is a change in the duty assignment of an employee to a lower-paid or less responsible position. A "less responsible" position is a position involving fewer responsibilities or duties and/or requiring a decreased level of skills or qualifications.

2. Demotions may result from the following:
 - a. Voluntary assumption of a less responsible position;
 - b. Reclassification of the employee's position resulting in a lower pay group for that position;
 - c. Elimination of the employee's position; or
 - d. A disciplinary measure imposed for unsatisfactory performance.
3. Demotions shall always be accompanied by a decrease in pay.
4. When an employee voluntarily assumes a less responsible position and that position is classified within a lower pay group than that of the employee's position prior to transfer, the employee shall not retain his or her pre-transfer salary, but shall be given a decrease in salary commensurate with the pay group of the employee's new position, considering the employee's qualifications for that position.
5. An employee who voluntarily assumes a less responsible position constituting a demotion shall not retain any right to reclaim his or her previous position.

C. Lateral Transfers.

1. A "lateral transfer" is the transfer of an employee between positions in the same pay group within Orange County. A lateral transfer may be made within the same department or between departments.
2. A lateral transfer must be approved by the department head/elected official to whose department the employee will be transferred. Any promotion requiring a substantive change in the staffing pattern or an increase in the budget limits of a department must be approved by the Commissioners Court.
3. All lateral transfers are subject to a 90-day orientation period to allow the department head/elected official to assess the employee's ability to complete the tasks of the new position, and a transferred employee may be returned to his or her previous position at any time during the 90-day period or thereafter. A transferred employee should be evaluated at the end of the orientation period, in accordance with Policy No. 610: Employee Performance Appraisals.

4. An employee who transfers from one position to another shall not receive a pay reduction provided that employee's current salary is within the Function Group approved by the Commissioners Court for the transferred position. An employee who transfers to a position which is of the same grade as that employee's previous position shall maintain the same step as the previous position. See Policy No. 240: Pay Matrix Compensation Program.
 5. Transferring employees are advised that, upon transfer, an employee shall not retain any right to reclaim his or her previous position.
- D. Employment Date/Benefits. A regular employee who is promoted, demoted, or laterally transferred shall retain the same effective employment date with the county, and shall retain all applicable leave benefits, including vacation and sick leave, and longevity pay. See Policy Nos. 150, 260, 311, and 313.

700. SAFETY AND HEALTH

ACCIDENTS/INJURIES REPORTING

I. PURPOSE

To protect the safety and health of all county employees and to comply with applicable federal and state laws.

II. SCOPE

The policy applies to **ALL** county employees.

III. POLICY

Job-related accidents, injuries, and illnesses, regardless of severity, shall be reported immediately if possible, but no later than the next business day following the occurrence or the discovery of the injury, to the relevant employee's supervisor or department head/elected official, and to both the Risk Management Coordinator and the Human Resources Department, in order for the county to provide prompt documentation, trained evaluation, and medical attention, if necessary. An employee is required to report an accident or injury that he or she witnesses to his or her department head/elected official, even if the employee is not the employee who is injured or involved in the accident.

IV. . PROCEDURE

- A. All personnel are charged with the responsibility of maintaining a safe work environment, and reporting injuries and accidents that occur in the workplace. Department heads/elected officials should establish safety rules for their respective departments, such as rules to wearing protective equipment, geared to the particular circumstances of each such office. Failure to follow such rules, including failure or refusal to wear protective equipment mandated by the Risk Management Coordinator and the department head/elected official, may subject the employee to disciplinary action, up to and including termination of employment.
- B. An employee shall report any unsafe condition or circumstance to his or her supervisor or department head/elected official, as well as the Risk Management Coordinator, immediately upon observation to prevent accidents.
- C. Job-related injuries or illnesses of an employee should be reported to the appropriate authority, in accordance with the following procedures:

1. If medical attention is immediately necessary, emergency medical services should be telephoned promptly at 911 by the employee, co-worker, or nearest bystander. If medical attention is necessary, but not emergent, the employee shall seek immediate medical care. Prior to returning to work, an employee shall seek medical attention for an accident involving the head or any vital artery or organ, even if injury is not immediately apparent.
2. If medical attention is needed, the employee, co-worker, or an individual acting on the employee's behalf must notify the employee's supervisor or department head/elected official, or the Risk Management Coordinator or the Human Resources Department, promptly following the incident.
3. All time off during regular working hours for emergency or immediate medical attention shall be paid by the county. Any requests for additional time off shall be processed in accordance with Policy Nos. 313-314, 316-318, and 360, as appropriate.
4. If medical attention is not needed, the employee must report immediately to the supervisor or department head/elected official for evaluation and appropriate documentation. The department head/elected official **MUST** notify the Risk Management Coordinator and the Human Resources Department, and seek their assistance, as necessary.
5. All necessary accident reports **MUST** be completed by the employee who is involved in or who discovered the accident and the Risk Management Coordinator, or the employee and his/her department head/elected official, who then files the report with the Risk Management Coordinator. An employee should consult with his/her department head/elected official and the Risk Management Coordinator after every accident involving that employee for information and necessary forms.
6. A department head/elected official may require an employee to provide a medical release from a physician or health care provider prior to returning to work after an accident or injury.
7. All employees shall cooperate fully in any investigation of an employee accident or injury by the county, law enforcement, the Risk Management Coordinator or the county's insurer. Failure to do so may result in disciplinary action, up to and including termination of employment.

LIFE-THREATENING ILLNESSES AND INFECTIOUS/COMMUNICABLE DISEASES

I. PURPOSE

To state the county's position on employees with life-threatening and contagious illnesses such as cancer, AIDS, cardiopulmonary diseases, tuberculosis, etc., and to comply with all applicable laws, including the Americans With Disabilities Act Amendment Act (see Policy No. 122) and Chapter 81 of the Texas Labor Code.

II. SCOPE

This policy applies to all employees of the county. Employees protected by state and federal laws pertaining to life-threatening and infectious/communicable diseases include employees of the county who have or are suspected of having a life-threatening or contagious illness, as well as employees who live with someone who has or is suspected of having a life-threatening or contagious illness.

III. POLICY

- A. The county is committed to providing equal opportunity to all employees, including those who have life-threatening and/or contagious illness. **Employees who have or are suspected of having a life-threatening and/or contagious illness, and employees who live with someone who has or is suspected of having a life-threatening and/or contagious illness, shall not be subject to discriminatory treatment or adverse employment action, because of co-workers' preferences or fears or for any other reason unrelated to the qualifications for the job and business necessity. The county strictly prohibits discrimination against employees who have or are suspected of having a life-threatening or contagious illness, or who live with someone who has or is suspected of having a life-threatening or contagious illness.** The county shall also make all attempts to reasonably accommodate such employees in their jobs, so long as such accommodation does not create a safety threat to other employees or impose an undue hardship on the county.
- B. However, as all other employees, employees with life-threatening or contagious illnesses are at-will employees and are not immune from disciplinary action for failing to meet the minimum performance standards associated with their positions. As is the case with all other policies contained in this manual, nothing in this policy shall be construed to create a contract of employment between the county and any employee, or to modify the employment-at-will relationship.

- C. The county is also committed to providing a safe work environment that meets or exceeds state and federal regulations. As a result, an employee or an applicant for employment to whom an offer of employment has been extended, with a life-threatening and/or contagious illness may be required to provide medical or other such evidence which indicates that their condition is not a threat to themselves or to other persons with whom the employee may be in contact, so long as the evidence required is job-related and consistent with business necessity.
- D. The county's policy on HIV/AIDS and Related Conditions in the Workplace, adopted on September 10, 1990, is made a part of this manual as Appendix Q.

IV. PROCEDURE

- A. Confidentiality and Sensitivity. If a supervisor or a department head/elected official discovers that an employee has a life-threatening or contagious illness, or lives with someone who has a life-threatening or contagious illness, all reasonable efforts should be exercised to ensure that this information remains private and confidential. All such employees with a life-threatening or contagious illness shall be treated with compassion and understanding.
- B. Continued Work and Reasonable Accommodation. The county will allow employees who have a life-threatening or contagious illness to continue to work as long as they continue to meet performance standards, and will attempt to reasonably accommodate these employees whenever practicable, so long as accommodation does not create a safety threat or impose an undue hardship on the county. (See also Policy No. 122: Americans with Disabilities Act Amendment Act).
- C. Medical Examination. To assure the county that the employee is not a danger to himself or herself, or to other employees, the county reserves the right to have the employee examined by a physician chosen by the county. Any such examination shall be job-related and consistent with business necessity, and shall not be administered prior to either employment or the extension of a job offer. All information, including the results related to the examination, shall be confidential.
- D. Testing. The county or any department head/elected official may not require an employee to undergo a medical procedure or test designed to determine or help determine if a person has AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS, unless the medical procedure or test is necessary as a bona fide occupational qualification, as defined by Section 81.101, Texas Labor Code, and there is not a less discriminatory means of satisfying the occupational qualification, or the test is otherwise authorized by state or federal law.

1. **Any such test is confidential.**
 2. Failure to protect the confidentiality of any such test may subject an employee to disciplinary action, up to and including termination, as well as criminal and civil liability under Sections 81.103 & 81.104, Texas Labor Code.
- E. Food Handlers. An employee who has an infectious or communicable disease that is transmitted to others through the handling of food, and that is included on the list of such diseases developed by the Secretary of Health & Human Services, as mandated by the Americans With Disabilities Act Amendment Act, may be transferred from the food-handling job to another position for which the employee is qualified, if such a position is available, if the danger of transmission cannot be eliminated by reasonable accommodation.
- F. Leave Benefits. If an employee is unable to work due to a life-threatening or contagious illness, the employee may be eligible for a leave of absence under any applicable county policy. See Policy No. 313: Sick Leave; Policy No. 314: Paid Personal Leave; and Policy No. 317: Family and Medical Leave.
- G. Prohibited Actions. In addition to the above-described confidentiality and discrimination prohibitions, employees who otherwise discriminate against or intimidate other employees with AIDS or other life-threatening or contagious illnesses may be disciplined, up to and including termination.

800. EMPLOYEE SEPARATION

EMPLOYEE RESIGNATION AND TERMINATION

I. PURPOSE

To ensure timely and accurate processing of employees who are being removed from the county payroll, consistent with positive employee relations practices.

II. SCOPE

The policy applies to all county employees.

III. POLICY

An employee shall not be discharged for any discriminatory reason. Upon termination of employment, certain information is necessary to process the termination.

IV. PROCEDURE

- A. It is recommended, but not required, that an employee planning to resign his or her position of employment give his or her department head/elected official at least two weeks notice of his or her intent to do so.
- B. Upon the resignation or discharge of an employee, the relevant department head/elected official shall complete a Termination of Employment Form and forward it to the Human Resources Department for processing. Forms may be obtained from the Human Resources Department for this purpose. As of September 14, 2015 an employee must submit a letter of voluntary resignation/retirement to the Human Resources Department. As of September 27, 2016, once a voluntary resignation/retirement letter from the employee is received by the Human Resources Department, the employee may **retract** the voluntary resignation/retirement up to 30 days after the filing date. The employee may also voluntarily extend their effective retirement **date**, or effective resignation **date**, by up to 90 days after the original filing date.
- C. Any employee who is discharged or quits prior to the first anniversary date of employment shall be allowed compensation only on the basis of time worked prior to termination. Eligible employees employed for one year of continuous service or longer may be paid all accrued vacation upon termination, in accordance with Policy No. 311. Non-exempt employees employed before September 8, 2015 for at least 24 consecutive months may be paid accrued sick leave, in accordance with Policy No. 313. Non-exempt employees employed after September 8, 2015 will not be paid accrued sick leave.

Policy No. 810
Date: October 1, 1999
Revised: September 14, 2015
Revised: August 9, 2016
Revised: September 27, 2016
Page 2 of 2

- D. So long as the Termination of Employment Form and all other appropriate documentation is timely filed with the Human Resources Department, termination pay shall be paid on the next regularly scheduled pay day for the pay period in which the employee resigns or is discharged.
- E. The relevant department head/elected official and/or the Human Resources Department may conduct an exit interview of an employee who has been discharged or who has resigned, in order to determine payment of benefits, or to ascertain reasons for leaving the county, and other information relevant to the employee's termination of employment with the county.

REDUCTION-IN-FORCE AND RECALL

I. PURPOSE

To provide guidelines for reduction in the workforce and recall procedures.

II. SCOPE

This policy applies to all county employees.

III. POLICY

If a reduction in the workforce of the county or of a particular county office becomes necessary, the county shall process all lay offs of employees from their positions as a result of the reduction in a timely fashion and in a manner so as to minimize any trauma to the employee. The order of lay offs and recalls shall not be based on any discriminatory motive prohibited by law.

