



Personnel Policies and  
Procedures Manual

# Emery County

## Personnel Policies and Procedures Manual

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## **Title 1. Introduction and Policy Statements**

### **Chapter A. Personnel Officer**

- 1. Personnel Officer.** A position entitled **Director of Personnel Management (“Personnel Officer”)** shall administer the human resource and personnel functions of Emery County. The Personnel Officer's duties shall be those described herein and in the Utah Code § 17-33-5 as codified on March 25, 2015, and any amendments thereafter. Any conflict between these policies and procedures and the requirements of the statute shall be resolved in favor of the statute.
  
- 2. Duties:** The Personnel Officer’s duties include those set forth herein below. The Commission may, from time to time, adjust the Personnel Officer’s specific duties, based upon the County’s needs. Others duties may necessarily evolve because of the nature of the position. The following are, therefore, some of the duties of the Personnel Officer:
  - a. The Personnel Officer shall lead the County in the development of its human resource department and in all personnel management issues, including working with other County departments, agencies and offices.
  - b. The Personnel Officer shall advise the County legislative and executive bodies on all human resource matters.
  - c. The Personnel Officer shall develop and implement programs for the improvement of County employee effectiveness, such as training, safety, health, counseling, and welfare.
  - d. The Personnel Officer shall periodically investigate the operation and effect of the Personnel Policies and Procedures and report its investigations to the Board of County Commissioners.
  - e. The Personnel Officer shall make an annual report to the Board of County Commissioners regarding the work of the Human Resource Department.
  - f. The Personnel Officer shall establish and maintain all records of all County employees.
  - g. The Personnel Officer shall apply and carry out all human resource and personnel statutes and policies and procedures, subject to the grievance and appeal rights granted herein. Additionally, the Personnel Officer shall recommend and propose new policies and procedures to the Board of County Commissioners.
  - h. The Personnel Officer shall preside at all administrative hearings, except when the Commission or Career Services Council hears an appeal or requires the appeal

be heard by an Administrative Law Judge (“ALJ”). In such cases, the Personnel Officer shall represent the interests of the County with the assistance of the County Attorney’s office.

- i. The Personnel Officer shall serve the Board of County Commissioners in such capacities regarding personnel matters as it may otherwise require and as provided by law or policy.

# **Title 1. Introduction and Policy Statements**

## **Chapter B. Personnel Policies**

- 1. Policies.** These policies as enunciated in the Personnel Policies and Procedures manual constitute the Personnel Policies and Procedures for Emery County.
- 2. Policies Not Contractual.** Neither this nor any other policy of the County is a contract either express or implied with any party. The rights of individuals derive from law or express contract, not from this policy. The Board of County Commissioners reserves the right to enact, repeal, or alter policies in order to promote the good operation of the County.
- 3. Policies Severable.** All policies and procedures shall be interpreted so they do not conflict with any federal, state, or local law. If any policy or procedure cannot be interpreted to comply with such laws, the policy or procedure shall be severed from this manual and be considered unenforceable.

### **4. Departmental Policies**

- a. Departmental Policies. The Commission realizes that some County departments have specific circumstances and needs that do not apply to the County Government as a whole. Therefore, with the exception of policies that must be adopted because of professional requirements pursuant to paragraph 4.b below, the Commission shall only authorize different departmental policies if they are first submitted to the Personnel Officers before submission to the Commission for consideration as described in paragraph 4.c below.
- b. Professional Codes and Standards of Conduct. If employees within a department are required to adhere to professional codes or standards of conduct to perform their jobs, to maintain their position, or to practice their profession, Department Heads and Elected Officials shall adopt any such applicable codes of professional conduct or other standards of conduct and ensure that the department and its employees are complying with those rules. The departments shall provide copies of the same to all employees within their respective departments, to the Personnel Officer, and to the Commission.
- c. Personnel Officer Review. All departmental policies shall be approved by the Personnel Officer prior to enactment by a department. Upon approval, the Personnel Officer shall forward the policies to the Commission, which shall have ten (10) working days to review the policies before they become effective. If the Commission does not reject the proposed policy within ten working days, the policies become effective. However, the Commission or Personnel Officer may rescind the policies at a later time. Any policy existing at the time of the adoption of this manual shall be deemed to be effective as of that date, subject to a later right of rescission by the Personnel Officer or Commission.

## **5. Amendment, Addition & Revision**

- a. Amendment or Revision. These Personnel Policies and Procedures may be amended at any time.
- b. Amendment by Commission. The Board of County Commissioners may amend the Policies and Procedures at their own discretion. They may delegate to others the authority to review and make recommendations regarding the Policies and Procedures, including the Personnel Officer.
- c. Amendment by Departmental Heads. Department Heads may amend or revise departmental policies only subject to the Personnel Officer Review described in paragraph 4.c. above.
- e. Distribution of Amendment and Revisions. Any and all amendments to these Policies and Procedures shall be made available to all County employees.
- f. Employee Maintenance of Personal Copies of Personnel Policies and Procedures. It shall be the responsibility of the employee receiving additions, amendments, or revisions to these Policies and Procedures to maintain their own copy of the document.



# **Title 1. Introduction and Policy Statements**

## **Chapter C. Definitions**

### **1. Employee Classifications.** Employees shall be classified as follows:

- a. Executive Employee – Although the County Personnel Management Act currently codified at Utah Code §§ 17-33-1 to -16 allows the County to designate the following list of employees as exempt from the application of the County Personnel Management Act, the Board of County Commissioners has chosen to treat all such employees as Occupational or Career Service Employees with the exception of Confidential Secretaries for the Commission. Accordingly, as of May 2, 2017, all County employees in any position other than the part-time Confidential Secretaries for the Commission are Career Service or Occupational Employees. On May 2, 2017, the Commission adopted Resolution No. 05-02-17, which provides that as the following listing positions become vacant and employees are hired in replacement of vacating employees, the positions shall become exempt from the application of the County Personnel Management Act:
  1. Non-elected Department Heads, which includes the Aquatic Center Director; Economic Development Director; IS/GIS Director; Personnel Director; Public Lands Director; Road Supervisor; Captain/Co. Captain; Library Branch/Director; and Weed & Mosquito Supervisor
  2. Chief Deputies. A Chief Deputy appointed by an elected County officer pursuant to Utah state law, Utah Code Annotated § 17-33-8(1)(b)(iv), or as - subsequently amended.
  3. Confidential Secretaries. One Confidential Secretary, if any, assigned to each elected County officer and Department Head.
  4. Administrative Assistants. One Administrative Assistant, if any, to the Board of County Commissioners, any member of the county legislative body, and each elected official.
  5. Division/Department Directors. After May 5, 2008, any person in a confidential relationship with an elected County officer who was appointed by an elected County officer to be a Division or Department Director to administer division or department functions in furtherance of the performance of the elected officer's professional duties.
  6. Temporary Special Investigators. Any person employed to make or conduct a temporary and special inquiry, investigation, or examination on behalf of the Commission or a committee created by the Commission.
  7. Key-Policy Employees. Any employee in a position that by its confidential or key policy-determining nature, cannot or should not be considered an

occupational employee.

- b. Contract Employee – An employee compensated on a contractual basis and hired on an emergency or seasonal basis. Such a contract must be approved by the Career Service Commission.
  - c. Seasonal Employee – An employee compensated on a seasonal basis and hired on an emergency or seasonal basis. Such a seasonal contract must be approved by the Career Service Commission.
  - d. Provisional Employee – An employee appointed on a provisional basis pursuant to a contract that provides for work based upon specific contingencies. Such a contract may be used only in limited circumstances under a demonstrated need that cannot be met by contract, seasonal, temporary, or limited-duties contracts.
  - e. Part-Time Employee – An employee regularly scheduled for less than 30 hours per week. Part-time Employees include (i) Regular Part-Time Employees who are scheduled to work less than 20 hours per week, (ii) Three-Quarter Part-Time Employees who work more than 20 hours per week but less than 30 hours per week, and (iii) Variable Part-Time Employees who may be required to work more than 20 hours per week but work less than 30 hours per week.
  - f. Temporary Employee – An employee hired, leased, and or contracted for a limited period of time not to exceed 120 days.
  - g. Limited-Duties Employees – An employee appointed to perform work that will not exceed three years in duration or work that has only limited or contingent funding.
  - h. On-Call Employees – An employee hired to work as department needs dictate but have no regular working schedule.
  - i. Occupational Employee or Career Service Employee – A full-time employee not occupying an Executive, Contract, Seasonal, Provisional, Part-Time, Temporary, or Limited-Duties position.
  - j. Probationary Employees - All Occupational Employees who are employed by the County are initially a probationary employee for a six month period of their employment. This six-month probationary period may be extended for good cause for up to an additional six months by any Department Head or Elected Official, subject to a right of appeal to the Career Service Council for unduly prolonging the period in a manner to thwart merit principles.
- 2. Right to Reappointment of Former Occupational Employee.** In the event that an Occupational Employee accepts employment as an Executive Employee, he or she shall be reinstated as an Occupational Employee in a position for which he or she is qualified in a pay grade comparable to the pay grade he or she had when last

employed as an Occupational Employee if (a) he or she is not retained by the official employing him or her as an Executive Employee, (b) he or she was not discharged for cause, and (c) an Occupational Employee position exists. If a comparable Occupational Employee position does not exist, the employee may be employed at a lesser position pending the opening of a comparable position. If the employee is employed in this pending position, he or she shall have precedence over other employees and applicants who are applying for such an Occupational Employee position.

### 3. Existing Emery County Classifications

- a. All County positions are comparatively evaluated on a set of common factors and assigned a classification and grade encompassing a specific salary range on the compensation plan. All career service employees hired on a regular basis will receive compensation according to the classification of the position for which they are hired.
- b. Current county position classifications are defined in the chart below.<sup>1</sup>

Department	Position	Full Time	Part-time	FLSA Exempt	FLSA Non-Exempt	Executive	Occupational	Contract	Seasonal	Provisional	Temporary	Limited-Duties	On-Call
Aquatic	Aquatic Manager	X		X		X							
	Water Safety Instructor		X		X								
	Certified Lifeguard Instructor		X		X								
	Head Lifeguard		X		X								
	Lifeguard		X		X								
	Temporary Head Lifeguard	X			X						X		
	Temporary Lifeguard	X			X						X		
Communications	Communication Equipment Specialist	X			X		X						
	Temporary Communication Technician		X		X						X		
Corrections	Dispatch I & II	X			X		X						
	Correction Officer I & II	X			X		X						
	Correction Administrative Assistant	X			X		X						
	Correction Cook	X			X		X						

<sup>1</sup> As noted in § 1.C.1.a above, all Executive Employees, other than the Commission Confidential Secretaries, populating Executive Employee positions on May 2, 2017, are still considered and shall be treated as Career Service or Occupational Employees pursuant to this Emery County Personnel Practices and Procedures Manual. After that date, any person hired to replace an Executive Employee in an Executive position shall be considered an Executive Employee exempted from the application of the County Personnel Management Act.

Department	Position	Full Time	Part-time	FLSA Exempt	FLSA Non-Exempt	Executive	Occupational	Contract	Seasonal	Provisional	Temporary	Limited-Duties	On-Call
	Correction/Dispatch Sergeant	X			X		X						
	Correction Sergeant	X			X		X						
	Reserve		X		X							X	
Attorney	Deputy County Attorney	X		X						X			
	Paralegal Office Manager	X					X						
	Legal Secretary I, II, & III	X			X		X						
	Victims Advocate	X			X		X						
Justice Court	Court Clerk I & II		X		X								
	Custodian		X		X								
	Sr. Court Clerk	X			X		X						
Assessor	Deputy Assessor	X			X		X						
	DMV Technician	X			X		X						
	DMV Tech		X		X								
	State Certified Residential Appraiser	X			X		X						
Clerk/Auditor	Deputy Clerk Auditor I & II	X			X		X						
	Deputy Clerk Auditor I & II		X		X								
	Sr. Clerk Auditor	X			X		X						
Commission	Confidential Secretary		X		X	X							
Travel & Tourism/Museum	Travel & Tourism/Museum Director	X		X		X							
	Travel Bureau Assistant		X		X								
	Lead Museum Assistant		X		X								
	Museum Specialist		X		X								
	Temporary Museum Specialist		X		X								
	Museum Maintenance		X		X								
Maintenance/Custodian	Lead Building Maintenance	X			X		X						
	Custodian		X		X								
IS/GIS Network Services & Planning and Zoning	GIS Technician	X			X		X						
	IS/GIS Network Services and Planning & Zoning Director	X		X		X							
	IS Technician	X			X		X						
	Temporary Office Specialist		X		X						X		
Personnel	Personnel Director	X		X		X							
Public Lands	Public Lands Director	X		X		X							
Recorder	Archive Specialist		X		X								
	Deputy Recorder I & II	X			X		X						

Department	Position	Full Time	Part-time	FLSA Exempt	FLSA Non-Exempt	Executive	Occupational	Contract	Seasonal	Provisional	Temporary	Limited-Duties	On-Call
	Sr. Deputy Recorder	X			X		X						
Treasurer	Deputy Treasurer		X		X								
	Sr. Deputy Treasurer		X		X								
Landfill	Solid Waste Crew Lead	X			X		X						
	Solid Waste Technician	X			X		X						
Library	Assistant Librarian		X		X								
	Branch Librarian	X			X		X						
	Library Maintenance		X		X								
	Janitor		X		X								
	Branch Librarian		X		X								
Road	District Operator	X			X		X						
	Equipment Operator I & II	X			X		X						
	Equipment Operator I & II		X		X								
	Fleet Records	X			X		X						
	Green River Crew Lead	X			X		X						
	Lead Mechanic	X			X		X						
	Lube Mechanic	X			X		X						
	Office Manager	X			X		X						
	Road Supervisor	X		X		X							
	Shop Foreman	X			X		X						
	Safety Coordinator & Sign Lead	X			X		X						
Sheriff	Captain/Co Captain	X		X		X							
	Detective I & II	X			X		X						
	Lieutenant	X		X			X						
	Patrol I & II	X			X		X						
	Patrol Sergeant	X			X		X						
	Reserve		X		X							X	
Weed & Mosquito	Temporary W&M Technician		X		X					X	X		
	W&M Supervisor	X		X		X							
	W&M Technician	X			X		X						

#### 4. Reclassifications

- a. An employee's position may be reclassified based upon an analysis conducted by the Personnel Director. If the Personnel Director, in consultation with the Department Head and/or Elected Official determines that a job shall be reclassified, the Personnel Director may submit a recommendation for reclassification to the County Commission for final approval.
- b. In the event of reclassification, an employee may be separated from County employment.

# Title 1. Introduction and Policy Statements

## Chapter D. Career Service Council

**1. Selection.** It is Emery County's intention to comply with the provisions of the County Personnel Management Act ("PMA") currently found at Utah Code § 17-33-4, to establish a Career Services Council. To the extent that the provisions of this policy in any way conflicts with the PMA or any later amendments, the County expressly incorporates the provisions of the controlling state statutes.

a. Appointment of Regular Council Members. The Board of County Commissioners shall appoint three individuals to serve as regular members of the Emery County Career Services Council.

1. The individuals appointed shall:

- a. Be persons in sympathy with the application of merit principles to public employment, and
- b. Be actual and bona fide residents of the state of Utah and Emery County for a period of not less than one year preceding the date of appointment.

2. The individuals appointed shall not, during the terms of their appointment:

- a. Hold another government office, or
- b. Be employed by Emery County.

b. Appointment of Alternate Council Members. The Board of County Commissioners may appoint two additional members as alternate members to hear appeals that one or more Regular Career Service Council Members are unable to hear.

1. The individuals appointed shall:

- a. Be persons in sympathy with the application of merit principles to public employment, and
- b. Be actual and bona fide residents of the state of Utah and Emery County for a period of not less than one year preceding the date of appointment.

2. The individuals appointed shall not, during the terms of their appointment:

- a. Hold another government office, or
- b. Be employed by Emery County.

## **2. Terms of Council Members.**

### **a. Regular Council Members.**

1. Terms. Each Regular Council Member shall serve a three year term that will expire on the June 30<sup>th</sup> that is three years after the date of his or her appointment.
  - a. Initial Terms of Regular Council Members. When the Career Service Council Regular Members are first appointed, the members will be designated as Regular Council Member A, Regular Council Member B, and Regular Council Member C.
    1. The term of Regular Council Member A shall expire on June 30<sup>th</sup> of the year following his or her appointment.
    2. The term of Regular Council Member B shall expire on June 30<sup>th</sup> of the second year following his or her appointment.
    3. The term of Regular Council Member C shall expire on June 30<sup>th</sup> of the third year following his or her appointment.
2. Removal. A Regular Council Member may be removed by the Board of County Commissioners for cause.
  - a. Before a Regular Council Member may be removed for cause, he or she will be given a copy of the charges against him or her.
  - b. Upon being given the charges, a Regular Council Member may request a public hearing before the Board of County Commissioners to answer the charges.
  - c. If removed, the Regular Council Member shall hold office until his or her successor is appointed.
3. Appointment to fill vacancy. In the event that a Regular Council Member position becomes vacant before the expiration of the term, a successor may be appointed by the Board of County Commissioners. The term of the successor shall run only to the end of the vacant position's term.

### **b. Alternate Council Members.**

1. Terms. An Alternative Council Member may be appointed for a one year term only which shall expire on June 30<sup>th</sup> of the year following his or her appointment.

2. Removal. An Alternate Council Member may be removed by the Board of County Commissioners for cause.
  - a. Before an Alternate Council Member may be removed for cause, the Council Member shall first be given a copy of the charges being made.
  - b. Upon being given a copy of the written allegations, an Alternate Council Member may request a public hearing before the Board of County Commissioners to answer the charges.
  - c. If removed, the Alternate Council Member shall hold office until a successor is appointed.
3. Appointment to fill vacancy. In the event that an Alternate Council Member position becomes vacant before the expiration of the term, a successor may be appointed by the Board of County Commissioners. The term of the successor shall run only to the end of the vacant position's term.
  - c. The Career Services Council must be a bipartisan council.

### **3. Compensation of Career Services Council Members**

- a. Council members shall receive compensation for each day or partial day they are in session at a per diem rate determined by the Board of County Commissioners.

### **4. Career Service Council Proceedings**

- a. The career service council:
  1. Shall make an initial determination in each appeal whether it has jurisdiction;
  2. Shall hear appeals not resolved at lower administrative levels in the cases of Occupational Employees suspended, transferred, demoted, or dismissed;
  3. Shall hear appeals of Occupational or Career Service Employees in the cases of grievances not resolved by the grievance procedure at the division or department level;
  4. Shall review written appeals in cases of applicants rejected for examinations and report final binding appeals decisions, in writing, to the county legislative body;
  5. Shall hear appeals of Probationary Employees whose probationary status has been extended by a Department Head or Elected Official beyond the original six month term;



6. May not hear any other personnel matter;
  7. May affirm, modify, vacate, or set aside an order for disciplinary action;
  8. May approve the hiring of Seasonal or Contract Employees who have been hired on an emergency or contractual basis; and
  9. May take any other action permitted by statute.
- b. The Career Services Council shall elect one of its Regular Council Members as chairperson.
  - c. Two or more members of the Council shall constitute a quorum necessary for carrying on the business and activity of the Council.
  - d. The Council shall have subpoena power to compel attendance of witnesses, and to authorize witness fees where it deems appropriate, to be paid at the same rate as in justice courts.

## **Title 2. Employee Selection & Retention**

### **Chapter A. General**

- 1. Competitive Placement.** Employment by Emery County shall be based upon open competition, an individual's merit, and shall be free from personal and political considerations.

## **Title 2. Employee Selection & Retention**

### **Chapter B. Recruitment**

#### **1. Approval for Recruitment Effort.**

- a. Existing Position. When an Executive, Occupational, or Three-Quarter Part-Time position opens in a department the Department Head or Elected Official shall obtain approval from the supervising County Commission to conduct a recruitment effort. (This does not require approval in a public commission meeting.) Following approval for the position, a personnel requisition shall be submitted to the Office of the Personnel Director. Minimum qualifications of education and experience shall be outlined for new positions in the same format as exists in the "class specifications" section of the Emery County Personnel Policy.
- b. New Position. When the need arises to create a new Occupational Employee position the approval to start the recruitment process will be presented by the Personnel Director in a public commission meeting. A personnel requisition form shall be submitted to the Office of the Personnel Director prior to the commission meeting in which the recruitment effort is approved.

- 2. Advertisement.** The Personnel Director shall post, in house, a job opening for a period of not less than five (5) days. The posting may be directed to Emery County Employees only and posted where all employees can easily be made aware of the vacancy. At the discretion of the County, posting of the vacancy may be directed to both Emery County Employees and the public concurrently.

## **Title 2. Employee Selection & Retention**

### **Chapter C. Promotions Transfer, and Reassignment**

- 1. Promotions Preferred.** In all cases where practicable, vacancies in open positions shall be filled by promotion on the basis of ascertained merit and qualifications, thus enhancing the County Career Service by providing upward mobility.
  - a. Promotion Defined. A promotion is defined as a change in job title and/or grade recognizing increased capacity and responsibility of an employee from a position in one class to a position in another class having a higher entrance salary.
  - b. Discretionary. Promotions are an enhancement to county career service by providing upward mobility. The Department Head has the discretion to determine when a promotion is in the best interest of the department and to identify, subject to Title 2.C.1.c below, the employee to receive the promotion.
  - c. Factors to be Applied. Selection will be based on knowledge, skills, and abilities. While seniority may be considered in determining promotions, it will not be the primary factor in promotion but will be considered with other qualifications. When considering promotion factors, a Department Head may consider the entire experience of a rehired employee who is being considered for promotion, including his or her prior work experience with the County; however, the Department Head may not consider that rehired employee's tenure prior to his or her rehire for purposes of determining that employee's seniority.
  - d. Commission Approval. All promotions must be coordinated with the Commissioner responsible for the department and the Personnel Director. The County Commission may approve or disapprove a promotion suggested by a Department Head.
  - e. New Grade and Classification. An employee receiving a promotion shall be placed on the new grade in the classification and shall receive at least a three (3%) increase.

### **2. Transfers**

- a. Transfer Defined. A transfer is defined as a move from one department to another, and should not be confused with the managerial function of moving personnel from one division or office to another within the same department by promotion, demotion, or reassignment.
- b. Transfers Permitted Under Certain Circumstances. Transfers must be cleared with both involved Department Heads and coordinated by the Personnel Director's Office. A transferring employee must qualify for the job to which he or she is transferring. Department Heads are not to solicit career employees from another department for any reason other than to mutually benefit both the

employee and the County. A transferred employee shall be required to serve a six-month orientation period, shall retain all accumulated sick and annual leave, and will be allowed to use such accumulated time during the six-month orientation period.

### **3. Reassignment**

- a. Reassignment Defined. A reassignment is defined as moving an employee for proper classification, for administrative or reasons other than demotion or reclassification, from a position in one class to a position in another class having a lower entrance salary.
- b. Salary of Reassigned Employee. Employees who are reassigned shall be paid at the same salary that they receive prior to reassignment if such salary coincides with the range of the class to which they are assigned. If such salary exceeds the maximum for the range for the class to which they are reassigned, they shall receive the maximum for the class, or the "red circle rate" may apply.

## **Title 2. Employee Selection & Retention**

### **Chapter D. Hiring for New or Vacant Positions**

**1. Initial Review of Applicants and Interview.** When there is an opening in a Career Service or a Three-Quarter Part-Time position and the opening has not been filled by promotion, the Personnel Director shall do an initial review of Applicants. Based upon the Personnel Director's review of the applicant, he or she shall recommend to the Department Head or Elected Official three applicants for interview. If less than four qualified applicants exist, the Personnel Director may recommend less than three applicants for interview, and/or at the Department Head's or Elected Official's discretion, repost the position.

- a. Selection of Interview Panel. The Department Head or Elected Official shall then select a committee of three, which may include him or herself, to serve as an interview panel. The Interview Panel shall elect a chair by majority vote.
- b. Role of Personnel Officer. If the Personnel Officer is not chosen as a member of the Interview Panel, he or she shall serve as an advisor to the panel. Additionally, he or she will be responsible to schedule interviews for the panel, provide application materials, and provide scoring sheets based upon relevant employment criteria.