IV. PROCEDURE

- A. The department head/elected official shall have discretion in determining the order in which employees are to be laid off, should a reduction in force become necessary. However, the department head/elected official should consider the qualifications and seniority of the employees in determining the order in which employees are to be laid off.
- B. The department head/elected official shall also have discretion in determining the order in which employees are to be recalled for employment once a position becomes available. Recall of employees should be based on the qualifications of said employee regarding the position to be filled.
- C. Orange County has no obligation to recall for employment any laid off employees.

APPENDICES

ORANGE COUNTY, TEXAS PERSONNEL POLICY MANUAL

RESOLUTION OF APPROVAL AND ADOPTION

COUNTY OF ORANGE §

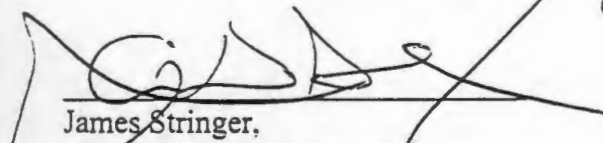
STATE OF TEXAS §

On this the 10th day of May, 1999, at a regular session of the Commissioners' Court of Orange County, Texas, there came on for consideration and approval the proposed PERSONNEL POLICY MANUAL OF ORANGE COUNTY, TEXAS. Motion was made by Commissioner Bill Harland, Precinct IV, and seconded by Commissioner Sue Bearden, Precinct II, that said Commissioners' Court on behalf of Orange County, Texas, does hereby adopt and approve the provisions of the PERSONNEL POLICY MANUAL, including a grade/step compensation program. to be effective October 1, 1999. Said motion being put to a vote, it carried by a vote of 4 to 0.

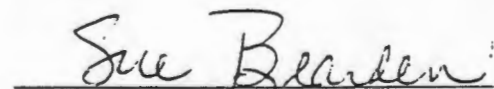
THE FOREGOING RESOLUTION was passed by the Commissioners' Court of Orange County this the 10th day of May, 1999.



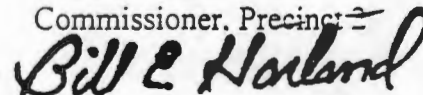
Carl K. Thibodeaux
County Judge



James Stringer,
Commissioner, Precinct 1



Sue Bearden
Commissioner, Precinct 2



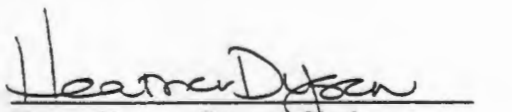
Bill E. Harland
Commissioner, Precinct 4

- ABSENT -

Donald E. Cole,
Commissioner, Precinct 3

Bill E. Harland
Commissioner, Precinct 4

ATTEST:



Karen Vance, County Clerk
BY: HEATHER DYSON, CHIEF DEPUTY

ORANGE COUNTY, TEXAS PERSONNEL POLICY MANUAL

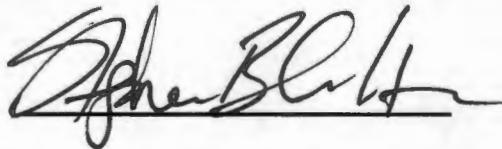
RESOLUTION OF APPROVAL AND ADOPTION

County of Orange

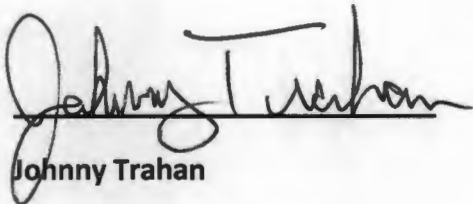
State of Texas

On this the 14 day of March, 2017, at a regular session of the Commissioner's Court of Orange County, Texas, there came on consideration and approval the proposed Updated Personnel Policy Manual of Orange County, Texas. Motion was made by Stephen Brint Carlton, and seconded by John Gothia, that said Commissioners' Court on behalf of Orange County, Texas, does hereby adopt and approve the provisions of the PERSONNEL POLICY MANUAL to be updated with new policies that have been approved through Commissioners Court and along with the procedures to accommodate new policies and software, legal changes, as well as grammar, punctuation and style corrections to be effective March 14, 2017.

The forgoing resolution was passed by the Commissioners' Court of Orange County this the 14 day of March, 2017.



County Judge Stephen Brint Carlton



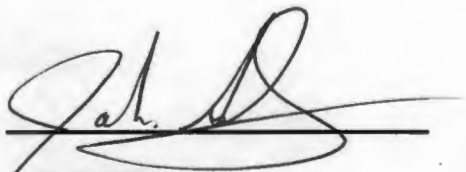
Johnny Trahan

Commissioner, Precinct #1



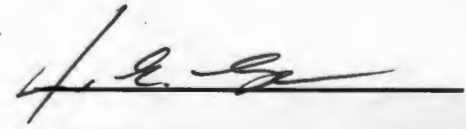
Barry Burton

Commissioner, Precinct #2



John Gothia

Commissioner, Precinct #3



Jody Crump

Commissioner, Precinct #4

ATTEST:



Brandy Robertson, County Clerk

BY: Stacy Wells (printed name)

APPENDIX B

EMPLOYEE ACKNOWLEDGEMENT OF OBLIGATION TO RECEIVE, READ AND UNDERSTAND THE ORANGE COUNTY, TEXAS PERSONNEL POLICY MANUAL AS WELL AS OTHER IMPORTANT DOCUMENTS RELATING TO THE TERMS AND CONDITIONS OF EMPLOYMENT

_____. I acknowledge that the Orange County Texas Personnel Policy Manual (“the Manual”) is available online at <http://www.co.orange.tx.us/>. **I further understand that I am required to access, read and understand the Manual (as well as any revisions thereafter) as a term and condition of my continued employment with Orange County, Texas.**

_____. **I understand that, if I do not understand any part of the Manual, I am obligated to contact my Department Head or employing Elected Official or the Orange County Human Resources Department for explanation and assistance in understanding any Manual or this Employee Acknowledgement.**

_____. I understand that if I am unable to access the Manual via the internet, I am obligated to immediately notify the Orange County Human Resources Department in writing. In such a case, I understand that I will be provided with assistance in accessing the Manual online; or, be provided with a written copy of the current Manual.

_____. I acknowledge that it is my responsibility, as a condition of my continued employment, to remain aware of, and comply with, the policies set forth in the Manual.

_____. I understand that my employment will be governed by the terms of the Manual. However, where I am employed by an elected official, or a department governed by board comprised of elected officials, I am obligated to follow any policies, rules and regulations established by those elected officials even to the extent that they may conflict with the Manual. I understand that I am not obligated, nor will I obey, a directive, policy, procedure or regulation that I believe, in good faith, violates clearly established law.

_____. I understand that Orange County, Texas reserves the right to revise, delete or add to any portion of the Manual. If such a revision or modification occurs, I will be given notice of the revision or modification; and, I am obligated to access, read and understand the revision as a term and condition of my continued employment.

_____. I understand that Orange County, Texas, as well as its Departments and Elected Officials will recruit, hire, train, promote and discipline employees in all positions without regard to race, color, religion, national origin, gender, pregnancy, marital status, age, military service, disability, or handicap, or any other basis prohibited by federal, state or local law or the provisions of this Manual.

_____. I understand that all other personnel actions, such as changes to compensation, benefits, training, transfer, demotion, termination, layoff and return from layoff, will be administered without regard to race, color, religion, national origin, gender, pregnancy marital status, military service, disability or handicap, or any other basis prohibited by federal, state or local law or the provisions of this Manual.

_____. I UNDERSTAND AND ACKNOWLEDGE THAT MY EMPLOYMENT RELATIONSHIP WITH ORANGE COUNTY, TEXAS (OR ITS DEPARTMENT HEADS AND ELECTED OFFICIEALS) IS NOT FOR A SPECIFIED TERM OR TIME PERIOD. INSTEAD, THAT RELATIONSHIIP IS “AT WILL” WHICH MEANS THAT I MAY BE DISCHARGED, OR I MAY RESIGN, AT ANY TIME AND FOR ANY REASON, WITH OR WITHOUT CAUSE OR WITH OR WITHOUT PRIOR WRITTEN NOTICE.

_____. I UNDERSTAND THAT NOTHING IN THIS MANUAL IS INTENDED TO CREATE AN EMPLOYMENT CONTRACT OR OTHER AGREEMENT OF ANY KIND BETWEEN MYSELF AND ORANGE COUNTY, TEXAS OR ANY OTHER DEPARTMENT OR ELECTED OFFICIAL OF ORANGE COUNTY, TEXAS.

EMPLOYEE SIGNATURE

WITNESS

PRINTED NAME

PRINTED NAME

DATE

DATE

**EMPLOYEE'S ACKNOWLEDGMENT OF RECEIPT
OF ORANGE COUNTY PERSONNEL POLICIES AND OTHER MATERIALS**

I acknowledge that, on this date, I was notified of my obligation to access, read and ensure that I understand each provision of the Manual as evidenced by my acknowledgement above. I further acknowledge receipt of the following policies, procedures, and handbooks and understand that I have an obligation to receive, read and understand each document. I understand that if I do not understand any provision of any document listed below, that I have an obligation to seek assistance in understanding any part of any document which I do not understand. I understand that I may ask my department head or elected official (as the case may be) or the Human Resources Department for assistance. These documents are listed below:

- _____. Manual via internet or written form.
- _____. Blue Cross Blue Shield handbooks detailing all medical, dental and prescription benefits offered by Orange County, Texas.
- _____. Texas County and District Retirement System handbook detailing the Orange County, Texas mandatory retirement program.
- _____. Orange County Policy on HIV/AIDS and Related Conditions in the Workplace, as adopted on September 10, 1990.
- _____. Orange County, Texas' Americans with Disabilities Act Policy statement including the related documents listed below:
 - a. Orange County Texas' Designation Of Americans With Disabilities Act Coordinators or Orange County, Texas.
 - b. Employee Disability Self Identification Form.
 - c. Orange County Texas' Americans With Disabilities Act Complaint/Grievance Form.
- _____. Orange County Texas' Alcohol and Drug Testing Policy and Procedures regarding positions requiring a commercial driver's license.
- _____. Orange County Texas' Policy for compliance with the Family and Medical Leave Act.
- _____. Orange County Texas' Safety Policy Manual.
- _____. Orange County Texas' Notice to Employees of Workers' Compensation Benefits.

EMPLOYEE SIGNATURE

WITNESS

PRINTED NAME

PRINTED NAME

DATE

DATE

Appendix C

**ORANGE COUNTY
HUMAN RESOURCES DEPARTMENT
123 S. 6th STREET
ORANGE, TX 77630**



**APPLICATION
FOR
EMPLOYMENT**
AN EQUAL OPPORTUNITY EMPLOYER

NOTE: This application must be fully completed. You may attach a resume in addition to completing the application form.

NAME _____
(Last) (First) (Middle)

ADDRESS _____
(Street) (City) (State) (Zip)

TELEPHONE _____ SOCIAL SECURITY NUMBER _____
(Home) (Other)

Have you previously been employed by Orange County? Yes _____ No _____ If yes, when? _____

Check one or more types of employment you will accept. () Full-time () Temporary () P/T

POSITION APPLIED FOR 1- _____
2- _____

PREVIOUS EMPLOYMENT: List all employment (including United States military service) or at least the past 5 years. Begin with your present position and work back. Resume may be attached for additional qualifying experience data. Please complete entire application.

From _____ To _____ Job Title _____ Salary _____

Firm Name _____ Address _____

Name of Supervisor & Phone Number _____

Reason for Leaving _____

Description of Work _____

From _____ To _____ Job Title _____ Salary _____

Firm Name _____ Address _____

Name of Supervisor & Phone Number _____

Reason for Leaving _____

Description of Work _____

From _____ To _____ Job Title _____ Salary _____

Firm Name _____ Address _____

Name of Supervisor & Phone Number _____

Reason for Leaving _____

Description of Work _____

From _____ To _____ Job Title _____ Salary _____

Firm Name _____ Address _____

Name of Supervisor & Phone Number _____

Reason for Leaving _____

Description of Work _____

Appendix C**EDUCATION:**

Did you graduate from high school? Yes____ No____ Do you have a GED? Yes____ No____

College-University-Trade
Business-Correspondence SchoolMajor Areas
Of StudyDates of
AttendanceSemester
HoursDates Left or
Graduated**UNITED STATES MILITARY SERVICE**

Branch of Service_____ Date of Service_____

PERSONAL DATA:

Are you able to perform the essential functions of the position applied for with or without an accommodation?