### **2. Employee Selection**

- a. Recommendation of Panel after Interviews. Based upon the interviews, the members of the Interview Panel shall rate the applicants in order of preference. Preference shall be determined by a consistent method of rating criteria: Education, experience, knowledge, skills and abilities. Based upon the collective ratings of the members of the panel, the interview panel shall rate the applicants in order of preference. If the Interview Panel is justifiably unwilling to rate the applicants because the quality of the applicants is unsatisfactory, the Personnel Director shall proceed to repost the position.
- b. Recommendation of Department Head/Elected Official. After the ratings are made by the Interview Panel, the Panel shall deliver the name to the Department Head or Elected Official for selection from the list. The Department Head or Elected Official must select the highest rated applicant unless there is some justifiable and reasonable basis articulated in writing that justifies selection of a lower rated applicant. Thus, the Department Head or Elected Official must select the first or second-rated applicant for the position unless he or she can in writing identify a justifiable and reasonable basis for selection of the third-rated applicant. Subject only to review for compliance with federal, state, and local law, and adherence to these Policies and Procedures, the Personnel Director shall deliver the name of the recommended successful applicant to the Commissioner having oversight of the relevant department for final approval. At no time shall the successful applicant be informed of the decision until the Commission has given approval of the recommendation.
- c. Conditional Job Offer. Upon approval by two of the three Commissioners, one of whom must be the Commissioner having responsibility over the affected

department, the Personnel Director shall contact the prospective employee and make a conditional "job offer," subject to the candidate passing any necessary physical, drug testing, or background check. If the job offer is accepted, the Personnel Director will direct the employee to report for any appropriate physical, drug testing, or background check, if necessary, or to contact the Department Head who will advise the new employee when to report for work.

- 3. Previously Employed Applicants.** An individual previously employed by the County may be considered for rehire and will reenter the County workforce at the entry grade and step for the position to be filled as specified in the County compensation plan. The rehired employee shall be subject to the same terms and conditions as the newly hired employee who has never worked for the County before. Prior years of service do not count for seniority but do count for experience when applying for a promotion.
- 4. Residency Requirement.** Preference in employment shall be given to residents and their dependents. Additionally, a duly qualified applicant for career service employment must be willing to relocate to Emery County for employment purposes unless there is no available pool of qualified applicants within the County from which to choose. The career service employee shall be required to remain an Emery County resident for the entire term of his or her employment.

## **Title 2. Employee Selection & Retention**

### **Chapter E. Employment Application Information**

- 1. General Policy.** It is the County's policy to comply with the Utah Employment Selection Procedures Act ("UESPA") with regard to obtaining, using, and maintaining personal information of applicants for employment with the County. Additionally, UESPA requires that the County maintain and make available this policy to all such applicants. The County shall comply with all federal, state, and local laws concerning the selection and hiring of persons for employment.
  
- 2. Definitions.** In implementing this policy, the County will be guided by the current definitions found in Utah state statutes and regulations or in case law construing the statutes and regulations, and applicable federal law. In the event of any conflict between the definitions in the UESPA and the definitions in this policy, the legal definitions found in the UESPA will control. The following definitions are provided for general guidance of employees and applicants in understanding the policy.
  - a. Applicant - A person who has applied for employment with Emery County.
  
  - b. Personal Information - All information about an applicant obtained by the County in a written, electronic, audio, or visual record, whether generated by the applicant or by the County, for the purposes of considering Applicant for employment or further review. Examples of personal information include, but are not limited to, name, physical address, mailing address, phone number, email address, employment history, residence history, references, personal contacts, physical characteristics, resume, restricted personal information, and any other data and information obtained about applicant.
  
  - c. Restricted personal information - An Applicant's Social Security number, date of birth, and/or driver license number.
  
  - d. Prohibited Use - Providing or disclosing an Applicant's Personal Information to a person other than a County employee, agent, officer, or official, or providing or disclosing an Applicant's Personal Information for the purposes of marketing, profiling, reselling, or other similar use.
  
- 3. Guidelines.**
  - a. The County will not request an Applicant's Restricted Personal Information unless (i) the County has offered the applicant a job; or (ii) the County needs applicant's restricted personal information to obtain, and the Applicant consents to the County obtaining, a criminal background check, credit history, and/or driving record of Applicant, in accordance with all applicable state and federal laws.



- b. The County will not use an Applicant's Personal Information other than to determine whether or not the County will consider the Applicant for further review or will hire the Applicant as an employee. However, the County may (i) provide an Applicant's Personal Information upon request to a government official if required to be disclosed by order of a governmental agency, legislative body, or a court of competent jurisdiction, or to a representative of the Utah Labor Commission's Division of Antidiscrimination and Labor in a formal investigation of the County's compliance with UESPA; or (ii) if the Applicant is hired as an employee, use the Applicant's Personal Information for a performance review or promotion application review that is similarly conducted and applied to other employees in a similar position.
- c. The County will maintain this Employment Application Information Policy and will make it available for review to an applicant immediately upon request by such Applicant, including before Emery County obtains or Applicant provides Applicant's Personal Information.
- d. If the County does not employ the Applicant, it will not retain Applicant's Personal Information for more than two years after the date on which Applicant provides the information to the County as part of the application process.
- e. The Personnel Officer is responsible for implementing this policy, including determining when to request restricted Personal Information, when and how to use and disclose an Applicant's Personal Information, and when to destroy or dispose of it.

## **Title 2. Employee Selection & Retention**

### **Chapter F. Job Functions**

- 1. Essential Job Functions.** All persons employed by the County shall be able to perform the essential functions of their positions with or without reasonable accommodation. Reasonable accommodation is available to qualified Applicants and employees with disabilities whether they work part-time or full-time, or are considered probationary, temporary, or stand-by. The request for reasonable accommodation must be requested by the job applicant or employee.

## **Title 2. Employee Selection & Retention**

### **Chapter G. Reduction-in-Force**

- 1. Decision to Reduce County Workforce.** Any employee who is employed by the County is subject to losing his or her position because of a reduction in the County's workforce. The County Commission may in its sole discretion determine that a reduction in its workforce is necessary to preserve the County's interests.
  
- 2. Identification of Individuals subject to Reduction-in-Force.** In determining which employees shall be separated pursuant to the reduction-in-force, the County Commission in consultation with Department Heads, Elected Officials, and the Personnel Officer shall recommend the job classifications to be reduced. The County Commission and Elected Officials shall have final say as to the job classifications to be reduced for employees that report to each of them respectively. After making the determination of job classifications to be reduced, the County Commission and each Elected Official, upon the recommendation of the Department Heads and the Personnel Officer, shall identify the individuals to be separated based upon a uniform set of standards comprised of the following:
  - a. Performance measured by the average of the three most recent performance appraisals (including annual and orientation period appraisals);
  - b. Conduct and disciplinary actions;
  - c. Attendance
  - d. Ability
  - e. Departmental Seniority
  - f. County Seniority

While all these factors must be considered, at the time of the reduction in workforce the County Commission, upon the recommendation of the Personnel Officer may determine the weighting of each factor that must be considered and applied uniformly across all job categories and which must be identified in writing prior to the application of the criteria to the job classifications. In the absence of any written determination, the County shall give equal weight to all factors.

Moreover, the preference, unless the County Commission and Elected Officials in consultation with the Department Heads determine otherwise, shall be that all Emergency, Temporary, or Seasonal Employees shall be reduced first, all Regular Part-Time Employees shall be reduced second, and all Three-Quarter Part-Time Employees shall be reduced third, before separating any Full-Time Employee in any department identified for a reduction-in-force.

## **Title 3. Employee Conduct**

### **Chapter A. General**

- 1. General Conduct.** County employees are in the business of providing essential services to the citizens of Emery County. County employees are public servants of the citizens of this County, to whom the government belongs, and bear responsibility for the trust and mandate that citizens have placed on their government. As such, County employees shall, at all times perform their duties faithfully and in full. Employees shall conduct themselves so that the commitment of the County to providing good governance for its citizens shall be unquestioned.
- 2. Professional Standards.** In addition to general employee conduct requirements, County employees shall comply with and abide by established professional standards of conduct and practice specific to their area of expertise or job description. Where professional standards are not formally or specifically adopted by the County, but are otherwise generally upheld within a professional group or industrial sector, such standards shall apply to the County's professional employees and are deemed to be incorporated herein.
  - a. **National Incident Management Systems ("NIMS") Training.** All employees shall complete all NIMS compliance training as required by FEMA. Employees shall complete all training within 6 months of their hiring date, and thereafter shall attend all mandatory training sessions they are notified of. The Personnel Officer, in conjunction with the Emergency Services Director, shall indicate in each employee's job description the NIMS compliance required. The Personnel Officer shall maintain a checklist in each employee's file indicating NIMS compliance courses completed. In the event employees are uncertain as to the NIMS compliance training required, each employee is individually responsible to ascertain the compliance level required by contacting the Emergency Services Director. Failure to timely obtain all training required may be grounds for immediate termination.
- 3. Employee Demeanor.** County employees shall maintain a demeanor and attitude of politeness and respect while fulfilling their employment responsibilities, interacting with other County employees, and in their interactions with the general public. Rudeness, uncooperativeness, unresponsiveness, refusal to communicate, or bullying are unacceptable.
- 4. Work Hours.** The normal work day for full-time employees shall be eight (8) hours and the normal work week shall be (40) hours, Monday through Friday, unless prior approval is made with the appropriate Elected Official, or with Department Head permission and Commission approval. The normal work days may vary under some circumstances, such as employees working in certain facilities that are open on weekends may have a normal work week that extends into the weekend. Part-time employees shall work only those times assigned.

## **Title 3. Employee Conduct**

### **Chapter B. Employee Conduct Guidelines**

- 1. Loyalty to the County.** No employee shall refuse to perform his or her job responsibilities or fail to comply with the established policies, procedures, and ordinances of County Government. No employee shall comment to the media or public on matters which are internal to the workings of the County. No employee shall make false statements about the County.
- 2. Confidentiality.** Many employees have access to information that is sensitive and private in nature. Much of that information is protected under federal, state, and local law. Employees also have access to information that could unfairly influence the bidding process. Employees are required to keep all such information obtained by and through their County employment strictly confidential.
- 3. Outside Employment or Board or Association Participation.**
  - a. Outside Employment. No employee may engage in additional employment which in any manner interferes with the proper and effective performance of official duties, or which results in conflict of interest. The employee is required to give priority to his or her job with Emery County, and outside employment should only be undertaken with the knowledge and consent of the supervisor. Additionally, to the extent that outside employment may in any manner interfere with the employee's obligations to Emery County, including, but not limited to work schedule conflicts, the employee must first file a written request describing the conflict and the reasons supporting the request to the Personnel Director. Once received, the Personnel Director shall submit the request to the Board of County Commissioner to review the request in an open public meeting. Only if the County Commission approves the request may the employee accept the outside employment.
  - b. Appointment to Governmental, Professional, or Nonprofit Boards and Associations. Any employee who has been asked to participate on a governmental, professional, or nonprofit board or association as a result of or because of his or her County employment must receive permission both from his or her Department Head and the Commissioner having responsibility to supervise the department at issue. Once Departmental and Commissioner approval is secured, the Board of County Commissioner must approve the selection before the employee may participate and only after the Commission finds that such appointment will (a) not interfere with the employee's performance of his or her County duties and (b) the participation will be of some benefit to the County.
- 4. Telephone Use.** County telephones may be provided to employees for use in performing their employment responsibilities. County issued telephones are for County business and employment purposes only. It is recognized that some personal telephone calls may be necessary from time-to-time, as in the case of a family

emergency or a personal matter requiring immediate attention. The duration of emergency or urgent personal telephone calls should be as brief as possible and the number of calls kept to a minimum. Personal calls that can otherwise be made outside of working hours should not be made or received during business hours. County issued telephones are the property of the County; and as such, telephone use may be tracked or monitored and employees have no expectation of privacy.

Employees may not use any cell phone, personal or County-issued, while operating a County vehicle or a private vehicle when conducting County business.

- 5. Use of County Property.** Some employees may be given County property to perform their jobs. County property includes, but is not limited to, vehicles, electronics, cell phones, computers, equipment, and/or tools. Employees shall use County property only for the use intended and at the direction or discretion of their Supervisors. County property shall not be used for personal purposes. Theft or destruction of County property is strictly prohibited. **The County maintains ownership in all County property, may demand the return of the property, or may assign the property to another employee at its sole discretion. Employees have no right of privacy in County property, and nothing precludes the County from tracking, monitoring, inspecting, or repossessing the same. Additionally, the County may track monitor, inspect, or review any item, program, document, and/or file created or stored on or by the County property.**
- 6. Duty to Report Workplace Injuries.** Employees shall report all non-minor injuries to an employee's immediate supervisor and the County Personnel Officer within twenty-four hours.
- 7. Duty to Report Personnel Policy Violations.** Employees shall report any employee violation of the Emery County Policies and Procedures Manual, any employee's commission of a Class A or Class B misdemeanor or felony to their immediate supervisor within five (5) working days or as soon as possible if that violation or commission endangered the life or limb of any person whomsoever. This duty includes an employee's obligation to report (a) his or her own violation or commission and (b) any other violation or commission of any other person observed by the employee. Supervisors are required to report any such violation or commission within two (2) working days to the Personnel Officer. Failure of any employee or supervisor to report a violation or commission shall be a violation of the County Policies and Procedures Manual.

## **Title 3. Employee Conduct**

### **Chapter C. Dress and Grooming Standards**

- 1. General.** Department Heads and Supervisors who have County employees permanently assigned to them have the right to establish dress standards, which must be applied uniformly throughout a department.
- 2. Safety Requirements.** The County, Department Heads, or Supervisors shall establish and require employees to abide by safety requirements applicable to a department.
- 3. Dress and Appearance.** The County, Department Heads, and Supervisors may require employees to dress in a manner which is consistent with dress requirements for employees in the private sector doing similar work. Except that all employees working in a general office environment, including the County offices, shall wear casual business attire, which shall be more clearly defined by the County. Employees performing manual labor, or working in environments where clothes regularly become dirty, may wear the most comfortable and easy to maintain clothes possible, consistent with the dress code established by their Department Head or Supervisors. Provocative and revealing clothing shall not be worn.
- 4. Grooming.** Employees shall maintain a standard of cleanliness and hygiene consistent with the work they perform. Specific grooming standards may be established by Department Heads and Supervisors that are consistent with the work to be performed in a department.
- 5. Authority to Create Standards.** Department Heads and Supervisors shall be authorized to set dress and grooming standards for their own departments subject to rejection or reversal by the County Personnel Officer or Commission as described in Title 1.B.4.

## **Title 3. Employee Conduct**

### **Chapter D. Political Activities**

- 1. Political Opinion or Affiliation.** No person shall be denied the opportunity to become an applicant for a position under the career service system in any County department by virtue of political opinion or affiliation. Additionally, no person employed by the County under the career service system may be dismissed from service as a result of political opinion or affiliation.
- 2. Political Contributions and Candidacy.** A county career service employee may voluntarily contribute funds to political groups and become a candidate for public office.
- 3. Political Coercion.** No County officer or employee, whether elected or appointed, may directly or indirectly coerce, command, advise or solicit any officer or employee covered under the career service system to pay, lend or contribute part of his/her salary of compensation or anything else of value to any party, committee, organization, agency or person for political purposes. No County officer or employee, whether elected or appointed, may attempt to make any officer's or employee's personnel status dependent upon the employee's committee, organization, agency or person engaged in a political activity.
- 4. Political Activity During Work Hours.** No officer or employee may engage in any political activity during the hours of employment nor shall any person solicit political contributions from county employees during hours of employment for political purposes, but nothing in this section shall preclude voluntary contribution by a county employee to the party or candidate of the employee's choice.
- 5. Federal Hatch Act.** Nothing contained in this chapter shall be construed to permit partisan political activity of any County employee who is prevented or restricted from engaging in such political activity by the provision of the Federal Hatch Act.
- 6. Political Campaigns.** In the event that an employee determines to run against a sitting elected official, if the employee does not hold an Executive position the employee may not be transferred, demoted, or removed from the employee's position because of the employee's decision to run. Notwithstanding this section, the employee may be disciplined if he or she engages in activity that is otherwise subject to discipline and the employee has been duly disciplined pursuant to Title 5.



## **Title 3. Employee Conduct**

### **Chapter E. Employee Ethics**

- 1. General Policy.** Emery County is committed to the highest standard of conduct by and among all of its employees and each Elected Official (hereinafter “Employee”) in the performance of their public duties. Individual and collective adherence to high ethical standards by employees is central to the maintenance of public trust and confidence in government. While employees employed by the County agree on the need for proper conduct, they may experience personal conflict or differing view of values or loyalties

In such cases the principles contained in this Code of Ethics provide valuable guidance in reaching decisions which are governed, ultimately, by the dictates of the individual conscience of the employee and his or her commitment to the good of the public.

Certain of these ethical principles are best expressed as positive statements: actions which should be taken; courses which should be followed; goals which should permeate both public and private conduct. Other principles are expressed as negative statements: actions to be avoided and conduct to be condemned

Emery County recognizes that this Code of Ethics should serve as a valuable reference guide for all those in whom the public has placed its trust.

- 2. Code of Ethics.**

- a. The ethical Emery County employee should:

1. Properly administer the affairs of Emery County.
2. Promote decisions which only benefit the public interest.
3. Actively promote public confidence in Emery County government.
4. Keep safe all funds and other properties of Emery County.
5. If evidence of fraud and/or dishonesty, report it immediately.
6. Conduct and perform the duties of the office diligently and promptly dispose of the business of Emery County.
7. Maintain a positive image to pass constant public scrutiny.
8. Evaluate all decisions so that the best service or product is obtained at a minimal cost without sacrificing quality and fiscal responsibility.
9. Inject the prestige of the office into everyday dealings with the public, employees and associates.
10. Maintain a respectful attitude toward employees, other public officials, colleagues and associates.
11. Effectively and efficiently work with governmental agencies, political subdivisions and other organizations in order to further the interest of Emery County.

12. Faithfully comply with all laws and regulations applicable to Emery County and impartially apply them to everyone.

b. The ethical county employee should not:

1. Engage in outside interests that are not compatible with the impartial and objective performance of his or her duties.
2. Improperly influence or attempt to influence other employees to act in his or her own benefit.
3. Accept anything of value from any source which is offered to influence his or her action as an employee.
4. Use your position for personal gain, to secure privileges and exemptions.

**3. Violations are Serious.** The ethical county employee accepts the responsibility that his or her mission is that of servant and steward to the public. Failure to adhere to this policy may result in disciplinary action up to and including termination.

## **Title 3. Employee Conduct**

### **Chapter F. Drug Free Workplace**

The County prohibits drug and alcohol use or impairment in the work place in order to protect the public and the County's employees. The County has adopted comprehensive drug and alcohol regulations to implement this policy.

## Title 3. Employee Conduct

### Chapter G. Prohibited Conduct

1. **Prohibited Conduct.** Employees shall not engage in any conduct that adversely impacts the efficiency, harmony, good order, or lawful and good purposes of the County or its Departments to efficiently and honorably serve the needs of Emery County's citizens. Conduct that is deemed to prevent the County from accomplishing its mission in this regard is categorized as follows:
  - a. Class I Offenses (minor offenses)
  - b. Class II Offenses (moderate offenses)
  - c. Class III (major offenses)
  
2. **Specific Instances of Prohibited Conduct.** The following are some specific instances of generally prohibited conduct. This is not an exhaustive list and is intended only to define certain specific types of prohibited conduct.
  - a. Abusive language. Employees shall not use language that is intended to disparage, demean, insult, provoke, or bully.
  - b. Attendance. Employees shall not be late for work, unless otherwise excused by their immediate supervisor. Employees shall timely attend all required meetings and conferences required by their job descriptions and supervisor.
  - c. Conflicts of Interest. Employees are expected to represent the county in a positive and ethical manner. Thus, employees have an obligation to avoid conflicts of interest and to refer questions and concerns about potential conflicts to their supervisor. Employees may not engage in, directly or indirectly either on or off the job, any conduct which is disloyal, disruptive, competitive, or damaging to the county or the department in which they work. Employees must disclose any financial interest they or their immediate family have in any firm that does business with the county. Employees are prohibited from misusing inside information for their own benefit or for the benefit of members of their immediate family. Any conflict or potential conflict of interest must be disclosed to the county. Failure to do so will result in discipline, up to an including termination.
  - d. Fabrication, Falsification, or Fraud. Employees shall not willfully and purposefully falsify any document or make any false or misleading statement relating to his or her employment. It is also a violation to falsify any portion of an application or interview for employment.
  - e. Failure to Comply with Order of Emergency Personnel. Employees shall comply immediately and fully with the orders and instructions of all emergency and law enforcement personnel.
  - f. Horseplay and/or Fighting. Employees shall not engage in any physical action

that could reasonably be believed to harm or demean another person.

- g. Insubordination. Employees shall not deliberately refuse to obey or carry out a reasonable, legal, and proper directive from a County superior in a professional and respectful manner.
- h. Negligence. Employees shall not act negligently by engaging in any action, physical, written or verbal, which could reasonably be believed to subject any person to harm, injury, or death, or which could reasonably subject County property to damage or destruction.
- i. Nepotism. Employees shall not engage in nepotism as set forth in Utah Code § 52-3-1, et seq. In the event of a potential conflict of interest under this section of this Policy and Utah law, employees shall immediately inform their immediate supervisor and file a conflict of interest form with the Personnel Officer. Once the form is filed with the Personnel Officer, the Personnel Officer will determine whether employment with the County will be permitted under Utah law.
- j. Solicitation and Business Activities at Work. Employees shall not engage in work for, or solicit on behalf of, outside business during his or her hours of work for the County.
- k. Animals or Pets. Employees shall not bring pets or animals to work unless the pet or animal is either a service animal or training animal.
- l. Fraud, Waste, and Abuse. Employees shall not engage in (i) intentional, wrongful acts to obtain either money or some other advantage from the County or its associated programs, including theft, embezzlement, false statements, illegal commissions, kickbacks, conspiracies, collusive contracts, etc, (ii) inappropriate actions or omissions that results in taxpayers not receiving reasonable value for money in connection with the County or its associated programs, including mismanagement, inappropriate acts, and inadequate oversight, and (iii) acts that impair effective and efficient County operations.
- m. Violations of Emery County Policies. The County will from time to time adopt and amend policies such as policies governing e-mail, computer usage, retention and destruction of documents, and personal use of county facilities. Employees are required to read and follow these policies. Any violation of these policies is prohibited.

### **3. Classes of Prohibited Conduct**

- a. Class I Offenses. Class I Offenses are those offenses or violations deemed by an immediate supervisor or department head to be minor in nature with not significant adverse impact to the County or its citizens. Generally stated, minor offenses are violations of County or department policy and procedure which cause no real harm to the employee, other employees, a department, or the County. Incidences of minor offenses may include, but are not limited to, tardiness, lateness in completing assignments, lack of respect, minor incidences of

insubordination, poor attitude, etc.

- b. Class II Offenses. Class II Offenses are those offenses of violation which are deemed by an immediate supervisor or department head to be moderate in nature with a moderate possibility of harm to the County or its citizens. Incidences of moderate offenses may include, but are not limited to, multiple or repeated minor offenses, negligence posing risk to the employee, other employees, or the County, failure to report something required in the County Policies and Procedures, the conviction of a crime of dishonesty, drugs, or etc.
  
- c. Class III Offenses. Class III Offenses are those offenses of violation which are deemed by an immediate supervisor or department head to be severe in nature which pose a serious possibility of harm to the County or its citizens. Incidences of serious offenses may include, but are not limited to, multiple or repeated minor or moderate offenses, negligence posing risk to the employee, other employees, or the County.

## **Title 4. Performance and Performance Evaluations**

### **Chapter A. Job Descriptions**

Job descriptions outlining the essential functions of the position shall be established for every position by the Personnel Officer and updated as needed. Every County employee, regardless of status, shall be able to execute the essential functions of their position with or without reasonable accommodation. If an employee is unable to perform up to the standard required for the position or the essential functions of the position, a meeting with the employee will be arranged to determine the reasons for the inability to meet these requirements and what changes or corrections may be required to either the work environment or resources available to assist the employee. Failure to do so may result in disciplinary action. Unwillingness of an employee to cooperate in taking the necessary steps to improve his or her performance may result in termination.