Yes____ No____

List all current and valid licenses you may hold: (Drivers, electrician, etc.)

Type_____ Number_____ Expiration Date_____

Type_____ Number_____ Expiration Date_____

Give the names and addresses of three persons, other than relatives who have knowledge of your character, experience or ability:

Name**Address****Occupation****Telephone Number**

Specify equipment or office machines you operate:_____

You may indicate any additional experience and training you have had which in your opinion would qualify you for the position you seek:

In consideration of my employment, I agree to conform to the rules and regulations set forth by Orange County, and my employment can be terminated with or without cause and with or without notice, at any time, and at the option of either the County or myself. I understand that only the Commissioners Court, has any authority to enter into my agreement for employment for any specified period of time, or to make any agreement contrary to the foregoing.

I certify that I have made no willful misrepresentations in this application nor have I withheld information in my statements and answers to questions. I am aware that the information given by me in my application will be investigated with my full permission, and that any misrepresentations may cause my application to be rejected.

Orange County intends to hire only individuals who are U. S. citizens or aliens authorized to work in the United States. Refusal to give written consent for a drug/alcohol screening test will disqualify the candidate from consideration for employment.

Date_____ Signature of Applicant_____

APPENDIX D

DISABILITY SELF-IDENTIFICATION FORM

By signature below, I acknowledge that I have received a copy of the Orange County Disability Self-Identification Form for applicants and employees.

I acknowledge that I have read Orange County's Americans with Disabilities Act policy and that such policy prohibits any form of discrimination against persons with disabilities.

I further understand that the information requested herein is entirely voluntary and I will not be discharged, disciplined, or subjected to any other adverse treatment, for either disclosing or not disclosing any disabilities or limitation I may have. I also understand that any information I provide will be kept confidential, except as to the appropriate elected official, department head, other appropriate supervisory employees, and safety and health personnel, who may be informed regarding any restrictions in work duties and necessary accommodations I may need, and governmental agencies or representatives who may be provided information regarding my disability and requested accommodation in compliance with various laws and regulations.

I UNDERSTAND THAT THIS SIGNED ACKNOWLEDGMENT WILL BE PLACED IN MY PERMANENT PERSONNEL FILE.

The functional limitations which result from my impairment and the type of accommodation I feel I need in order to complete the essential functions of my job are as follows:

Please continue on the back of this form and/or attach additional sheets as necessary.

{ } Accommodations Requested

{ } No Accommodations Requested at This Time

Name of Applicant or Employee - Printed or Typed

Signature

Date

APPENDIX E

NOTICE OF DESIGNATION OF RESPONSIBLE EMPLOYEE TO COORDINATE ORANGE COUNTY'S EFFORTS TO COMPLY WITH AND CARRY OUT ITS RESPONSIBILITIES UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990.

ORANGE COUNTY, TEXAS MAKES THE FOLLOWING DESIGNATION OF ITS ADA COORDINATORS IN ACCORDANCE WITH SECTION 35.107 OF THE CODE OF FEDERAL REGULATIONS.

THE NAME, OFFICE ADDRESS AND TELEPHONE NUMBER OF THE DESIGNATED AMERICANS WITH DISABILITIES ACT COMPLIANCE COORDINATOR FOR ORANGE COUNTY, TEXAS, ARE:

Compliance Coordinator Human Resources Director Orange County Courthouse 123 S. 6th Street Orange, Texas 77630 (409) 882-7858; (409) 882-7860	Co-Compliance Coordinator Maintenance Director Orange County Courthouse 123 S. 6th Street – Maintenance Orange, Texas 77630 (409) 882-7851
--	---

APPENDIX F

AMERICANS WITH DISABILITIES ACT GRIEVANCE/COMPLAINT FORM

I. COMPLAINANT INFORMATION

Name: _____
Address: _____
Telephone: _____ () Home () Work () Cell
Gender: _____

II. DESCRIPTION OF DISABILITY

Describe your disability. (Please attach additional sheets as necessary).

III. IDENTITY OF PERSON COMMITTING ILLEGAL ACTS/OMISSIONS

State the name and, if known, address, telephone number, department, and/or supervisor of the person, or persons, committing discriminatory acts and/or omissions.

Name: _____
Address: _____
Telephone: _____ () Home () Work () Cell
Department: _____
Supervisor: _____

Name: _____
Address: _____
Telephone: _____ () Home () Work () Cell
Department: _____
Supervisor: _____

IV. WITNESSES:

List the names, and if known, the addresses and telephone numbers of any witnesses to the discriminatory acts and/or omissions. (Please attach additional sheets as necessary).

Name: _____

Address: _____

Telephone: _____ () Home () Work () Cell

Department: _____

Supervisor: _____

Name: _____

Address: _____

Telephone: _____ () Home () Work () Cell

Department: _____

Supervisor: _____

V. DESCRIPTION OF DISCRIMINATORY ACTS AND/OR OMISSIONS

Provide a description of each discriminatory act and/or omission as well as the date or dates upon which the acts/omissions occurred. (Please attach additional sheets as necessary).

VI. DESIGNATION OF AMERICANS WITH DISABILITIES ACT ISSUES

Please state the issues arising out of the discriminatory acts and/or omissions including, but not limited to, hiring, promotion, wages, terms and conditions of employment and discharge. (Please attach additional sheets as necessary).

I understand that my complaint will be investigated by the Orange County, Texas ADA coordinator or Co-Coordinator. I further understand that all interested persons, as well as their representatives, if any, shall be notified of my complaint in an effort to facilitate the investigation and resolution of this complaint in accordance with all applicable laws, rules and regulations.

Signature of Complainant

Date

Printed Name of Complainant

APPENDIX G

**SEXUAL HARASSMENT
GRIEVANCE AND COMPLAINT FORM**

I. COMPLAINANT INFORMATION

Name: _____

Address: _____

Telephone: _____

() Home () Work

**II. IDENTITY OF PERSON COMMITTING THE DISCRIMINATORY
ACTS AND/OR OMISSIONS**

Please state the name, and if known, the address, telephone number, department, and supervisor of the person, or persons, committing the discriminatory acts and/or omissions.

1. Name: _____

Addresses: _____

Telephone: _____

Department _____

Supervisor: _____

2. Name: _____

Addresses: _____

Telephone: _____

Department _____

Supervisor: _____

III. DESCRIPTION OF DISCRIMINATORY ACTS AND/OR OMISSIONS

Please provide a description of each discriminatory act and/or omission as well as the date or dates upon which the act occurred. (Please attach additional sheets as necessary).

Date:

Description of Acts/Omissions:

IV. WITNESSES

Please list the names, and if known, the addresses and telephone numbers of any witnesses to the discriminatory acts and/or omissions described herein. (Please attach additional sheets as necessary).

1. Name:

Address:

Telephone:

2. Name:

Address:

Telephone:

I understand that my complaint will be investigated by the Human Resources Department. I further understand that all interested person, as well as their representatives, if any, shall be notified of my complaint in an effort to facilitate the investigation of the same.

Signature of Complainant

Date

Complainant's Printed Name

APPENDIX H
(Revised March 14, 2017)

ORANGE COUNTY
ALCOHOL AND DRUG TESTING POLICY & PROCEDURES
FOR EMPLOYEES PERFORMING SAFETY-SENSITIVE FUNCTIONS

STATE OF PURPOSE

Drug and alcohol abuse is a serious problem in American Society, for both employers and individuals. Everyone pays the price for alcohol and drug abuse, at least in the form of higher medical costs and higher insurance premiums caused by alcohol and drug-related accidents and diseases. Since 1988, between 38.9% and 43.2% of all traffic collision fatalities have been alcohol related.* As many as 50% of those accidents could have been prevented if the drivers involved had not been drinking.*

Drug and alcohol use are also related to problems with work performance and attendance. Compared with the average worker, a typical abuser: is late to work 3 time more often; requests twice as much time off; is absent 2 ½ times more; uses 3 times as many sick benefits; collects five times as much workers' compensation; and incurs 300% higher medical cost and utilizes 300% more benefits. *

Because of these problems, the Department of Transportation has enacted regulations pursuant to the Drug Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991, requiring that all employees in safety sensitive positions undergo drug and alcohol awareness training and be tested for drug and alcohol abuse. As an employer subject to the regulations, Orange County is required to: (1) conduct pre-employment, reasonable suspicion, random, post-accident, and return to duty alcohol and drug testing of each applicant for employment or an employee who performs safety-sensitive functions; (2) impose penalties on covered employees whose test results confirm prohibited alcohol concentration levels or the presence of a controlled substance; (3) comply with certain reporting and record keeping requirements; (4) implement an employee alcohol and controlled substances misuse program; and, (5) provide for drug or alcohol counseling to employees who identify themselves as being addicted to drugs and/or alcohol, supervisor training, and referral of employees to employee assistance programs.

Orange County enacts this policy pursuant to the requirements of 49 CFR Part 382, and 49 CFR Part 40 and pursuant to its commitment to maintaining the safety and health of Orange County employees and residents and to preventing accidents and injuries resulting from the misuse of alcohol and/or use of controlled substances by Orange County employees employed who perform safety-sensitive functions. A safety-sensitive function/position is defined as a position involving job duties when if performed with inattentiveness, errors in judgment, or diminished coordination, dexterity, or composure may result in mistakes that could present a real or imminent threat to the personal health and safety of the employee, co-workers or the public.

The purpose of this policy is to help provide a safe and productive work environment and to promote public safety by educating employees about the dangers of drug and alcohol abuse, and informing such employees of the availability of treatment.

*Manual on Motor Vehicle Traffic Accidents, Texas Department of Public Safety, 1992.

CATEGORIES OF EMPLOYEES AND DUTIES SUBJECT TO THESE PROVISIONS

The federal regulations apply to all employees who operate a commercial motor vehicle in interstate or intrastate commerce, who are subject to commercial driver's license (CDL) requirements, and who perform "safety-sensitive" functions. A CDL is required for drivers operating a vehicle that meets the requirements of the Texas Department of Public Safety, i.e., (1) those vehicles having a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; (2) those vehicles having a gross weight rating of 26,001 or more pounds; (3) those vehicles designed to transport 16 or more passengers including the driver; and (4) those vehicles, of any size, transporting hazardous materials requiring placards. Therefore, drivers of tractor-trailers, school buses, motorcoaches, dump trucks and other related types of vehicles are affected by the federal regulations and the procedures contained herein.

An employee is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, is ready to perform, or is immediately available to perform a safety-sensitive function. For CDL employees, "safety-sensitive" means any of those on-duty functions set forth in 49 CFR § 395.2. On-duty time is defined as "all time from the time an employee begins to work, or is required to be in readiness to work, until the time the employee is relieved from work." This includes (1) all time spent waiting to be dispatched, unless the driver has been relieved from duty; (2) all time inspecting equipment, or servicing or conditioning any commercial motor vehicle (CMV) at any time; (3) all time spent at the driving controls of a CMV; (4) all time other than driving time, spent on or in a CMV; (5) all time spent supervising, or assisting, in the loading or unloading of a vehicle, attending a vehicle being loaded or unloaded, remaining in readiness to operate such a vehicle, or giving or receiving receipts for shipments loaded or unloaded; (6) all time spent performing the driver requirements associated with an accident; (7) all time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

PROHIBITED ALCOHOL AND CONTROLLED SUBSTANCE-RELATED CONDUCT

For employees subject to these provisions, during the above-described compliance periods any use of controlled substances and any misuse of alcohol which would affect the performance of a safety-sensitive function are prohibited, including:

- (1) Reporting for duty or remaining on duty requiring the performance of a safety-sensitive function while having an alcohol concentration of 0.04 or greater;
- (2) Being on duty or operating a commercial motor vehicle while possessing alcohol, unless the alcohol is manifested and transported as part of a shipment;
- (3) Using alcohol while performing safety-sensitive functions;
- (4) Performing safety sensitive functions within four hours after using alcohol;
- (5) In a situation in which a driver is required to take a post-accident alcohol test, using alcohol within eight hour following the accident, or until the driver undergoes the post accident test, whichever comes first;

- (6) Refusing to submit to alcohol and drug testing, including a post-accident alcohol or controlled substances test, a random alcohol or controlled substance test, a reasonable suspicion alcohol or controlled substances test, or a follow-up alcohol or controlled substances test;
- (7) Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substances except when the use is under the direction of a physician who had advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial vehicle;
- (8) Failing to inform the employee's supervisor of any therapeutic drug use; or;
- (9) Reporting for duty, remaining on duty, or performing a safety sensitive function if the driver tests positive for controlled substances.

No employee subject to these provisions shall be allowed to engage in a safety-sensitive function if the county, through its employees or agents, has actual knowledge that the employee is in violation of the employee prohibitions.

CONSEQUENCES FOR COUNTY DRIVERS ENGAGING IN SUBSTANCE USE AND ALCOHOL MISUSE-RELATED CONDUCT

Covered employees who violate the prohibitions of this policy and the federal regulations are subject to the following disciplinary actions and consequences:

- (1) Any covered employee tested under this policy for the first time that is found to have an alcohol concentration of 0.02 to 0.039 shall be relieved of duty for three (3) days without pay. In addition, before any such employee returns to duty in a safety-sensitive function, he/she shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.
- (2) Any covered employee possessing alcohol while on duty or while operating a commercial motor vehicle shall be relieved of duty for three (3) days without pay, unless the alcohol possessed is manifested and transported as part of a shipment.
- (3) Any covered employee tested under this policy for the second time who is found to have an alcohol concentration of 0.02 to 0.039 and any covered employee tested under this policy and who is found to have an alcohol concentration of 0.04 or greater and/or who is found to have a positive result for controlled substances shall be subject to the following requirements:

- (a) Orange County shall advise any such employee of the resources available to that employee in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.
 - (b) Any such employee shall be evaluated by a substance abuse professional who shall determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and/or controlled substances use.
 - (c) Before such employee returns to duty requiring the performance of a safety-sensitive function after engaging in prohibited conduct, the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substances test with a verified negative result if the conduct involved a controlled substance.
 - (d) Any such employee who has engaged in prohibited conduct shall also be subject to return-to-duty drug and/or alcohol testing and follow-up drug and/or alcohol testing after returning to duty, as well as evaluation by a substance abuse professional to determine that the employee has properly followed any rehabilitation program prescribed. The number and frequency of such follow-up testing shall be as directed by the substance abuse professional and consist of at least six tests in the first 12 months following the employee's return to duty. The employee may be directed by Orange County to undergo return-to-duty and follow-up testing for both alcohol and controlled substances, if the substance abuse professional determined that return-to-duty and follow-up testing for both alcohol and controlled substances is necessary for that particular employee. Any such testing shall be performed in accordance with the requirements of 49 CFR Part. 40.
 - (e) Any employee who fails to comply with any of the above requirements shall be subject to termination.
- (4) No covered employee who refuses to submit to a post-accident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, or a follow-up alcohol or controlled substances test shall be permitted to perform or continue to perform any safety-sensitive functions. Any covered employee who refuses to submit to any of the required tests shall be subject to termination. Refusal to submit means that an employee (1) fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement for breath testing, (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he/she has received notice of the requirement for urine testing, or (3) engages in conduct that clearly obstructs the testing process. Prior to termination or other disciplinary action, Orange County shall advise any such employee of the resources available to them in evaluating and resolving problems associated with the misuse of alcohol and use of

controlled substances including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs.

- (5) Other penalties. Violation of the requirements of 49 CFR Part 382 by any covered employee or by Orange County shall subject the violator to the penalty provisions of 49 U.S.C. § 521 (b).

TESTS REQUIRED

- (1) Pre-employment. No employee shall be permitted to perform any safety-sensitive functions, unless and until the employee has been administered an alcohol test with a result indicating an alcohol concentration less than 0.04, and has received a controlled substance test result from the medical review officer indicating a verified negative test result.
- (2) Post-accident. As soon as is practicable after an accident, each surviving covered employee shall be tested for alcohol and controlled substances. No covered employee required to take a post-accident alcohol test shall use alcohol for 8 hours following the accident, or until he/she submits to an alcohol test, whichever occurs first. When an alcohol or controlled substance test has not been administered as required, the following actions shall be taken:
 - (a) If the employee has not submitted to an alcohol test within 2 hours following the accident, Orange County shall prepare and maintain on file a record stating the reason a test was not promptly administered.
 - (b) If the employee has not submitted to an alcohol test within 8 hours, attempts by Orange County to administer an alcohol test shall cease, and Orange County shall prepare and maintain the record described above.
 - (c) If the employee has submitted to a controlled substance test within 32 hours, Orange County shall cease attempts to administer the test and shall prepare and maintain the record as described above.

An employee who is subject to post-accident testing must remain available for testing or Orange County shall deem such unavailability to constitute refusal to submit to testing, which shall subject such employee to termination.

This policy does not require the delay of necessary medical treatment of any Orange County employee, including those subject to post-accident testing, provided at the scene of the accident or at any medical facility. Additionally, this policy does not prohibit a employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

- (3) Random testing.
 - (a) The minimum annual percentage rate for random alcohol testing shall be 25 percent of the average number of employees performing safety-sensitive functions.

- (b) The minimum annual percentage rate for random controlled substances testing shall be 50 percent of the average number of employees performing safety-sensitive functions.
- (c) The following rules shall apply regarding selection and notification of drivers for random testing:
 - (i) Selections shall be made by a scientifically valid method of random selection. Each employee shall have an equal chance of being tested each time a selection is made.
 - (ii) Tests shall be unannounced and spread reasonably throughout the year.
 - (iii) Employees may be selected from a single pool for drug and alcohol testing.
 - (iv) Each employee selected for random testing shall proceed immediately to the testing site upon notification of being selected.
- (4) Reasonable suspicion testing.
 - (a) Orange County shall require an employee to submit to an alcohol test when the employer has reasonable suspicion to believe that the employee has violated the prohibitions of this policy concerning alcohol, except the mere possession of alcohol.
 - (b) Orange County shall require an employee to submit to a controlled substances test when the employer has reasonable suspicion to believe that the employee has violated the prohibitions of this policy concerning controlled substances.
 - (c) Orange County's determination that reasonable suspicion exists to require an employee to undergo an alcohol and/or controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech and/or body odors of the employee. The observations may include indications of the chronic and withdrawal effects of controlled substances.
 - (d) Observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor or official of Orange County trained in accordance with 49 CFR § 382.603. The person making the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the employee.
 - (e) Alcohol testing may be conducted only if the observations are made during, just preceding, or just after the period of the work day that the employee is required to be in compliance with this policy. An employee may be directed to undergo reasonable suspicion testing only (1) while the employee is performing safety-sensitive functions, (2) just before the

employee is to perform safety-sensitive functions, or (3) just after the employee has ceased performing such functions.

- (f) A written record shall be made of the observations leading to a controlled substance reasonable suspicion test, and signed by the supervisor or official who made the observations, within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.
- (5) Return-to-duty testing. Before being allowed to return to duty requiring the performance of a safety-sensitive function after engaging in prohibited conduct regarding alcohol misuse or controlled substances use, an employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances use.
- (6) Follow-up testing. Following a determination that an employee is in need of assistance in resolving substance abuse problems, that driver employee be subject to unannounced follow-up alcohol and/or controlled substances abuse testing as directed by a substance abuse professional. The minimum number of follow-up tests that shall be conducted during the first 12 months after returning to work is six. Follow-up testing may continue for up to 60 months.

DRUG AND ALCOHOL TESTING PROCEDURES

Drug and alcohol testing shall be conducted in accordance with the requirement of 49 CFR, Part 40, and Procedures for Transportation Workplace Drug and Alcohol Testing Programs. All testing shall be conducted at a designated collection site. A collection site person who has successfully completed training or who is a licensed medical professional and who is provided with detailed, clear instructions on the collection of specimens shall be responsible for maintaining the integrity of the specimen collection and transfer process. A direct supervisor of an employee shall not serve as the collection site person for a test of an employee unless it is impracticable for any other individual to perform that function. In any case where a collection is monitored by non-medical personnel or is directly observed, the collection site person shall be of the same gender as the donor. Proper chain of custody procedures shall be followed pursuant to 49 CFR Part 40.

The results of drug tests shall be reported to the Medical Review Officer (MRO) employed by or whose services are contracted for by Orange County. The MRO shall be a licensed physician who has knowledge of drug abuse disorders. The MRO shall review and interpret positive results obtained from the laboratory, assess those results, and determine whether alternative medical explanations could explain a positive result. The MRO shall notify each employee who has a confirmed positive test that the employee has 72 hours to request a test of the split specimen, and shall further comply with the provisions of 49 CFR Part 40.

To maintain the accuracy and integrity of test results and to protect the rights of the employee, strict testing and reporting procedures shall be followed in compliance with 49 CFR Part 40. Information regarding specific testing and reporting procedures shall be provided to employees subject to the federal regulations and this policy prior to the institution of drug and alcohol testing.

HANDLING OF TEST RESULTS, RECORD RETENTION AND CONFIDENTIALITY

Orange County shall maintain records of its alcohol misuse and controlled substance use prevention programs in a secure location with controlled access.

The following records shall be maintained for a minimum of five years: records of employee alcohol test results with results indicating an alcohol concentration of 0.02 or greater; records of employee verified positive controlled substances test results; documentation of refusals to take required alcohol and/or controlled substances test; calibration documentation; employee evaluation and referrals; and, a copy of each annual calendar year summary of the results of alcohol and controlled substances testing programs performed.

Records relating to the alcohol and controlled substances collection process (except calibration of evidential breath testing devices) and training shall be maintained for a minimum of two years.

Records of negative and canceled controlled substances test results and alcohol test results with a concentration of less than 0.02 shall be maintained for a minimum of one year.

The following types of records shall be maintained: records related to the collection process; records related to an employee's driver's test results; records related to other violations of the policy and the federal regulations; records related to evaluations; records related to education of training; and, records related to drug testing.

All such records shall be maintained as required by 49 CFR § 390.31. Orange County shall not release employee information contained in records maintained pursuant to the federal regulations and this policy, except as required by law or where expressly authorized.

Any employee who is the subject of a drug test conducted pursuant to the federal regulations and this policy shall, upon written request, have access to any records relating to his/her drug tests and any records relating to the results of any relevant certification, review, or revocation-of-certification proceedings. Additionally, any employee who is the subject of alcohol testing is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol, including any records pertaining to his/her alcohol tests. Access to an employee's records shall not be contingent upon payment for records other than those specifically requested.

EDUCATION AND TRAINING

Orange County shall provide all employees affected by the federal regulations and this policy with educational materials prior to the commencement of alcohol and drug testing. The materials provided shall explain the requirements of 49 CFR Part 382 and Orange County's policies and procedures with respect to meeting those requirements.

For questions regarding (1) Orange County's policies and procedures relating to substance abuse and alcohol misuse, and (2) Orange County's compliance with 49 CFR, Part 382, Controlled Substances and Alcohol Use Testing, and 49 CFR, Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, please contact:

Risk Management Coordinator
Orange County Office of Emergency Management
11475 FM 1442 Box E
Orange, Texas 77630
(409)745-9718

APPENDIX I

REQUEST TO REVIEW EMPLOYEE PERSONNEL FILE

(This file shall be used by current and former employees to access personnel file)

I. **NAME OF EMPLOYEE**

1. Name: _____
2. Address: _____

3. Telephone Number: _____
4. Social Security No.: _____

II. **IDENTITY OF REQUESTOR**

1. Are you the employee referenced above? Yes () No ()
2. If you are an authorized agent or representative of the employee, please provide the following information:
 - a. Name: _____
 - b. Address: _____

 - c. Telephone No. _____
 - d. Social Security No. _____

An authorized agent or representative of the employee may obtain access to personnel records of the employee only if the employee executes the authorization as set forth below.

Persons other than the employee or the agent or representative of the employee cannot obtain access to the employee's personnel information unless the person submits a proper request in accordance with the Texas Public Information Act, Chapter 552, Texas Government Code.

III. **ACTION OR INFORMATION REQUESTED**

- () Review employee personnel file.
- () Obtain a copy of employee personnel file.
(Allow 48 hours to copy file. Copies are .5 cents per page payable in advance.
- () Other (Please describe):

IV: **ACKNOWLEDGEMENT AND LIMITATIONS ON RIGHT OF DISCLOSURE**

1. Document regarding and pending legal or disciplinary investigations, initial against the employee by Orange County, Texas will be removed from the employee's file prior to disclosure to requestor.
2. The absence or presence of the executed document does not affect Orange County, Texas right and /or responsibility to act in accordance with all policies as provided in the Orange County Personnel Policy Manual, or federal, State or local law.
3. By execution this document, the employee agrees to indemnify and hold Orange County, harmless for dissemination of the information requested to the party set forth herein.
4. This request, and any authorization set forth herein, may be revoked by the employee at any time prior to disclosure upon the presentation in person, to the Director of Human Resources of written instruction revoking the same.

The request for action or information as set forth above is made by the undersigned:

Signature of Requestor

Date

Printer Name of Requestor

IF REQUESTOR IS THE AGENT OR REPRESENTATIVE OF THE EMPLOYEE:

I, the undersigned employee, acknowledge that the requestor named above is my authorized agent, or personal representative, and I authorized Orange County, Texas to take action requested as set forth above.