Employee performance plans shall be established by the Personnel Officer in collaboration with the Department Heads and Supervisors for each employee under their supervision on a yearly basis or more often if needed.

## **Title 4. Performance and Performance Evaluations**

### **Chapter B. Performance Evaluations**

- 1. New Employee Orientation Period.** All newly hired employees of the county are required to complete a six month orientation period.
  - a. Consistent Review. Newly hired employees shall be routinely advised of performance. If it appears to be unsatisfactory, the Department Head shall advise the Personnel Director and together they will attempt to assist the orienting employee to improve the poor performance. If improvement does not occur during this orientation period, termination shall occur.
  - b. Formal Performance Appraisal. During the six month period the supervisor shall conduct a formal performance appraisal towards the end of the six months. For those employees who have been hired into a position that is identified as a Full-Time Occupational position, successful completion of the orientation period results in the award of "Career Service" status to the employee and the employee becomes an Occupational Employee or Career Service Employee.
  - c. At-Will Status. Notwithstanding the foregoing, all employees in the orientation period are at-will employees subject to termination for no reason or any reason. Accordingly, even good performance does not guarantee that the employee will be retained.
- 2. Promoted Employee Orientation Period.** Upon being promoted to a position in a higher classification, occupational employees are assigned a review date not to exceed six months from the date of promotion.
- 3. Annual Review.** At least annually the employee's supervisor shall conduct a performance evaluation. The purposes of the evaluation are as follows:
  - To communicate supervisor expectations to the employee.
  - To develop goals for the employee to work toward.
  - To allow the employee to discuss any suggestions, problems or concerns the employee may have.
  - To identify any deficiencies in the employee's performance and to outline a plan of correction.
  - To provide documentation for potential promotions, bonuses, disciplinary actions, or discharge.
- 4. Personnel Officer Review.** The Personnel Officer will review all evaluations for



consistency and for compliance with these policies. The Board of County Commissioners may, from time to time, evaluate non-elected Supervisors.

## **Title 5. Discipline**

### **Chapter A. General.**

- 1. Applicability.** Any Executive Employee, Contract Employee, Seasonal Employee, Provisional Employee, Limited-Duties Employee, Part-Time Employee, Temporary Employee, On-Call Employee, or Probationary Employee may be discharged at the will of the County. Such employees have no expectation of continuing employment and have no expectation that they will be subject to any notification prior to discharge. Additionally, no Executive Employee, Contract Employee, Seasonal Employee, Provisional Employee, Limited-Duties Employee, Part-Time Employee, Temporary Employee, or Probationary Employee is entitled to any progressive discipline unless these policies and procedures and/or applicable provisions of federal, state, or local law expressly provides for such progressive discipline. Accordingly, the provisions of Title 5 of this Manual do not apply to such employees unless expressly made applicable to the particular classification of employees in the body of the applicable provision.
- 2. Discipline Appropriate.** Any employee committing an offense against the County, wherever named, may be subject to disciplinary actions up to and including termination.
- 3. Fair Discipline.** The County shall implement discipline without regard to race, color, creed, national origin, sex, age, disability, marital status, the intent to bear children, sexual orientation, or gender identity. Discipline shall be applied fairly and evenly based upon its own discretion and balanced against aggravating and mitigating circumstances.
- 4. Initiation of Discipline.** Generally, any disciplinary investigation or process is initiated by a Department Head (whether elected or not) or an employee's immediate supervisor. However, the Commission, or a Commissioner, may order a disciplinary investigation and impose warranted disciplinary action. The Personnel Officer, may, if he or she has evidence that a Department Head is refusing to act, investigate a report of infraction provided only that he or she informs the Commission in writing that he or she is doing so. Nothing herein shall be so construed as to relieve any person of any duty to report violations of the Policies and Procedures or thereafter impose discipline.
- 5. Enforcement.** Although the decision to apply discipline belongs primarily with the Department Head, it is the Personnel Officer's responsibility to oversee the discipline and ensure compliance with these procedures. Except as noted elsewhere in these Policies and Procedures, any applicable processes, forms, etc., shall be approved by the Personnel Officer.

## **Title 5. Discipline**

### **Chapter B. Types of Discipline.**

- 1. Verbal Warning.** A Verbal Warning is a private discussion between a supervisor and an employee regarding any offense or violation of the employee deemed by the supervisor to warrant a verbal discipline. Any employee deficiency verbally communicated from a supervisor to an employee is a Verbal Warning.
- 2. Written Warning.** A Written Warning is a written document prepared by a supervisor and delivered to an employee regarding any offense or violation of the employee deemed by the supervisor to warrant a written discipline. Any employee deficiency communicated in writing from a supervisor to an employee is a Written Warning.
- 3. Suspension.** A Suspension is a disciplinary action in which an employee is prohibited from working for the County for a period of time. The suspension may be with or without pay. Any prohibition from working for the County for any period of time is a Suspension.
- 4. Disciplinary Transfer.** A Disciplinary Transfer is a disciplinary action in which an employee is transferred to a different position in a different department or division of the County, or transferred from the supervision of one supervisor to another.
- 5. Demotion.** A Demotion is a disciplinary action in which an employee is moved to a lower pay grade, moved to a subordinate position that results in a reduction in pay, or removed from a position of responsibility resulting in a reduction in pay.
- 6. Dismissal or Discharge.** A Dismissal or Discharge is a disciplinary action in which an employee's employment relationship with the County is involuntarily terminated and the employee is removed from the payroll.
- 7. Other Disciplinary Measures.** The disciplining official or body may determine to fashion disciplinary measures other than those specifically identified above. In such cases, the disciplining official or body should attempt to classify such measures within one of the above-identified classifications.

## **Title 5. Discipline**

### **Chapter C. Administration of Discipline.**

- 1. Purpose of Discipline.** The County's policies on disciplinary procedures are designed to achieve the following goals:
  - a. To eliminate employee disciplinary problems in advance by informing employees what offenses will be punished and what disciplinary steps will be taken;
  - b. To protect employees from the unsafe actions of their co-workers that might put them at risk of physical harm;
  - c. To assure all employees that basic disciplinary procedures will be applied uniformly in all departments;
  - d. To give employees who commit offenses or violations the opportunity, where appropriate, to improve by informing them what specific actions they should take to meet behavioral and performance standards.

The County may use corrective discipline for violations of standards of conduct in a progressive manner. Increasing severity of disciplinary action may be given each time an employee is disciplined.

### **2. Procedure for Use of Disciplinary Methods**

- a. Verbal Warnings. If, in the matter of any Class I violation, the disciplining authority deems it in the best interest of all concerned to issue only a Verbal Warning, and not to initiate any formal discipline, the disciplining authority may speak to the employee about the specific action deemed to be an offense or violation.
  1. In such cases, the disciplining authority should prepare a written record specifying the date and time of the Verbal Warning and identifying with specificity the reason for the Verbal Warning. The record of the Verbal Warning should be placed in the employee's personnel file.
  2. A Verbal Warning may not be used for Class II or Class III violations. Additionally, a Verbal Warning may not be used for a second Class I offense that is the same or similar to another Class I offense for which an employee received a Verbal Warning within the previous year.
- b. Written Warnings. If an employee commits any Class I or Class II violation and the disciplining authority deems it in the best interest of all concerned to issue only a Written Warning, and not to initiate any other formal disciplinary measures, the disciplining authority may issue a Written Warning.
  1. In such cases, the disciplining authority shall prepare a Notice of Intent to Issue a Written Warning which identifies with specificity the reason(s) why

the disciplining authority intends to issue a Written Warning against the employee. The Notice of Intent to Issue the Written Warning should be delivered directly to the employee by any appropriate method that ensures delivery was made.

2. An employee who is given a Notice of Intent to Issue a Written Warning must be given an opportunity to respond, either verbally or in writing, before a Written Warning is issued. An appropriate employee response time shall be based upon the seriousness of the circumstance(s) at issue, but under no circumstances shall the employee response time be less than one working day.
  3. If a Written Warning is issued, it must be delivered to the employee by any appropriate method that ensures delivery and then placed in the employee's personnel file. Although not necessary for administration of the Written Warning, an employee should be given an opportunity to sign the Written Warning to evidence that he or she was delivered a copy. If an employee refuses to sign the Warning, the disciplining authority should date the Warning and document that the employee refused to sign it.
  4. A Written Warning may not be used for a Class III violation. Additionally, a Written Warning may not be used for a second Class II offense that is the same or similar to another Class II offense for which an employee received a Written Warning within the previous year.
- c. Suspension, Demotion, Disciplinary Transfer, Discharge or Dismissal. If an employee commits any Class I, Class II, or Class III violation, and the disciplining authority deems it in the best interest of all concerned to Suspend, Demote, Disciplinary Transfer, Discharge, or Dismiss the employee, the disciplining authority must comply with the following procedures.
1. The disciplining authority should prepare a Notice of Intent to Suspend, Demote, Transfer, Discharge, or Dismiss ("Notice of Intent to Discipline"), which identifies with specificity the reason for the proposed action. The Notice of Intent to Discipline should be delivered to the employee by any appropriate method that ensures delivery.
  2. An employee who is given a Notice of Intent to Discipline must be given an opportunity to respond to the proposed discipline verbally, in writing, or both before any discipline is issued. The employee may request that he or she be allowed to provide both verbal and written responses. The employee response time should be a reasonable amount of time under the circumstance, but in no event shall the employee response time be less than three (3) working days.
    - a. A disciplining authority may immediately suspend an employee without pay and require the employee to leave the premises if, in the sole discretion of the disciplining authority, circumstances require such action. In such a circumstance, if a later hearing is held on the proposed

discipline, the employee must be paid any salary withheld during the suspension unless the disciplining authority determines that immediate action was necessary because the employee's intentional and willful violation of policy, the safety of the public or other County employees, or the protection of property required immediate action.

3. Once final discipline is issued, the Notice of Disciplinary Action must be delivered to the employee by any appropriate method that ensures delivery and placed in the employee's personnel file. Although not necessary for administration of the discipline, an employee should be given an opportunity to sign the Notice of Disciplinary Action to evidence that he or she was delivered a copy. If an employee refuses to sign it, the disciplining authority should date the Notice of Disciplinary Action and document that the employee refused to sign it.
- d. Other Forms of Discipline. If a disciplining authority determines to issue an alternative form of discipline to those described above, the employee is entitled to the procedure that is most closely aligned to the discipline that is issued. The Personnel Officer will ultimately determine which procedure is most appropriate after giving due deference to the disciplining authority's opinion as to the appropriate procedure.

## **Title 5. Discipline**

### **Chapter D. Disciplinary Appeals.**

- 1. Applicability.** No Executive Employee, Contract Employee, Seasonal Employee, Provisional Employee, Limited-Duties Employee, Part-Time Employee, Temporary Employee, On-Call Employee, or Probationary Employee has the right to appeal any disciplinary decision. Accordingly, the provisions of Title 5, Chapter D of this Manual do not apply to such employees unless expressly made applicable to the particular classification of employees in the body of the applicable provision.
- 2. Right to Appeal.** Before an employee may appeal any disciplinary action, the employee must first exhaust the County's Grievance Procedure found in Title 9 of these Policies and Procedures. Employees may not appeal verbal warnings or written warnings.
- 3. Appeal Initiation.** Upon the receipt of notice of the final disposition of the Emery County grievance procedures outlined in Title 9, an employee has the right to appeal the disciplinary process and action imposed to the Emery County Career Service Council.
  - a. Time for Appeal. An employee must submit a written notice of appeal to the County Personnel Officer within ten (10) days or an employee will be deemed to have waived all appeal rights.
  - b. Initial Determination of Jurisdiction. The Career Services Council shall make an initial determination as to whether the Council has jurisdiction under Utah Code § 17-33-4(b). This determination shall be done without the necessity of a hearing.
  - c. Hearings. If the Career Services Council determines that it has jurisdiction, it shall have discretion to require written submissions, conduct a hearing, or to conduct any other proceedings necessary to hear and resolve the appeal. Additionally, although the Career Services Council is generally an appellate body with reviewing authority to determine the appropriateness of the decision of the disciplining authority, it may have all the powers to compel witnesses to attend the hearing where it deems appropriate and as authorized by applicable state statute.
  - d. Final Decision. Upon the completion of a hearing or any other proceeding, the Career Services Council may affirm, modify, vacate, or set aside the discipline imposed. The decision is by majority vote. The decision is not final until it is placed in written form, signed, and served upon the appealing party either by hand-delivery or placed in certified mail return receipt requested. Service is complete upon hand-delivery to the appealing party or placement of the decision in the mail.