Signature of Employee

Date

Printed Name of employee

SUBSCRIBED AND SWORN before me the undersigned authorized on this,
the _____ day of _____, _____.

Notary Public-State of Texas

APPENDIX J

REQUEST FOR INFORMATION PUSUANT TO
CHAPTER 552, TEXAS GOVERNMENT CODE

(PUBLIC INFORMATION ACT)

(fka Open Records Act)

I. DATE OF REQUEST _____

II. IDENTITY OF REQUESTOR

1. Name: _____

2. Address: _____

3. Telephone Number: _____

III. PUBLIC RECORDS REQUESTED (BE SPECIFIC)

Please provide a detailed listing or description of the specific records that you request.

I request the records stated above and agree to pay the costs associated with the processing of this request as prescribed by Chapter 552 of the Texas Government Code and in accordance with the fee schedules promulgated by the General Services Commission.

Signature of Requesting Party

Date

Printed Name of Requesting Party

IV. FOR USE BY GOVERNMENTAL ENTITY

1. Date Request Received: _____
2. Request Received By:
 - a. Name: _____
 - b. Position/Title: _____
 - c. Department: _____
 - d. Telephone/Extension: _____
3. Request Processed By:
 - a. Name: _____
 - b. Position/Title: _____
 - c. Department: _____
 - d. Telephone/Extension: _____

V. DISPOSITION OF REQUEST

- () Records Produced
- a. Date of Production: _____
 - b. Costs of Copying/Processing: _____
 - c. Scope of Production: () Full Disclosure () Partial disclosure

If records are produced, attach a copy of the records produced, or if voluminous, a representative sample of the same. If records are sought to be withheld, this request, along with a copy of records to be withheld MUST be forwarded to the County Attorney's Office IMMEDIATELY upon receipt of request.

- () Open Records Decision Request
- a. Person Requesting Opinion: _____
Title/Position: _____
Department: _____
 - b. Date Request Mailed: _____
 - c. Date Decision Received: _____
 - d. Disposition: () Records disclosed () Records withheld

(Date of disclosure)

APPENDIX K

**AUTHORIZATION FOR RELEASE OF EMPLOYMENT
INFORMATION**

I. IDENTITY OF EMPLOYEE

1. Name: _____
2. Address: _____

3. Position/Title: _____
4. Department: _____

II. IDENTITY ALL MATERIAL SUBJECT TO DISCLOSURE

- ☐ Salary History
- ☐ Job Chronology
- ☐ Performance Information
- ☐ All information contained in my personnel file

III. IDENTITY ENTITY (IES) TO RECEIVE THE INFORMATION
(Attach additional sheets if necessary)

1. Name: _____
2. Address: _____

3. Telephone: _____
4. Facsimile: _____

I, the undersigned, person, authorize the release of my employment information for the purpose of verifying my employment information with Orange County, Texas as set forth above. I further agree to hold Orange County, Texas harmless from any, and all damages, resulting from the disclosure of the material authorize above. I understand that this authorization can be revoked at any time where the employee presents written revocation of this authorization, in person, to the Director of Human Resources.

Signature of Employee

Date

Printed Name of Employee

CLASSIFICATION TITLE CHART

EXEMPT CLASSIFICATIONS		NON-EXEMPT CLASSIFICATIONS	
Grade	Classification/Titles	Grade	Classification/Titles
P4	COUNTY ENGINEER	NE -1	MAIL CLERK HOUSEKEEPING CLERK/EXTENSION CLERK/S.O.
P3	ATTORNEY III - CHIEF CIVIL; FIRST ASST. DA		TRANSPORTATION DISPATCHERS TRANSPORTATION DRIVERS COUNTY FLOATER
P2	ATTORNEY II - FELONY; CHIEF MISD; CIVIL	NE - 2	AIRPORT LINEMAN BUYER II / PURCHASING CLERK II / COUNTY CLERK CLERK II / COURT ADMINISTRATOR CLERK II / DISTRICT CLERK CLERK II / JP COURT
P1	ATTORNEY I - JUVENILE		CLERK II / RECORDS PRESERVATION CLERK II / S.O. CID CLERK II / TAX OFFICE PARK MAINTENANCE EXPO/EVENT WORKER
E4	MGMT (MIS) DIRECTOR EMG MGMT COORDINATOR/ENVIRO HEALTH DIRECTOR	NE-3	CLERK III / TREASURER CLERK III / HUMAN RESOURCES FIXED ASSET COOR/PURCHASING BUYER III / PURCHASING CLERK III / TAX OFFICE DEPUTY CLERK III / COUNTY CLERK CLERK III / DISTRICT CLERK CLERK III / DPS CLERK / S.O. PURCHASING CLERK III / S.O. TRAINING CLERK III / S.O. RECORDS CLERK III / R&B LEGAL SECRETARY VETERANS BENEFITS COORDINATOR
E3	CHIEF OFFICER - JUVENILE PROBATION MOSQUITO CONTROL DIRECTOR CRIMINAL INVESTIGATOR - DA'S OFFICE		ELECTIONS ADMIN CLERK COURT ADMIN ASSISTANT COOK III/JAIL SECRETARY III / MAINTENANCE SECRETARY III / EXTENSION OFFICE SECRETARY III / S.O. SPECIAL SERVICES SECRETARY III / S.O. CID SECRETARY III / S.O. PATROL SECRETARY / S.O. SUPPORT MOSQUITO INSPECTOR/OPERATOR I MOSQUITO INSP. LARVICIDER/OPER. MOSQUITO CONTROL SECRETARY TRUCK DRIVER II / R&B MECHANIC I / R&B YARD MAINTENANCE
E2	MAINTENANCE DIRECTOR HUMAN RESOURCES DIRECTOR PURCHASING AGENT RISK MGMT DIRECTOR/AIRPORT EMG MGMT DEPUTY COORDINATOR EVENT CENTER/PARKS DIRECTOR SOCIAL SERV/PUBLIC HEALTH DIRECTOR	NE - 4	ADMINISTRATIVE SECRETARY CO. JUDGE ADMINISTRATIVE ASST. - S.O. ADMINISTRATIVE ASST./ JUVENILE PROBATION ASST. CHIEF DEPUTY CLERK TAX ASSESSOR ASST. TO DEPT. HEAD ELECTIONS ADMIN. ASST. TO DEPT. HEAD TRANSPORTATION ASST CHIEF COUNTY CLERK ASST. CHIEF DEPUTY - TREAS. FINANCIAL ADMIN - S.O. PERSONNEL ASST. - S.O. JAIL ADMIN ASST - S.O. ASST GRANT COOR/EMG MGMT ADMIN ASST FOR SPECIAL PROJECTS ASST FLOOD PLAIN ADMINISTRATOR
E1	RECORDS MGMT DIRECTOR ELECTIONS ADMINISTRATOR TRANSPORTATION DIRECTOR VETERANS SERVICE OFFICER VICTIM ASSISTANT COORDINATOR SPECIAL PROJECTS/EMG MGMT COURT ADMINISTRATOR		OFFICE MANAGER/D.A. OFFICE OFFICE MANAGER/EXTENSION OFFICE MANAGER/ R&B OFFICE MANAGER/ENVIROMENTAL OFFICE MANAGER/TAX OFFICE HUMAN RESOURCES ASST JP COURT COORDINATORS IHC CASE WORKER R&B WELDER/MECHANIC II R&B OPERATOR I R&B MECHANIC II MOSQUITO INSPECTOR OPERATOR MOSQUITO CONTROL MECHANIC TRANSPORTATION MECHANIC
		NE - 5	ASST. DEPT. HEAD / PURCHASING AGENT CHIEF DEPUTY CLERK / COUNTY CLERK CHIEF DEPUTY CLERK / TREASURER CHIEF DEPUTY CLERK / TAX ASSESSOR CHIEF DEPUTY CLERK / DISTRICT CLERK COURT COORDINATOR/CCAL 1 & 2 DISTRICT COURT COORDINATORS COUNTY JUDGE'S ADMINISTRATIVE ASST
		NE - 6	HEALTH INSPECTOR JUVENILE PROBATION OFFICER I MAINTENANCE TECHNICIAN MIS NETWORK TECH/OPERATOR MOSQUITO-NIGHT FOREMAN PARKS SUPERVISOR R&B LEAD MECHANIC R&B OPERATOR II
			MIS NETWORK TECHNICIAN/PROGRAMER MIS SECURITY ANALST TECH MAINTENANCE SUPERVISOR JUVENILE PROBATION OFFICER II
		NE - 7	R&B FOREMANS FLEET & RISK MGMT COORDINATOR SO FLEET MANAGER FLOOD PLAIN ADMINISTRATOR
			MIS SYSTEM SPECIALIST MIS CHIEF ANALYST
POSITION STATUS CODES P = PROFESSIONAL E = EXEMPT N = NON EXEMPT			ENVIRO HEALTH DEPUTY DIRECTOR R&B SUPERINTENDENT

County Employee's Pay Matrix as of 10/14/2024

(\$1.00 COLA; \$2.45 adjustment for E1 due to FLSA change & .50 cent adjustment for NE1 thru NE6)

Annual Pay based on a 26-week pay period or 2080 hours

Grade	Pay Basis	0 thru 4 years	5 thru 9 years	10 thru 14 years	15 thru 19 years	Over 20 years
P4	Annual	103,355.20	113,984.00	122,886.40	131,768.00	144,268.80
	Hourly	49.69	54.80	59.08	63.35	69.36
P3	Annual	85,384.00	95,596.80	104,083.20	112,569.60	125,216.00
	Hourly	41.05	45.96	50.04	54.12	60.20
P2	Annual	80,849.60	88,670.40	95,160.00	101,608.00	110,614.40
	Hourly	38.87	42.63	45.75	48.85	53.18
P1	Annual	75,337.60	80,849.60	85,508.80	90,105.60	96,096.00
	Hourly	36.22	38.87	41.11	43.32	46.20
E4	Annual	86,444.80	92,913.60	98,259.20	103,667.20	110,593.60
	Hourly	41.56	44.67	47.24	49.84	53.17
E3	Annual	74,630.40	80,204.80	84,822.40	89,481.60	95,492.80
	Hourly	35.88	38.56	40.78	43.02	45.91
E2	Annual	61,006.40	67,787.20	73,444.80	79,123.20	87,505.60
	Hourly	29.33	32.59	35.31	38.04	42.07
E1	Annual	58,656.00	63,939.20	68,328.00	72,737.60	79,019.20
	Hourly	28.20	30.74	32.85	34.97	37.99
NE7	Annual	66,456.00	70,824.00	74,422.40	78,041.60	82,617.60
	Hourly	31.95	34.05	35.78	37.52	39.72
NE6	Annual	57,408.00	60,798.40	63,710.40	66,539.20	70,179.20
	Hourly	27.60	29.23	30.63	31.99	33.74
NE5	Annual	51,563.20	54,579.20	57,075.20	59,612.80	62,774.40
	Hourly	24.79	26.24	27.44	28.66	30.18
NE4	Annual	47,008.00	50,211.20	52,852.80	55,515.20	59,030.40
	Hourly	22.60	24.14	25.41	26.69	28.38
NE3	Annual	43,201.60	46,862.40	49,899.20	52,956.80	57,283.20
	Hourly	20.77	22.53	23.99	25.46	27.54
NE2	Annual	40,310.40	43,264.00	45,739.20	48,172.80	51,542.40
	Hourly	19.38	20.80	21.99	23.16	24.78
NE1	Annual	36,920.00	39,603.20	41,787.20	44,012.80	47,049.60
	Hourly	17.75	19.04	20.09	21.16	22.62

Orange County, TX
County Auditor's Pay Matrix
as of 10/02/2023

Annual Pay based on a 26-week pay period or 2080 hours

Grade	Pay Basis	0	1	5	10	15	20
P1	Annual	76,336.00		83,574.40	87,505.60	94,078.40	102,440.00
	Hourly	36.70	-	40.18	42.07	45.23	49.25
AA VI	Annual	55,702.40		59,217.60	62,233.60	65,166.40	68,848.00
	Hourly	26.78	-	28.47	29.92	31.33	33.10
AA V	Annual	53,851.20		57,387.20	60,382.40	63,315.20	67,080.00
	Hourly	25.89	-	27.59	29.03	30.44	32.25
AA IV	Annual	49,400.00		52,520.00	55,016.00	57,761.60	61,484.80
	Hourly	23.75	-	25.25	26.45	27.77	29.56
AA III	Annual	44,220.80		47,361.60	49,836.80	52,561.60	56,659.20
	Hourly	21.26	-	22.77	23.96	25.27	27.24
AA II	Annual	42,660.80		45,656.00	48,588.80	51,188.80	55,369.60
	Hourly	20.51	-	21.95	23.36	24.61	26.62
AA I	Annual	41,558.40		44,553.60	47,465.60	50,065.60	54,288.00
	Hourly	19.98	-	21.42	22.82	24.07	26.10