## **Title 6. Non Discrimination**

### **Chapter A. General**

- 1. Equal Opportunity.** Emery County is an Equal Opportunity Employer. It is the practice of the County to select, develop, and promote employees based on their ability and performance. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, termination, layoff, recall, transfers, leaves of absence, compensation, and training. This policy also extends to those who seek to do business with the County.

As an Equal Opportunity Employer, the County does not discriminate on the basis of race, color, gender, religion, age, national or ethnic origin, disability, marital status, veteran status, genetic information, sexual orientation, gender identity (as that term is defined in Utah Antidiscrimination Act currently codified at Utah Code § 34A-5-101, *et seq.*), or any other classification prohibited by federal, state, or local law.

- 2. Expression of Religious or Moral Beliefs.** Pursuant to the requirements of Utah Code § 34A-5-112, an employee may express his or her religious or moral beliefs at work so long as the expressions are made reasonably, non-disruptively, and in a non-harassing way. However, Elected Officials and Department Heads may establish rules prohibiting these types of expression upon a specific and express finding that “the expression is in direct conflict with the essential business-related interest” of the Department.
- 3. Right to Work.** The County adheres to and upholds the mandate set by the Utah Right to Work Law in that the right of persons to work for the County “shall not be denied or abridged on account of membership or non-membership in any labor union, labor organization or any other type of association.”
- 4. Military Service Protected.** No County employee shall be disadvantaged or discriminated against because of his/her service in the Armed Forces of the United States (including the U.S. Coast Guard). Nor shall the County discriminate in hiring because of membership in the Guard and Reserve components of the Armed Forces.



## Title 6. Non Discrimination

### Chapter B. Harassment

- 1. All Legally Prohibited Harassment and Discrimination Prohibited.** The County will not tolerate verbal, visual, or any other communication including email, internet, or telephone, physical misconduct, or any other actions by any employee that harasses, discriminates, or that impacts another's job function and performance or who creates a hostile work environment by demeaning or harassing any person based on an individual's gender, gender identity (as that term is defined in Utah Antidiscrimination Act currently codified at Utah Code § 34A-5-101, *et seq.*), sexual orientation, race, age, national origin, religion, disability, genetic information, or any other legally protected characteristic.
- 2. Sexual Harassment.** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

Sexual harassment can occur in different types of situations. For instance, it is illegal sexual conduct (1) if submission to sexual conduct is made either explicitly or implicitly a term or condition of an individual's employment or advancement or (2) where a job benefit is directly tied to an employee submitting to unwelcome sexual advances.

Moreover, conduct can be sexually harassing if the sexual conduct unreasonably interferes with an individual's job performance or creates a hostile, intimidating or offensive work environment without regard to tangible or economic job consequences: the person may not lose pay or a promotion. Such sexual harassment may include, but is not limited to:

- repeated requests for sexual favors
  - demeaning sexual inquiries and vulgarities
  - offensive language
  - other verbal or physical conduct of a sexual or degrading nature
  - sexually offensive, explicit or sexist signs, cartoons, calendars, off color jokes, gender stereotyping, literature or photographs displayed in plain view
  - offensive or vulgar graffiti.
- 3. Reporting Process.** It is helpful for the employee who feels he or she has been the victim of or witness to any illegal harassing or discriminating behavior to directly inform the harasser that the conduct is unwelcome and must stop. However, such action is not required, but the employee or witness to acts of harassment or

discrimination should document the occurrence.

Employees and/or witnesses must report the incident(s) to his or her supervisor or another management official within the Department. In the event that the behavior is from an employee's supervisor, the victim or witness can make a report directly to the Personnel Officer or any member of the Board of County Commissioners. If the offending individual is the Personnel Officer, the victim or witness may report the incident to the Board of County Commissioners.

- 4. Investigations.** All allegations of discriminatory or harassing behavior will be taken seriously and investigated as soon as possible by the Personnel Officer or another duly delegated individual while maintaining as much as possible the privacy and confidentiality to the parties involved. Where appropriate, immediate corrective action, including termination, may be taken. All claims are encouraged to be reported immediately.

No person shall lose wages or in any way be made subject to any disciplinary action for reporting discrimination or harassment. The Personnel Officer is explicitly authorized to grant paid leave if necessary to protect the reporting person.

- 5. "Zero Tolerance" of Retaliation.** It is important for County employees to know that by law, any retaliation against an employee who opposed any illegal discrimination or harassment or made a charge or participated in an investigation is prohibited under Title VII of the Civil Rights Act of 1964. No employee will be penalized for factual representation of the events. Employee behaviors that are protected include:

- resisting advances, discrimination, or other harassment
- registering a complaint of harassment or discrimination
- supporting the claim of another employee
- picketing in protest of illegal discrimination or harassment
- notifying law enforcement authorities

- 6. False Claims.** In the event it is found that claimant or witness made false accusations or use this policy to intimidate, harass or create groundless claims against another, will be subject to corrective action up to and including termination.

## **Title 6. Non Discrimination**

### **Chapter C. Employees with Disabilities**

- 1. Discrimination against those with Disabilities.** It is the County's policy not to discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training, or other terms, conditions, and privileges of employment. Additionally, the County will reasonably accommodate qualified individuals with disabilities. The County shall comply with all federal, state, and local laws concerning the employment of persons with disabilities.
  
- 2. Definitions.** The County shall use the following definitions in implementing its policies. In the event of any conflict between the definitions in this policy and applicable state and federal law, state and federal law shall control.
  - a. "Disability" refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual. An individual who has a record of such impairment is referred to as "disabled individual."
  
  - b. "Major life activity" may include things such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating or working. A "major life activity" may also include bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive systems.
  
  - c. "Direct threat to safety" refers to a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.
  
  - d. A "qualified individual with a disability" refers to an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or has applied for.
  
  - e. "Reasonable accommodation" refers to making existing facilities readily accessible to and usable by individuals with disabilities, including but not limited to; job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modification of examinations, adjustment or modification of training materials, adjustment or modification of policies, and similar activities.
  
  - f. "Undue hardship" refers to an action requiring significant difficulty or expense by the employer. The factors to be considered in determining an undue hardship include: (1) the nature and cost of the accommodation; (2) the overall financial resources of the facility at which the reasonable accommodation is to be made; (3)

the number of persons employed at that facility; (4) the effect on expenses and resources or other impact upon that facility; (5) the overall financial resources of the Company; (6) the overall number of employees and facilities; (7) the operations of the particular facility as well as the entire Company; and (8) the relationship of the particular facility to the Company. These are not all of the factors but merely examples.

- g. “Essential job functions” refers to those activities of a job that are the core to performing the job in question. The County prohibits the harassment and discrimination of its employees, contractors, consultants, Board of County Commissioners, other elected or appointed officials, and customers in any manner. The County will not tolerate verbal, visual, or any other communication including email, internet, or telephone, physical misconduct, or any other actions by any employee that harasses, discriminates, or that impacts another’s job function and performance or who creates a hostile work environment by demeaning or harassing any person based on an individual’s gender, race, age, national origin, religion, disability, genetic information, or any other legally protected characteristic.

### **3. Guidelines.**

- a. The County will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of the job in question.
- b. An individual who can be reasonably accommodated for a job in question, without undue hardship, will be given the same consideration for that position as any other employee or applicant.
- c. All employees are required to comply with safety standards. Applicants who pose a direct threat to the health or safety of other individuals in the workplace, which threat cannot be eliminated by reasonable accommodation, will not be hired. Current employees who pose a direct threat to the health or safety of the other individuals in the workplace will be placed on appropriate leave until an organizational decision has been made in regard to the employee’s immediate employment situation.
- d. The Personnel Officer is responsible for implementing this policy, including resolution of reasonable accommodation, safety, and undue hardship issues.

# Title 7. Benefits & Compensation

## Chapter A. Compensation

### 1. Policy.

- a. Benefits and Compensation. Compensation for county employees shall be equitable and competitive with the market and in accord with the county's ability to pay. The compensation plan and assignment of employees to positions and pay rates shall be recommended by the Personnel Director for approval by the Board of County Commissioners.
- b. County Pay Plan. The County Commission shall make the final determination as to the number and types of positions allocated to each department.
  - i. Employees exempt from Fair Labor Standards Act (FLSA) requirements will be paid a salary based upon a monthly rate which is assigned to the county pay plan according to approved job classifications.
  - ii. Employees not exempt from Fair Labor Standards Act (FLSA) requirements will be paid an hourly rate which is assigned to the county pay plan according to approved job classifications.

### 2. Employee Pay.

- a. Pay for Temporary, Part-Time, Seasonal, and Emergency Employees. Temporary full time and all part-time, seasonal, and emergency employees shall be paid at an hourly rate no higher than that which is established for the position classification and may be paid at a lesser rate as recommended by the Department Head or Elected Official.
- b. Pay During Initial Appointment. All initial appointments to positions assigned to salary ranges on the compensation plan shall normally be 3% below the minimum rate of the salary range.
  - i. Exceptions to this policy may be allowed if (a) an employee cannot be recruited for the position at the beginning rate, or (b) the qualifications of the individual selected for the position exceed the minimum requirements and the individual can be expected to perform at a level equal to that of other individuals currently being paid at the same rate.
    - a. In determining placement on the pay plan under exception b above, a newly hired employee may receive one half of one percent for every two years of directly related experience which exceeds the number of years required to meet the minimum qualifications, except that initial placement may not exceed the midpoint of the pay range.

- b. Current county employees who are awarded new jobs through the recruitment process may receive one half of one percent for each year of directly related experience which exceeds the number of years required to meet the minimum qualifications, except that initial placement may exceed the midpoint of the pay range if the employee has over five years of experience with the county.
- ii. The Personnel Director shall monitor recommended starting rates for compliance to policy and must inform the County Commissioners of appointments which are recommended to be made at rates higher than the midpoint.

### **3. Wage/Salary Adjustments.**

- a. General Intent. It is the intent of the county to consider prevailing practices related to cost of living and market trends in establishing wages and salaries which constitute the formal pay schedule. On all occasions the amount of the rate changes will ultimately be based upon the anticipated effect(s) upon the county budget. Final determination and any changes to the salary scale will be made by the Personnel Director based upon final commission approval. Where general, across-the-board adjustments are approved, the change will be effective on a date determined and approved by the County Commission. General adjustments are separate and distinct from performance recognition bonuses and longevity increases. General adjustments may affect the pay scale only, thus shifting the pay of all employees in relation to the midpoint.
  - i. *Cost of living vs. market:* Adjustments to the salary schedule may be determined periodically through analysis of market trends in comparison to cost-of-living. This may be done once per year and the county may utilize either market survey results or cost-of-living index data (federal) or a combination of both. All employees, regardless of employment status, except those being red circled (frozen) or in their orientation period, shall receive the benefits of such general COLA adjustments to the pay plan. If an employee successfully completes his or her six (6) month orientation period any COLA adjustments given during that time frame will be awarded to the employee upon completion, along with a 3% wage increase.
  - ii. *Benefits Taken into Consideration.* In determining the total compensation value of the position, benefits must be considered. Base salary plus cost of benefits equals' total compensation. In comparing benefit packages provided in the labor market, the county may evaluate both level and cost of benefits or other factors as deemed appropriate.

- 4. Pay Progression.** Progression through the various pay grades within the salary and wage scale shall be based upon the recommendation of the Department Head, Elected Official, and Personnel Director with final approval given by the Board of

Commissioners. In making recommendations for pay progression, the Department Head shall consider compliance with county policies and procedures, performance, level of competence and job knowledge.