Sheriff's Pay Matrix effective as of 10/02/2023				
Grade	Position	Hourly Rate		
		2023-2024	2024-2025	2025-2026
DIS	Dispatcher I (first year)	19.47	20.47	21.47
	Dispatcher II (after one year as Dispatcher I)	20.94	21.94	22.94
	Dispatcher III (after two years as Dispatcher II)	22.34	23.34	24.34
	Dispatcher IV (after two years as Dispatcher III)	23.85	24.85	25.85
	Dispatcher V (after three years as Dispatcher IV)	25.28	26.28	27.28
DS	Dispatcher Supervisor I (first two years)	26.95	27.95	28.95
	Dispatcher Supervisor II (after two years as DS I)	28.08	29.08	30.08
CO	Corrections Officer I (first year)	21.03	22.03	23.03
	Corrections Officer II (after one year as CO I)	22.65	23.65	24.65
	Corrections Officer III (after two years as CO II)	24.21	25.21	26.21
	Corrections Officer IV (after two years as CO III)	25.89	26.89	27.89
	Corrections Officer V (after three years as CO IV)	27.44	28.44	29.44
CO-NURSE	Corrections Officer (Nurse) I (first year)	22.04	23.04	24.04
	Corrections Officer (Nurse) II (after one year as CO I)	23.66	24.66	25.66
	Corrections Officer (Nurse) III (after two years as CO II)	25.22	26.22	27.22
	Corrections Officer (Nurse) IV (after two years as CO III)	26.90	27.90	28.90
	Corrections Officer (Nurse) V (after three years as CO IV)	28.45	29.45	30.45
DEP	Deputy I (first year)	27.28	28.28	29.28
	Deputy II (after one year as Deputy I)	28.47	29.47	30.47
	Deputy III (after two years as Deputy II)	29.72	30.72	31.72
	Deputy IV (after two years as Deputy III)	31.02	32.02	33.02
	Deputy V (after three years as Deputy IV)	32.38	33.38	34.38
CPL	Corporal I (first two years)	34.12	35.12	36.12
	Corporal II (after two years as Corporal I)	34.85	35.85	36.85
INV	Investigator I (first two years)	34.85	35.85	36.85
	Investigator II (after two years as Investigator I)	36.59	37.59	38.59
SGT-INVEST	Sergeant (Investigator)	37.76	38.76	39.76
SGT	Sergeant I (after two years as Sergeant I)	36.59	37.59	38.59
	Sergeant II (after two years as Sergeant I)	37.76	38.76	39.76
LT	Lieutenant I (first two years)	40.87	41.87	42.87
	Lieutenant II (after two years as Lieutenant I)	42.21	43.21	44.21
LT-NURSE	Lieutenant (Nurse)	42.21	43.21	44.21
CAPT	Captain	45.88	46.88	47.88
CHIEF	Chief Deputy	51.66	52.66	53.66

The foregoing Agreement was **APPROVED** by the Orange County Commissioners Court in open court on the 29th day of August, 2023, and signed by the Orange County Judge on the 11th day of September, 2023. The Agreement was

Elected Officials Salaries from 2024-2025 to 2025-2026

		BASE SALARY	LONGEVITY	CELL PHONE	AUTO ALLOWANCE	SENATE BILL 22	TOTAL COMPENSA TION	NOTES
District Judge, 128th Judicial District	from:24-25	\$18,000.00	\$640.00				\$18,640.00	
	to:25-26	\$21,500.00	\$688.00				\$22,188.00	
District Judge, 163rd Judicial District	from:24-25	\$18,000.00					\$18,000.00	
	to:25-26	\$21,500.00					\$21,500.00	
District Judge, 260th Judicial District	from:24-25	\$18,000.00	\$207.00				\$18,207.00	
	to:25-26	\$21,500.00	\$243.00				\$21,743.00	
County Court At Law 1	from:24-25	\$185,000.00	\$2,128.00				\$187,128.00	
	to:25-26	\$241,000.00	\$2,212.00				\$243,212.00	
County Court At Law 2								
Incumbant	from:24-25 (3 months salary)	\$48,350.00	\$3,484.96				\$51,834.96	
Newly Elected	from:24-25 (9 months salary)	\$117,750.01					\$117,750.01	
	to:25-26	\$195,500.00					\$195,500.00	
County District Attorney								
Incumbant	from:24-25 (3 months salary)	\$4,500.00	\$4,034.16				\$8,534.16	
Newly Elected	from:24-25 (9 months salary)	\$13,500.00	\$1,668.00				\$15,168.00	
	to:25-26	\$21,500.00	\$1,740.00				\$23,240.00	
County Judge	from:24-25	\$111,460.80	\$276.00		\$2,400.00		\$114,136.80	
	to:25-26	\$113,540.80	\$312.00		\$3,000.00		\$116,852.80	
Commissioner, Precinct #1	from:24-25	\$78,576.00	\$276.00		\$2,400.00		\$81,252.00	
	to:25-26	\$80,656.00	\$312.00		\$3,000.00		\$83,968.00	
Commissioner, Precinct #2	from: 24-25	\$78,576.00			\$2,400.00		\$80,976.00	
	to: 25-26	\$80,656.00			\$3,000.00		\$83,656.00	
Commissioner, Precinct #3	from: 24-25	\$78,576.00	\$186.00		\$2,400.00		\$81,162.00	
	to: 25-26	\$80,656.00	\$222.00		\$3,000.00		\$83,878.00	
Commissioner, Precinct #4	from: 24-25	\$78,576.00	\$204.00		\$2,400.00		\$81,180.00	
	to: 25-26	\$80,656.00	\$240.00		\$3,000.00		\$83,896.00	

Elected Officials Salaries from 2024-2025 to 2025-2026

		BASE SALARY	LONGEVITY	CELL PHONE	AUTO ALLOWANCE	SENATE BILL 22	TOTAL COMPENSA TION	NOTES
Sheriff								
Incumbent	from: 24-25 (3 months salary)	\$27,600.00	\$1,462.68	county phone	county vehicle	\$692.31	\$29,754.99	Total Compensation also includes \$720.35 for benefits earned prior to being elected to office. Senate bill
Newly Elected	from: 24-25 (9 months salary)	\$82,800.00		county phone	county vehicle	\$2,307.69	\$85,107.69	
	to: 25-26	\$115,400.00		county phone	county vehicle	\$3,000.00	\$118,400.00	
District Clerk	from: 24-25	\$83,880.00	\$2,359.00		\$600.00		\$86,839.00	
	to: 25-26	\$85,960.00	\$2,443.00		\$800.00		\$89,203.00	
County Clerk	from: 24-25	\$83,880.00	\$1,536.00		\$600.00		\$86,016.00	
	to: 25-26	\$85,960.00	\$1,608.00		\$800.00		\$88,368.00	
County Treasurer	from: 24-25	\$83,880.00	\$1,620.00		\$600.00		\$86,100.00	
	to: 25-26	\$85,960.00	\$1,692.00		\$800.00		\$88,452.00	
Tax Assessor- Collector	from: 24-25	\$83,880.00	\$600.00		\$600.00		\$85,080.00	
	to: 25-26	\$85,960.00	\$648.00		\$800.00		\$87,408.00	
Justice of the Peace, Precinct 1	from: 24-25	\$78,576.00	\$276.00		\$1,200.00		\$80,052.00	
	to: 25-26	\$80,656.00	\$312.00		\$1,600.00		\$82,568.00	
Justice of the Peace, Precinct 2	from: 24-25	\$78,576.00	\$204.00		\$1,200.00		\$79,980.00	
	to: 25-26	\$80,656.00	\$240.00		\$1,600.00		\$82,496.00	
Justice of the Peace, Precinct 3	from: 24-25	\$78,576.00	\$348.00		\$1,200.00		\$80,124.00	
	to: 25-26	\$80,656.00	\$512.00		\$1,600.00		\$82,768.00	
Justice of the Peace, Precinct 4	from: 24-25	\$78,576.00	\$1,060.00		\$1,200.00		\$80,836.00	
	to: 25-26	\$80,656.00	\$1,120.00		\$1,600.00		\$83,376.00	
Constable, Precinct 1	from: 24-25	\$78,576.00	\$267.00		\$2,400.00		\$81,243.00	
	to: 25-26	\$80,656.00	\$303.00		\$3,000.00		\$83,959.00	
Constable, Precinct 2	from: 24-25	\$78,576.00			\$2,400.00		\$80,976.00	
	to: 25-26	\$80,656.00	\$189.00		\$3,000.00		\$83,845.00	

Elected Officials Salaries from 2024-2025 to 2025-2026

		BASE SALARY	LONGEVITY	CELL PHONE	AUTO ALLOWANCE	SENATE BILL 22	TOTAL COMPENSA TION	NOTES
Constable, Precinct 3	from: 24-25	\$78,576.00			\$2,400.00		\$80,976.00	
	to: 25-26	\$80,656.00	\$189.00		\$3,000.00		\$83,845.00	
Constable, Precinct 4								
Incumbent	from: 24-25 (3 months salary)	\$19,644.00			\$600.00		\$20,244.00	
Newly Elected	from: 24-25 (9 months salary)	\$58,932.00	\$1,788.00		\$1,800.00		\$62,520.00	
	to: 25-26	\$80,656.00	\$2,170.00		\$3,000.00		\$85,826.00	

Orange County Pay Period Affidavit

Department: _____

Pay Period:

Employee #: _____

Employee Name: _____

Date	Vaction	Sick Leave	FMLA (S/V/L)	Bereavement	Court/Jury/ Witness	Military	Other
Totals							

Employee Certification:

I certify that I have read the foregoing application/affidavit and I have requested the time off as indicated, for the reasons shown, in full conformance with all Orange County policies and procedures governing the same. I understand that any intent to misrepresent the information in the application/affidavit could result in disciplinary action and/or termination. I further state that I am entitled to all time herein claimed and I further understand that any deficiencies in all time herein claimed will result in the withholding of same time from any future compensation to which I may be entitled.

EMPLOYEE SIGNATURE: _____

Official/Department Head Approval/Disapproval:

_____ I have read the foregoing applicaton/affidavit and have granted the time off, as requested, in conformity with all Orange County policies and procedures governing the same.

_____ I have read the foregoing applicaton/affidavit and have not granted the time off as requested, for the following reason(s):

Therefore, employee is to be docked for _____ hours.

OFFICIAL/ DEPT. HEAD SIGNATURE: _____

NOTE: A physician's certification or note shall be required for any sick leave absence exceeding three (3) days at one time.

PAYROLL ADJUSTMENT FORM

APPENDIX - M-2

Employee #: _____

Employee Name: _____

Dept #: _____

The following information is to report prior payroll corrections/adjustments. This form should be completed by the Official/Dept. Head and submitted to the Personnel Office for review. Personnel Office will forward to Payroll Department for entry in payroll processing.

Note: Multiple adjustments may be entered on one Payroll Adjustment Form.

ORIGINAL TIME ENTERED		
Date	Activity Code	# of Hours

CORRECT TIME ENTRY <i>should have been</i>	
Activity Code	# of Hours

<i>Date Adjustment Entered in Payroll*</i>

ACTIVITY ENTRY CODES

R - Regular

C/O - Callout

V - Vacation

C - Catastrophic

F - Vac-FMLA

WC - WC-LWP

H - Holiday

C/Ovt - Callout Ovt

B - Bereavement

LWP - Leave without Pay

F - Sick-FMLA

WC - WC-Sick

OT - Overtime

S - Sick

J - Jury/Court/Witness

P - Parental

M - Military

** Payroll Department will enter the date the adjustment was made via Manual Payroll Entry.*

Employee Signature: _____

Official/Dept. Head Signature: _____

Personnel Office Signature: _____

Certification of Health Care Provider for Employee's Serious Health Condition (Family and Medical Leave Act)

U.S. Department of Labor

Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT

OMB Control Number: 1235-0003

Expires: 5/31/2018

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

Employer name and contact: _____

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

Check if job description is attached: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 29 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: _____
 First Middle Last

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), genetic services, as defined in 29 C.F.R. § 1635.3(e), or the manifestation of disease or disorder in the employee's family members, 29 C.F.R. § 1635.3(b). Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: (_____) _____ Fax: (_____) _____

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Mark below as applicable:

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

___ No ___ Yes. If so, dates of admission:

Date(s) you treated the patient for condition:

Will the patient need to have treatment visits at least twice per year due to the condition? ___ No ___ Yes.

Was medication, other than over-the-counter medication, prescribed? ___ No ___ Yes.

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

___ No ___ Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? ___ No ___ Yes. If so, expected delivery date: _____

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition: ___ No ___ Yes.

If so, identify the job functions the employee is unable to perform:

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF LEAVE NEEDED

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? ___ No ___ Yes.

If so, estimate the beginning and ending dates for the period of incapacity: _____

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? ___ No ___ Yes.

If so, are the treatments or the reduced number of hours of work medically necessary?
___ No ___ Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? ___ No ___ Yes.

Is it medically necessary for the employee to be absent from work during the flare-ups?
___ No ___ Yes. If so, explain:

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency : _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.

APPENDIX N

Certification of Health Care Provider for
Family Member's Serious Health Condition
(Family and Medical Leave Act)

U.S. Department of Labor
Wage and Hour Division



DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.

OMB Control Number: 1235-0003

Expires: 5/31/2018

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave to care for a covered family member with a serious health condition to submit a medical certification issued by the health care provider of the covered family member. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

Employer name and contact: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your family member or his/her medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave to care for a covered family member with a serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 29 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form to your employer. 29 C.F.R. § 825.305.

Your name: _____
First Middle Last

Name of family member for whom you will provide care: _____
First Middle Last

Relationship of family member to you: _____

If family member is your son or daughter, date of birth: _____

Describe care you will provide to your family member and estimate leave needed to provide care:

Employee Signature Date

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed above has requested leave under the FMLA to care for your patient. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as “lifetime,” “unknown,” or “indeterminate” may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), or genetic services, as defined in 29 C.F.R. § 1635.3(e). Page 3 provides space for additional information, should you need it. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: (_____) _____ Fax: (_____) _____

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

___ No ___ Yes. If so, dates of admission: _____

Date(s) you treated the patient for condition: _____

Was medication, other than over-the-counter medication, prescribed? ___ No ___ Yes.

Will the patient need to have treatment visits at least twice per year due to the condition? ___ No ___ Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

___ No ___ Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? ___ No ___ Yes. If so, expected delivery date: _____

3. Describe other relevant medical facts, if any, related to the condition for which the patient needs care (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF CARE NEEDED: When answering these questions, keep in mind that your patient's need for care by the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care:

4. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery? ☐ No ☐ Yes.

Estimate the beginning and ending dates for the period of incapacity: _____

During this time, will the patient need care? ☐ No ☐ Yes.

Explain the care needed by the patient and why such care is medically necessary:

5. Will the patient require follow-up treatments, including any time for recovery? ☐ No ☐ Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Explain the care needed by the patient, and why such care is medically necessary: _____

6. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery? ☐ No ☐ Yes.

Estimate the hours the patient needs care on an intermittent basis, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

Explain the care needed by the patient, and why such care is medically necessary:

7. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities? ____ No ____ Yes.

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: ____ times per ____ week(s) ____ month(s)

Duration: ____ hours or ____ day(s) per episode

Does the patient need care during these flare-ups? ____ No ____ Yes.

Explain the care needed by the patient, and why such care is medically necessary: _____

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.

Signature of Health Care Provider

Date

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210.

DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.

APPENDIX O

EMPLOYEE GRIEVANCE FORM

(This form is to report grievance other than those involving discrimination)

I. COMPLAINANT INFORMATION

Name: _____
Title/Position: _____
Department: _____
Address: _____

Telephone: _____
() Home () Work

II. DESCRIPTION OF COMPLAINT/GRIEVANCE

Please provide a description of each complaint or grievance as well as the date and description of any incident, act or omission, supporting the same. (Please attach additional sheets as necessary).

Date:	Description:
_____	_____ _____ _____ _____ _____
_____	_____ _____ _____ _____ _____
_____	_____ _____ _____ _____ _____

III. WITNESS:

Please list the names, and if known, the addresses and telephone numbers of any witnesses to any incident, act or omission supporting the grievance or complaint set forth above.

- | | | |
|----|------------|--|
| 1. | Name: | _____ |
| | Addresses: | _____ |
| | | _____ |
| | Telephone: | _____ |
| | | () Work () Home |
| 2. | Name: | _____ |
| | Addresses: | _____ |
| | | _____ |
| | Telephone: | _____ |
| | | () Work () Home |

IV: STATE YOUR REQUESTED REMEDIAL ACTION

Please state the action that you wish to be taken to resolve your complaint.

[illegible]

I understand that my grievance will be reviewed by my Department Head/Elected Official. I agree to follow the grievance procedures as set forth in the Orange County Personnel Policy Manual. I further certify, by my signature.

Signature of Complainant

Date _____

Complainant's Printed Name

APPENDIX P

PERFORMANCE APPRAISAL FORM

Employee Name: _____

Department: _____ Title/Position: _____

Listed below are nine (9) areas of employee performance. In each area, there are five (5) levels and a score beside each level. Place the score corresponding to the employee's level of performance in the box indicated and add the scores together to determine an overall level of performance.

1. **QUALITY OF WORK.** How well does the employee do in meeting the standards of quality set by your department?

- | | | | |
|----|-------------------------------------|-----|-------------|
| a. | Consistently does an excellent job. | (5) | |
| b. | Usually does a good job. | (4) | |
| c. | Work is usually acceptable | (3) | |
| d. | Work is occasionally acceptable | (2) | |
| e. | Work is consistently unacceptable | (1) | SCORE:_____ |

2. **UNDERSTANDING OF JOB FUNCTIONS.** How well does the employee demonstrate background knowledge or skill in performing the employee's particular job assignment?

- | | | | |
|----|--|-----|-------------|
| a. | Has exceptional understanding and skill in all phases of job assignment. | (5) | |
| b. | Has good knowledge and skill in all phases of job assignments. | (4) | |
| c. | Has satisfactory knowledge and skill for routine phases of job assignment. | (3) | |
| d. | Has voids in basic knowledge and skill of job assignments. | (2) | |
| e. | Inability to do most phases of job assignment. | (1) | SCORE:_____ |

3. **COOPERATION.** How does the employee demonstrate an ability to work in harmony with other employees toward a common goal?

- | | | | |
|----|--|-----|-------------|
| a. | At all times cooperates with other employees and management. | (5) | |
| b. | Works well with other employees and management | (4) | |
| c. | Causes no friction and makes limited group contribution. | (3) | |
| d. | Resents direction and causes friction in the workplace. | (2) | |
| e. | Unwilling to work with employees/supervisors | (1) | SCORE:_____ |

4. **INITIATIVE.** How capable is the employee of starting or performing an assignment without prompting?
- a. Extremely innovative and proposes new methods and procedures. (5)
 - b. Always finds extra work to do. (4)
 - c. Does work on own initiative. (3)
 - d. Normal supervision is required. (2)
 - e. Needs much supervision (1) SCORE:_____
5. **RESPONSIBILITY.** How trustworthy is the employee in carrying out assigned tasks?
- a. Can always be depended upon to complete more than assigned and responsibilities. (5)
 - b. Seeks additional tasks and responsibilities (4)
 - c. Willing to accept assigned responsibilities (3)
 - d. Must be monitored to ensure assigned responsibilities are completed. (2)
 - e. Unwilling to accept assigned responsibilities. (1) SCORE:_____
6. **APPEARANCE.** How is the employee's outward impression with respect to dress and grooming?
- a. Always dressed professionally and well groomed (5)
 - b. Often dressed professionally and well groomed (4)
 - c. Occasionally well dressed and groomed. (3)
 - d. Occasionally appropriately dressed and groomed (2)
 - e. Frequently inappropriately dressed and groomed (1) SCORE:_____
7. **DEPENDABILITY.** What is the extent to which the employee can be depended upon to carry out functions and adhere to policies and procedures?
- a. Consistently can be depended upon to meet and exceed job requirements. (5)
 - b. Consistently can be depended upon to meet job requirements. (4)
 - c. Usually can be depended upon to meet job requirements. (3)
 - d. Sometimes unreliable and avoids responsibility (2)
 - e. Frequently unreliable and often gives up easily (1)
- Does not wish to assume responsibility. SCORE:_____
8. **HUMAN RELATIONS.** To what extent is the employee effective in accomplishing tasks by working well with others, including peers, supervisors and the public?
- a. Always works effectively with others and has exceptional social skills. (5)
 - b. Usually works well with others and demonstrates awareness and consideration. (4)

- c. Acceptable relations with others, however, may have some difficulty communicating. (3)
- d. Occasionally causes conflict with others in the implementation of an assignment. (2)
- e. Usually creates a hostile environment whenever interaction with others is necessary to complete an assigned task. (1)

SCORE:_____

9. PUNCTUALITY. What is the employee's ability to be at work and on the job at the proper time.

- a. Always on time and sometimes arrives early. (5)
- b. Usually arrives on time to work. (4)
- c. Occasionally arrives late to work. (3)
- d. Frequently arrives late to work. (2)
- e. Always arrives late to work. (1)

SCORE:_____

EMPLOYEE'S OVERALL SCORE (Tally Scores for Items 1-9):

Excellent	27 to 45
Average	18 to 26
Below Average	Below 18

Signature of Department Head/Elected Official

Date

Printed Name

I have reviewed this employee performance evaluation. My signature below means only that I have been advised of my performance status and merit raise recommendation. It does not mean that I necessarily agree with this evaluation.

Signature of Employee

Date

Printed Name

**POLICY ON HIV / AIDS AND RELATED CONDITIONS
IN THE WORKPLACE**

INTRODUCTION

Orange County Commissioners' court acknowledges its responsibility to promote an environment that is healthy and safe for Orange County Administrators and employees. One of the most critical communicable disease concerns affecting the nation's population is the epidemic of infection with Human Immunodeficiency Virus (HIV) which causes Acquired Immune Deficiency Syndrome (AIDS).

HIV infection is potentially fatal, but absolutely preventable. Since there is no medical vaccine against HIV infection, education is the only known prevention and when followed, preventive education can safeguard against infection. Although medical intervention is limited and the consequences of contacting and/or transmitting the disease (virus) are devastating, the disease is not transmitted through ordinary casual interpersonal contact. HIV is known to be transmitted by intimate sexual contact and by exposure to contaminated blood, blood products or needles. While male homosexuals and intravenous IV drug abusers are the primary group at risk for HIV infection, anyone having sex with an infected person is at risk.

In response to the need for communicable disease control and prevention, the Orange County Commissioners' Court will hereby adopt a policy to help all employees better understand how to deal with HIV/AIDS and related conditions in the workplace. Orange County Commissioners' Court further adopts by reference all materials developed by the Texas Department of Health pertaining to HIV/AIDS. The following guidelines will help ensure that Orange County is abreast of current legislative decisions and medical information related to AIDS.

NON-DISCRIMINATORY STATEMENT

As a result of fear, anxiety, and anger that many people feel in reaction to AIDS, some employees who are either known to be or suspected of being infected with HIV may be subjected to emotional and/or physical abuse. Section 504 of the Rehabilitation Act of 1973, as amended recognizes HIV/AIDS as a medical disability or handicap and prohibits HIV/AIDS discrimination by recipients of federal funding. Therefore, persons with HIV infection are entitled to the same rights and opportunities as persons with other disabilities. The consideration of the existence of AIDS will not be part of the decision making process in hiring individuals applying for employment.

Any Orange County employee who is diagnosed as having AIDS or conditions associated with HIV virus (AIDS virus) and is able to continue safe and effective work performance shall be entitled to remain in the same job classification and work location unless the employee's physician or the County's health officer makes a finding that this would significantly threaten the health of the public, the employee, or his/her co-workers. If such a finding is made, and according to Section 504 requirements and County policy, the County will grant requests for reasonable accommodations for employees with HIV/AIDS unless granting the request poses an undue hardship on the County.

Employees and applicants who identify themselves to a County official as being HIV positive should be encouraged to inform the County Health Officer in order to receive proper medical advice. The County will not undertake programs of mandatory testing or screening of employees for HIV, nor will there be routine requirements that employees be asked to respond to questions about the existence of AIDS, ARC or positive HIV antibody test.

However, the County will provide information about testing concerning HIV infection and counseling. The County workers' compensation insurance carrier will pay the cost of testing if:

The employee documents to the County's Satisfaction that the employee may have been exposed to HIV while performing duties with the County; and

The employee was exposed to HIV in a manner that the United Public Health Services has determined is capable of transmitting HIV.