- a. Conclusion of New Employee Orientation Period. At the conclusion of a new employee's orientation period, the employee will be eligible for up to a three percent (3%) pay increase, which will bring him or her up to the minimum rate in the classification pay range, provided that he or she is retained as an employee and has satisfactory performance reviews from his or her immediate supervisor.
- b. Compensation Progression. Upon completion of the orientation period, employees shall be assigned a new annual performance review date. It is the objective of the county that employees acquire job skills which are considered full performance level within their job classification. It is the responsibility of the Department Head and immediate supervisor to identify the essential skills, competence, and quality of work which will satisfy the "full performance" requirement. "Full performance" is generally achieved when the employee can perform virtually all aspects of the position's essential functions without supervision and with minimal errors. Initiation of a request to increase pay lies solely within the discretion of the Department Head or Elected Official and is not a vested right of any employee. Such requests are normally considered annually in conjunction with the budget process.
- c. Longevity. Each employee who (i) has completed five years of employment with the county and (ii) has received at least a standard rating on his or her annual performance evaluation may receive a longevity increase, up to the maximum of the pay range based upon the scale below. Longevity increases are paid out the first pay period of the following year the employee obtained the full years of service. (For example, if hired 2-20-2014 the 1.5% longevity increase would be received beginning the first pay period of 2020.)

25 plus years	3% increase
24 – 25 years	3% increase
15 – 20 years	3% increase
10 – 15 years	1.5 % increase
5 years	1.5 % increase

- d. Promotion Pay Progression. Upon being promoted to a position in a higher classification, regular employees are assigned a review date not to exceed six months from the date of promotion. On the date of promotion the employee is assigned to the pay grade associated with the promotion at 3% below the minimum. After the employee has been in the new position six months and has received a satisfactory performance rating, he or she will receive a 3% wage increase. The amount of the pay increase may exceed 3% if adjusting from the employee's pre-promotion pay to the minimum for the pay range of the new position results in a greater pay increase than 3%.

- e. Red Circle Rate. This provision refers to the rate of pay for an employee whose pay falls above the current midpoint salary for the pay grade to which assigned, reclassified or transferred. Such employee(s) shall be placed on a salary freeze for a period not to exceed two (2) years and shall not be eligible for any general adjustment (COLA) or longevity given during the same period of time. During the two year period, if the employees rate of pay falls back within the assigned pay range, the freeze shall be lifted. If at the end of two years, the employee's pay rate still falls above the midpoint of the pay range, that employee's pay rate shall be reduced to the midpoint of the assigned position. Employees affected by the red circle rate will be notified this possibility exists.
  - f. Demotion Pay Rate. When it becomes necessary to demote an employee for their inability or unwillingness to perform the assigned duties and essential functions of their position; that employee may also suffer a loss of pay. The amount of the pay reduction shall be determined on a case-by-case basis.
- 5. Advances of Pay.** The county will not make pay advances to employees.
- 6. Termination Pay.** When an employee's employment with the County ends, he or she shall be required to return all equipment and to clear all financial obligations involving his or her employment with the county. His or her final paycheck will be issued on the next regularly scheduled pay period following termination.



## Title 7. Benefits & Compensation

### Chapter B. Holidays

1. **Holidays** The following days have been designated by the County to be paid holidays:

New Year's Day	January 1 <sup>st</sup>
Human Rights Day	3 <sup>rd</sup> Monday of January
President's Day	3 <sup>rd</sup> Monday of February
Memorial Day	Last Monday of May
Juneteenth	June 19 <sup>th</sup> if this date falls on a Tues, Wed, Thurs, or Fri the holiday is recognized the preceding Mon. If Sat or Sun then the following Mon.
Independence Day	July 4 <sup>th</sup>
Pioneer Day	July 24 <sup>th</sup>
Labor Day	1 <sup>st</sup> Monday of September
Veteran's Day	November 11 <sup>th</sup>
Thanksgiving Day	4 <sup>th</sup> Thursday of November 4 <sup>th</sup> Friday of November (day after Thanksgiving)
Christmas Eve	December 24 <sup>th</sup>
Christmas Day	December 25 <sup>th</sup>
New Years Eve	December 31 <sup>st</sup>

2. **Holidays Observed.** When a holiday falls on a Saturday, it shall be observed on the preceding work day. When it falls on a Sunday, it shall be observed on the following work day.
3. **Compensation for Work on Holidays.** All career service employee shall be compensated for work performed on holidays at time and one-half (1-1/2) their regular rate of pay.
4. **Holidays During Leave Without Pay.** Holidays which fall on a regular working day within a period when an employee is taking leave without pay shall not be compensated.

## **Title 7. Benefit & Compensation**

### **Chapter C. Annual Leave**

- 1. General.** Annual leave is intended to benefit the employee, and employees are encouraged to take annual leave in the year in which it is earned.
- 2. Accrual.** Annual leave shall accrue during an employee's probationary period, but shall not be available for use until the employee has completed his or her probationary period. Each regular full-time employee shall accrue annual leave with pay as follows: according to the following rates based on twenty-six pay periods:
  - a. All full time executive and career service employees will accrue one (1) day annual leave per month of satisfactory service, periods of suspension excluded. Three-Quarter Part-Time employees shall accrue prorated annual leave, subject to other limiting provisions in this policy.
  - b. Longevity employees (those with over ten (10) cumulative years of County service) shall earn and accrue 1.25 days and (Those with over twenty (20) cumulative years of County service) shall earn and accrue 1.50 days of annual leave per month of satisfactory service, periods of suspension excluded. Three-Quarter Part-Time Employees shall earn and accrue prorated longevity annual leave.
  - c. For employees continuing in the County executive and career service at the beginning of the first pay period of each calendar year, any unused, accrued annual leave time in excess of fifteen (15) days or 120 hours will be forfeited at the end of each calendar year.
  - d. Annual leave shall not accrue when an employee is in a leave-without-pay status.
  - e. If a paid holiday falls within the annual leave period taken by an employee, it will be treated as a holiday and will not be charged against the employee's annual leave.
- 3. Scheduling.**
  - a. The approval and timing of an employee's annual leave shall be at the discretion of the Elected Official or Department Head. The Elected Official or Department Head will give consideration to the wishes of the employee as well as the needs and demands of the County.
  - b. Vacation time will be scheduled at least five working days in advance so as to meet the operating requirements of each department and, insofar as possible, at the preference of the employee. Seniority within various departments shall apply in case of conflicting leave requests or schedules.

**4. Records.** It shall be the responsibility of each Elected Official or Department Head to assure that accurate records of annual leave are reported by each employee. Such records shall be delivered to the Clerk/Auditor's Office at the end of each pay period, or immediately upon employee's termination to be placed in the employee's permanent personnel records.

**5. Termination.**

- a. Payment of accumulated earned annual leave shall be made by the employing department when an employee separates from county service, except in the case where an employee terminates during the orientation period.
- b. Employees who have terminated or who give notice of intent to terminate their employment and who will not actually work after giving such notice shall not be allowed to continue or retain their status as an employee by electing to take accrued annual or sick leave. Employee's terminating or retiring will be cashed out in a lump sum for all annual leave, if any, which is owed.

## **Title 7. Benefits & Compensation**

### **Chapter D. Sick Time**

- 1. General.** Sick leave is not a right of employment; it is a privilege. Though employees may request to use accrued sick leave and the County offers a cash reward upon termination of unused sick leave, ownership of the leave time belongs to the County.
- 2. Accrual.** Each Executive, Career Service and Probationary employee shall accrue sick leave at a rate of eight (8) hours for each month of service. Each Executive and Career Service Three-Quarter Part-Time employee shall accumulate sick leave at a rate pro-rated to reflect his or her actual hours worked.
  - a. Sick leave shall not accrue during a leave of absence without pay nor shall it accrue on annual leave immediately preceding either leave of absence without pay or termination.
  - b. For purposes of this Chapter, Saturdays, Sundays, and holidays shall not be considered regular working days.
  - c. If a paid holiday falls within the sick leave period taken by an employee, it will be treated as a holiday and will not be charged against the employee's sick leave.
- 3. Approval.** Sick leave must be requested by an employee or another trustworthy source prior to or within one-half hour after his or her scheduled reporting time. This time limit may be extended where reasonable to do so. Sick leave will be approved at the discretion of the Elected Official or Department Head. An Elected Official or Department Head may insist that sick persons stay off the job, which absence shall be deducted from the individual's sick leave bank.
- 4. Certification.** Any time an employee is absent using sick leave for illness for more than twenty-four consecutive hours certification of illness must be provided by a health care professional. Additionally, a supervisor may require an employee to produce certification when there is reason to believe that sick leave is being abused or when an employee has been disciplined previously for any act of dishonesty.
- 5. Absence for Workplace Injury.**
  - a. An employee who sustains a bodily injury in the course of employment and who qualifies for Workers Compensation as having received an industrial injury shall not be denied any of the regular employment benefits he or she was receiving at the time of the injury.
  - b. All other provisions of the sick leave policy apply to these types of illnesses and injuries.
- 6. County's Needs.** If (a) an employee has exhausted all of his or her FMLA leave but

still has sick leave remaining or (b) an employee is not entitled to FMLA leave but has unused accumulated sick leave, the County may dismiss the employee, despite his or her remaining accumulated sick leave, if, because of the employee's continued absences, the County or the Department for which the employee works will suffer undue hardship.

- a. Undue Hardship. Undue hardship includes, but is not limited to, increased and unreasonable costs to the County or Department caused by the employee's continuing absences, inability to maintain adequate staffing because of the employee's continuing absences, unreasonably increasing co-workers' workloads as a result of the employee's continuing absences, disruption to the County or Department's operations caused by the employee's continuing absences, fundamental alteration of the nature or operation of the County or Department caused by the employee's continuing absences, and/or inability of the employee to fully perform the functions of his or her job without reasonable accommodation.
- b. Dismissal Non-disciplinary. Dismissal in such a circumstance is considered non-disciplinary. An employee dismissed under these circumstances is entitled to receive the same conversion of sick leave as other employees as detailed in these policies and procedures.

#### **7. Contributed Leave.**

- a. Employees may contribute sick or vacation time to fellow employees who have exhausted all available leave, i.e., sick, annual, and compensation time. Application for contribution of such time shall be made to the Office of the Personnel Director by the Elected Official/Department Head responsible for the employee's department in conjunction with the employee's request for the contribution. Approval of contributed time shall be granted by the Emery County Board of Commissioners. Upon approval of the application for contributed time, the Office of the Personnel Director will notify county employees regarding the need for such a contribution. Employees may then voluntarily contact the Office of the Personnel Director advising the office of the number of hours which they wish to contribute.
- b. An employee may contribute a maximum of forty (40) hours of accrued sick leave in any calendar year. Any contribution shall reduce the balance of hours in the contributing employee's sick leave bank.
- c. A contributing employee must have a minimum of 288 accrued sick leave hours before time may be contributed.
- d. Additionally, a contributing employee's accumulated sick leave bank may not be drawn down below 248 hours when contributing time.

- 8. Limited Conversion to Personal Leave.** Sixteen (16) hours from sick leave may be designated by the employee as personal leave. Personal leave may be taken for

whatever reason, provided scheduling is approved by the supervisor. Any time taken which cannot be justified as sick leave or annual leave will be treated as the taking of personal leave. This provision does not change the policy of Emery County that sick leave is a privilege and not a right of employment.

**9. Termination/ Retirement Conversion.**

- a. Conversion for Employees Employed Prior to January 1, 2013. If an employee was hired prior to January 1, 2013, the employee shall be permitted to convert any unused accumulated sick leave according to the following rates upon termination/retirement from County service:

96 hrs - 192 hrs	00%
193 hrs - 288 hrs	20%
289 hrs - 384 hrs	30%
385 hrs - 480 hrs	40%
481 hrs - 576 hrs	50%
577 hrs - 672 hrs	60%
673 hrs - 768 hrs	70%
769 hrs - 864 hrs	80%
865 hrs - 959 hrs	90%
960 hrs plus	100%

- b. Conversion for Employees Employed After December 31, 2012. Any employee hired after December 31, 2012, shall be permitted to convert any unused accumulated sick leave upon termination/retirement from County service and at the following rates:

96 hrs – 576 hrs	25%
577 hrs – 960 hrs plus	50%

- c. Conversion Options. Beginning January 1, 2013, any employee eligible to convert sick leave may receive credit for the total eligible cash value of the unused sick leave under one of the following options:

- i. The eligible payout percent may be applied toward the retiring employee's premium for continuation insurance coverage if available. When the sick leave payout amount is depleted, any remaining premium payments are the responsibility of the employee.
- ii. The eligible payout percent may be contributed to the employee's URS 401(k) and/or 457 retirement account up to the maximum allowed by law, with any balance paid to the employee in cash, subject to applicable taxes and withholdings.
- iii. The eligible payout may be paid to the employee in cash, subject to applicable taxes and withholdings.