CONFIDENTIALITY OF AIDS RELATED INFORMATION

The Commissioners' Court of Orange County has the responsibility of obtaining information needed to protect the health of all employees of the County while respecting the confidential nature of an individual medical status. The Federal Privacy Act, Texas Commission on Human Rights Act and the Texas Communicable Disease Prevention and Control Act require confidential treatment of all medical information concerning a diagnosis of HIV/AIDS. Information about a person's health is private, therefore, every precaution must be taken to protect this information. The responsibility for dealing with each case lies with the Health Officer who will work with the individual to determine the appropriate course of action. The County is legally and ethically required to refrain from releasing any information pertaining to a person diagnosed as HIV positive.

In general, no specific or detailed information concerning complaints or diagnosis will be provided to department head or other employees without the express written consent of the patient in each case. This position with regard to health records is supported by the Federal Privacy Act of 1974. The County's Health Officer and the County Judge's Office shall serve as official spokespersons on issues regarding serious communicable diseases such as AIDS.

PREVAILING MEDICAL INFORMATION ON THE TRANSMISSION OF AIDS

The County ensures that development of HIV related policies is consistent with current information from public health authorities, such as the Center for Disease Control of the United States, the United States Public Health Services and with state and federal regulation. It is the County's position, based on current scientific information, that there is no risk of HIV/AIDS transmission in the normal work setting. Routine daily encounters with co-workers and clients pose no risk of transmitting the fragile, blood borne virus. The body fluids/tissues containing the virus in infected persons are blood, semen, and deep organs. These infectious secretions must come in contact with a person's mucous membranes or directly into the person's vascular (blood) system to be defined as a significant exposure.

PROVISION RELATED TO HANDLING INMATES

The Sheriff's Department will implement procedures for handling inmates with AIDS as proscribed by the United States Center for Disease Control, the American Medical Association, and state and federal regulation. Every reasonable precaution should be taken by jail employees when supervising inmates known or suspected of being infected with AIDS. All inquiries concerning inmates with AIDS and related conditions should be directed to the County Health Officer.

EDUCATIONAL RESPONSE TO AIDS

The County has a responsibility to ensure that every employee receive adequate AIDS education in order to minimize the spread of the infection, alleviate anxiety or fear and insure that informed decision making concerning HIV infection takes place. The County shall implement an AIDS Education Program that shall include the dissemination of information in regards to the nature of and transmission of HIV infection; its prevention, detection, counseling and referral. The County shall encourage all employees to attend any available educational seminars about AIDS and AIDS virus in order to limit the spread of AIDS and to offer employees current and accurate information about this important public health concern.

Realizing the sensitive nature of subject matter pertaining to HIV infection, the procedure for implementing this educational program shall be prescribed by the Commissioners' Court.

SUPPORT INFORMATION

Recognizing the devastating effect that HIV/AIDS and related condition might have upon an employee, the County will provide employees with information about health insurance and other benefits to employees with AIDS. The County will continue to negotiate health insurance contracts which include open enrollment with no evidence of insurability.

Information concerning Civil Rights complaints procedures are available to employees who believe they have been discriminated against on the basis of HIV/AIDS or a related condition. For more information about HIV/AIDS, please contact your regional or state office wellness program staff. The Texas Bureau of Health Department can answer most of your questions. The telephone number is (512)458-7254.

This policy shall be reviewed periodically to ensure that it conforms to developing knowledge and regulations regarding HIV infection.

**DRUG AND ALCOHOL TESTING POLICY
ORANGE COUNTY TRANSPORTATION
Adopted as of [NOVEMBER, 2019]**

A. PURPOSE

- 1) The Orange County Transportation provides public transit and paratransit services for the residents of Orange County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, Orange County Transportation declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
- 2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
- 3) Any provisions set forth in this policy that are included under the sole authority of Orange County Transportation and are not provided under the authority of the above-named Federal regulations are underlined. Tests conducted under the sole authority of Orange County Transportation will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

B. APPLICABILITY

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties. See Attachment A for a list of employees and the authority under which they are included.

A safety-sensitive function is operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or persons controlling the movement of revenue service vehicles and any transit employee who operates a non-revenue service vehicle that requires a Commercial Driver's License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment

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used in revenue service. A list of safety-sensitive positions who perform one or more of the above-mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

C. **DEFINITIONS**

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

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

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

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

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

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

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

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

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

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

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

DOT, The Department, DOT Agency: These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

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

Disabling damage: Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Evidentiary Breath Testing Device (EBT): A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

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

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

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

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

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

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

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

Negative Dilute: A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values lower than expected for human urine.

Negative result: The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

Non-negative test result: A urine specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites.

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

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

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

Prohibited drug: Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

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

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

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

Safety-sensitive functions: Employee duties identified as:

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

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

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

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

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

- (1) Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
- (2) Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fails to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fails to permit monitoring or observation of your provision of a specimen.
- (5) Fails to provide a sufficient quantity of urine or breath without a valid medical explanation.
- (6) Fails or decline to take a second test as directed by the collector or the employer for drug testing.

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- (7) Fails to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
- (8) Fails to cooperate with any part of the testing process.
- (9) Fails to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- (10) Possesses or wears a prosthetic or other device used to tamper with the collection process.
- (11) Admits to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuses to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fails to remain readily available following an accident.
- (14) If the MRO reports that the employee has a verified adulterated or substituted test result, the covered employee has refused to take a drug test.

Vehicle: A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

Verified negative test: A drug test result reviewed by an MRO and determined to have no evidence of prohibited drug use above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

Verified positive test: A drug test result reviewed by an MRO and determined to have evidence of prohibited drug use above the minimum cutoff levels specified in 49 CFR Part 40, as revised.

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

D. EDUCATION AND TRAINING

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

E. PROHIBITED SUBSTANCES

1) Prohibited substances addressed by this policy include the following.

- a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in Section H of this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

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

Alcohol: The use of beverages containing alcohol (including mouthwash, medication, food, candy) or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited.

F. **PROHIBITED CONDUCT**

- 1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.

- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.
 - a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:
 - i. The employee's alcohol concentration measures less than 0.02; or
 - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.
- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- 7) Orange County Transportation, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.
- 8) Consistent with the Drug-free Workplace Act of 1988, all Orange County Transportation employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

G. DRUG STATUTE CONVICTION

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

H. TESTING REQUIREMENTS

- 1) Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random or follow-up alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under Orange County Transportation authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.
- 3) All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with Orange County Transportation. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy.

I. DRUG TESTING PROCEDURES

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- 2) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen_collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) or Liquid Chromatography/Mass Spectrometry (LC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS or LC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance

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abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to Orange County Transportation. If a legitimate explanation is found, the MRO will report the test result as negative.

- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Orange County Transportation will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however Orange County Transportation will seek reimbursement for the split sample test from the employee.
- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.
- 7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than one year for testing if requested by the employee through the Medical Review Officer, or by the employer, by the MRO, or by the relevant DOT agency.
- 8) Observed collections
 - a. Consistent with 49 CFR Part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:

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

J. ALCOHOL TESTING PROCEDURES

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a

private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

- 2) A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section Q. of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section Q of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) Orange County Transportation affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. PRE-EMPLOYMENT TESTING

- 1) All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.
 - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
 - b. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.
 - c. If an applicant fails a preemployment drug test, the conditional offer of employment shall be rescinded and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.

- d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q herein.
- e. If a pre-employment test is canceled, Orange County Transportation will require the applicant to take and pass another pre-employment drug test.
- f. In instances where a FTA-covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
- g. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- h. Applicants are required (even if ultimately not hired) to provide *Orange County Transportation* with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. *Orange County Transportation* is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide Orange County Transportation proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

L. REASONABLE SUSPICION TESTING

- 1) All Orange County Transportation FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be

conducted just before, during, or just after the performance of a safety-sensitive job function. However, under Orange County Transportation' authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

- 2) Orange County Transportation shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section Q of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section Q of this policy.
- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the Orange County Transportation
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section Q of this policy. Orange County Transportation shall place the employee on administrative leave in accordance with the provisions set forth under Section Q of this policy. Testing in this circumstance would be performed under the direct authority of the Orange County Transportation. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority.** However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section Q.

M. POST-ACCIDENT TESTING

- 1) **FATAL ACCIDENTS** – A covered employee will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle, whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.
- 2) **NON-FATAL ACCIDENTS** - A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:

- a. The accident results in injuries requiring immediate medical treatment away from the scene, and the covered employee may have contributed to the accident.
- b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, and the covered employee may have contributed to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

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

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

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

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

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

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

N. RANDOM TESTING

- 1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Employees who may be covered under company authority will be selected from a pool of non-DOT-covered employees.
- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>.
- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under Orange County Transportation authority.
- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under Orange County Transportation' authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

O. RETURN-TO-DUTY TESTING

Orange County Transportation will terminate the employment of any employee that tests positive or refuses a test as specified in section Q of this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug test, a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-

to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety. The SAP will determine whether the employee returning to duty will require a return-to-duty drug test, alcohol test, or both.

P. FOLLOW-UP TESTING

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

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

Q. RESULT OF DRUG/ALCOHOL TEST

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAP) for assessment, and will be terminated.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. A test refusal includes the following circumstances:
 - a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.

- b. Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- c. Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- d. In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- e. Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
- f. Fail or decline to take a second test as directed by the collector or the employer for drug testing.
- g. Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
- h. Fail to cooperate with any part of the testing process.
- i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- j. Possess or wear a prosthetic or other device used to tamper with the collection process.
- k. Admit to the adulteration or substitution of a specimen to the collector or MRO.
- l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- m. Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

- 4) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder of the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NONDOT alcohol test with a result of less than 0.02 BAC.
- 5) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
 - a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;
 - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from Orange County Transportation employment.
 - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in Section P of this policy; however, all follow-up testing performed as part of a return-to-work agreement required under section Q

of this policy is under the sole authority of Orange County Transportation and will be performed using non-DOT testing forms.

- c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. **All tests conducted as part of the return to work agreement will be conducted under company authority and will be performed using non-DOT testing forms.**
- d. **A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q of this policy.**
- e. Periodic unannounced follow-up drug/alcohol testing conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q of this policy.
- f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with Orange County Transportation.
- g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.

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

R. GRIEVANCE AND APPEAL

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

S. PROPER APPLICATION OF THE POLICY

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

T. INFORMATION DISCLOSURE

- 1) Drug/alcohol testing records shall be maintained by the Orange County Transportation Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.

- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need to know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Orange County Transportation or the employee.
- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken
- 11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the *Orange County Commissioners Court* on this the _____ day of _____, 2019

Orange County Judge: _____

Commissioner PCT 1: _____

Commissioner PCT 2: _____

Commissioner PCT 3: _____

Commissioner PCT 4: _____

Attachment A
Safety Sensitive Employees

Covered employee means a person, including and applicant or transferee, who performs or will perform a safety-sensitive function

<u>Job Title</u>	<u>Job Duties</u>	<u>Testing Authority</u>
Transportation Director	DAPM	DOT
Transit Driver	Transport Clients	DOT
Dispatcher/Scheduler	Route Drivers/Schedule	DOT
Maintenance/Mechanic	Repair fleet	DOT

Attachment B Contacts

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

South East Texas Regional Planning Commission

Name: D'Juana Fowler

Title: Transportation Manager

Address: 2210 Eastex Freeway, Beaumont, TX. 77703

Telephone Number: 409-899-8444

Orange County Transportation Drug and Alcohol Program Manager

Name: Janell Dischler

Title: Director

Address: 10928 FM 1442, Orange, TX. 77632

Telephone Number: 409-745-9366

Name: Linda McIntosh

Title: Assistant Director

Address: 10928 FM 1442, Orange, TX. 77632

Telephone Number: 409-745-9511

Medical Review Officer

Name: Dr. Frank Bonikowski, M.D.

Title: AAMRO, Certification #920603011 (Expires 2/12/2023)

Address: P. O. Box 2987, Warminster, PA 18974

Telephone Number: 215-674-3068

Name: Dr. Philip Lopez, M.D.

Title: MROCC, Certification #17-12071 (Expires 7/8/2022)

Address: P. O. Box 2987, Warminster, PA 18974

Telephone Number: 215-674-3068

Substance Abuse Professional

Name: Madeline Alford

Title: SAP

Address: 1485 Wellington Circle, Beaumont, TX. 77706

Telephone Number: 409-861-1930

Substance Abuse Professional [continued]

Name: Kimberly DeLuna

Title: SAP

Address: 2750 S 8h St., Beaumont, TX 77701

Telephone Number: 409-839-1000

HHS Certified Laboratory Primary Specimen

Name: Quest Diagnostics

Address: 10101 Renner Blvd, Lenexa, KS 66219

Telephone Number: 913-895-2400