**10. Fraud.** A person who abuses these policies or in any way fraudulently claims to be sick is engaged in prohibited conduct that will subject him or her to disciplinary action up to and including termination.

**11. Intersection of Benefits.** Many of the benefits that the County provides intersect and overlap in coverage. For instance, sometimes if an employee is injured, he or she may become disabled for a period of time. There may be several different benefits that apply to the situation.

For example, in the situation described above several benefit policies would work together to provide benefit to the employee. First, if the injury occurred at work and the employee otherwise qualified, the County's workers compensation benefits would apply to cover the medical costs for the injury and, sometimes, for loss of income during the period of the injury. Additionally, if the injury did not occur at work or the workers compensation benefits did not fully cover lost wages, depending on whether the employee had accumulated any sick leave or annual leave, the employee might be entitled to use leave to compensate for the loss of wages. If the employee did not have sufficient leave to compensate for a full twelve weeks and he or she were an eligible employee under FMLA, he or she would be entitled to unpaid leave for a time period of up to twelve weeks after the injury. Finally, if the employee exhausted all of his or her FMLA leave and all other accumulated leave (including sick leave and annual leave) and therefore was discharged from his or her position because the employee could no longer work or if the employee was being uncompensated during a sufficient time while taking FMLA leave, assuming the employee qualified, the employee might be entitled to long-term disability during the period of the disability.

Accordingly, it is critical that any employee having any issues regarding health or injury speak with the Personnel Officer to get any relevant information regarding benefits available to him or her.

## Title 7. Benefits & Compensation

### Chapter E. Other Leave

1. **Emergency Leave.** Emergency leave may be used for deaths or in case of illness within the immediate family. For leave that does not qualify as FMLA leave, no more than three (3) working days (not to exceed twenty four [24] hours) in any calendar year may be taken as emergency leave. "Immediate family" shall be defined as wife, husband, child, parents, brother, sister, father-in-law, mother-in-law, grandmother, grandfather, grandchild, or other relative living in the same household.
2. **Unpaid Leave of Absence.**
  - a. Leaves of absences without pay may be granted for a period not to exceed one year to County employees because of illness that extend past the FMLA entitlement, for educational purposes, and for other reasons, provided that leaves granted to enable an employee to take an office in the service of the County shall be for the duration of such employee's service therein. Such leave shall not be regarded as an acquired right by employees and shall be granted only when the service will not be adversely affected and at the sole discretion of the Board of County Commissioners. Requests for leave shall be made in writing in the form made available by the County, and if approved by the Board of County Commissioners, shall be filed with the Personnel Officer. Leaves granted to employees who accept regular or full-time employment outside the County's service shall be subject to the approval of the Elected Official or Department Head and shall be denied unless the request thereof is accompanied by satisfactory proof that such employment is temporary and that the experience gained thereby will be for the betterment of the County's service.
  - b. A leave of absence without pay granted to an employee may be terminated prior to the expiration date thereof with the consent of the appointing authority and Board of County Commissioners. Failure of an employee to report for duty promptly at the expiration of his or her leave or violation of an agreement or understanding entered into by him or her relative thereto, shall be just cause for discharge and the removal of his or her name from any eligible list or lists on which it may appear.
3. **Family Medical Leave.** The County will comply with the provisions of the Family and Medical Leave Act ("FMLA"). The County will administer such leaves of absences in accordance with FMLA and other applicable federal and state law. The Personnel Officer shall prepare, and update as appropriate, written guidelines to implement this policy and shall provide a copy of those guidelines to each employee. The type and length of leave, and compensation to be received, if any, during the leave will also be set forth in those guidelines. The most recent guidelines are appended hereto to this Chapter E as Appendix A.
  - a. For purposes of calculation of entitlement under the FMLA, the County shall use a rolling twelve month look-back period.
  - b. An employee must use any available accrued sick leave concurrently with his or her FMLA leave until it is exhausted. If an employee exhausts his or her accumulated sick leave, the employee must then use any available accrued annual



leave. Once all available sick leave and annual leave is exhausted, the employee must exhaust any remaining available paid leave that he or she has accumulated until exhausted.

- c. While on FMLA leave, an employee shall accrue or be entitled to benefits just as any other employee would in the same circumstances. For example, if an employee is using FMLA leave and is using his or her paid leave and other employees on a paid leave status while not using FMLA continue to receive a cell phone stipend, the employee using paid leave while on FMLA will continue to receive a cell phone stipend. However, if an employee on an unpaid leave status does not continue to receive a cell phone stipend, an employee on FMLA status using unpaid leave also would not be entitled to receive a cell phone stipend. The only exception to this rule is that an employee using FMLA will be entitled to continue his or her group health insurance coverage during the FMLA period so long as he or she continues to pay his or her normal contribution to the premium as required.
- 4. Workers Compensation.** The County shall treat all medical leave taken as a result of an injury occurring at work and covered by Workers Compensation as required by the applicable statutes. Other than as required by statute, it will treat all leave requests no differently from any other sick leave or FMLA leave request.
  - 5. Break Time for Nursing Mothers.** The County will comply with the requirements of the Patient Protection and Affordability Care Act (“PPACA”) and the Fair Labor Standards Act (“FLSA”) by providing break times during the work day for nursing mothers to express breast milk for her nursing child. Break time and a designated location shall be available to employee nursing mothers for one (1) year following the child’s birth. Employees shall not be compensated for breaks taken for the purpose of expressing breast milk, although nothing herein shall prevent employee mothers from expressing during their normal employee break times and being compensated in the same way that other employees are compensated for the same break times.
    - a. Consistent with the requirements of the PPACA and FLSA, the County will provide a designated location other than a bathroom, wherein employee mothers can express breast milk in a space that is sufficiently sized, shielded from view, and free from intrusion from co-workers and the public.
  - 6. Military Service Leave.** Leave shall be given as required by federal and state law to all qualified members of the armed services.
  - 7. Jury/Witness Leave**
    - a. Witnesses. A career service employee who, in obedience to a subpoena or direction by proper authority, appears as a witness for the Federal Government, the State of Utah, or a political subdivision thereof, shall be entitled to the difference between his or her regular compensation and the compensation or fees received in excess of traveling expenses. Time absent by reason of a subpoena to be a witness in private litigation or by some party other than those identified above, to testify not in an official capacity shall be taken as annual leave without additional pay.
    - b. Juror. An employee who, in obedience to a subpoena or direction by proper

authority, to appear as juror shall be entitled to the difference between his or her regular compensation and the compensation or fees received in excess of traveling expenses.

**8. Bereavement Leave.** Bereavement leave with pay is available to all benefits eligible employees even if in their 6 month probationary period who suffer the loss of an immediate family member. This leave may be granted to make funeral arrangements, settle family affairs, attend the funeral or memorial service and for bereavement. With the exception of the bereavement leave described in f. of this section, the amount of leave granted is at the discretion of the elected official/department head based upon the employee's individual circumstances and the needs of the department.

- a. Up to thirty two (32) hours for immediate family members which includes spouse, child, parent, brother, sister, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law and step-relatives of the same order.
- b. If additional time is needed, an employee may request to use vacation leave (if 6 month probationary period is up).
- d. In the event of a family member's death while an employee is on vacation or sick leave, the employee's time off may be extended by the amount of funeral leave permitted by this policy.
- e. Documentation of death, such as published obituary, funeral program, or death certificate may be required.
- f. In accordance with state law, a benefits eligible employee may take up to three (3) work days of paid bereavement leave in the following circumstances:
  - a. following the end of employee's pregnancy by way of a miscarriage or stillbirth; or
  - b. following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:
    - i. the employee is the individual's spouse or partner; or
    - ii. the employee is the individual's former spouse or partner; and the employee would have been a biological parent of a child born as a result of the pregnancy; or
    - iii. the employee provides documentation to show that the individual intended for the employee to be an adoptive parent.
    - iv. under a valid gestational agreement, the employee would have been a parent of a child born as a result of the pregnancy.
- g. The bereavement leave following a miscarriage or stillbirth runs concurrently with, and is not separate from, the funeral leave described in this section.

**APPENDIX A**  
**EMPLOYEE RIGHTS AND RESPONSIBILITIES**  
**UNDER THE FAMILY AND MEDICAL LEAVE ACT**

**Basic Leave Entitlement**

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee’s child after birth, or placement for adoption or foster care;
- To care for the employee’s spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee’s job.

**Military Family Leave Entitlements**

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

**Benefits and Protections**

During FMLA leave, the employer must maintain the employee’s health coverage under any “group health plan” on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee’s leave.

**Eligibility Requirements**

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

**Definition of Serious Health Condition**

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

**Use of Leave**

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

**Substitution of Paid Leave for Unpaid Leave**

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer’s normal paid leave policies.

**Employee Responsibilities**

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer’s normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the

family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

### **Employer Responsibilities**

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

### **Unlawful Acts by Employers**

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

### **Enforcement**

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. FMLA does not affect any federal or state law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

## Title 7. Benefits & Compensation

### Chapter F. Special Compensation and Other Allowances

#### 1. Overtime

- a. Workweek. The designated work week of the County begins each Saturday at 23:59:59 and ends 168 hours and one second later; i.e. midnight of the second Sunday after. Any time actually worked, regardless of when it occurs during the work week, in excess of forty (40) hours shall be designated overtime work. Overtime work shall be compensated at 1.5 times normal rate. Compensation shall be monetary except as provided below.
- b. Computation. Overtime will be computed as required by law. Additionally, the following hours will be used for the purposes of calculating overtime and compensatory time at time and one-half:
  1. For law enforcement personnel, including patrol, dispatch, correctional, and other emergency service personnel not including clerical, all hours worked within a 28 day work period which exceed 171 hours are overtime hours.
  2. For all other county employees, all hours worked in excess of 40 hours in one work week are overtime hours.
- c. Authorization. It is the County's policy to discourage the need to work overtime. Supervisory personnel should organize their department workload to avoid overtime hours. Overtime hours can only be approved by the Department Head or Elected Official.
- e. Mandatory. The County may require overtime work. County employees may be required to make themselves available for overtime work.

#### 2. Performance and Incentive Awards.

In order to promote exceptional or outstanding services and recognize those occasions where services are rendered, emergencies responded to, or proficiencies demonstrated which are beyond the normal occurrence or expectation of the job; it is the position of the county to reward such individual or group contributions. These awards shall be a one-time recognition, in that they are not added to the regular or base pay of the recipient(s).

- a. Acceptable Awards. Monetary and non-monetary awards may be given for:
  1. Ways to increase office efficiencies. If there is a process in the normal routine of the work place that is time consuming, a waste of one's time, repetitive, or a burden on the budget, there may be a means for improvement. This is a criterion where creative ideas improve departmental efficiency or effectiveness or eliminate difficulties.

2. Exemplary performance on special projects. An employee may be given a special project. A great deal of effort and research may go into the project. The project may benefit the department or county in some way.
  3. Exemplary performance on special group projects. A group of individuals may be given a difficult task to perform. The team may work together to complete the difficult task in a timely and effective manner which benefits the department, county or general public.
  4. Cost Savings. An employee may suggest a procedure that will save costs to the department or county. Similarly, an employee may suggest a procedure for generating revenue.
  5. The exercise of leadership and/or initiative. An employee may exercise leadership or initiative beyond that normally expected in the individuals regular assignments. An employee may be required to meet unusual deadlines or perform in emergency situations. An employee may demonstrate a willingness to accept and perform new assignments on a short term basis.
  6. Performance which averts legal actions by or against the county.
  7. Actions which brings favorable attention or recognition to the department or county.
  8. Independent research and analysis. Independent research and analysis initiated by an employee resulting in a contribution to the specific objectives or improved methods for delivering county services or conducting county operations.
- b. Administrative Provisions.
1. The commission may set aside annual award funds from the county budget.
  2. The Department Head, Elected Official, Commissioner, may award an administrative day(s) off for exceptional performance.
- c. Award Restrictions.
1. The most recent performance evaluation must be at least standard in order for the Department Head, Elected Official, or Commissioner, to award monetary recognition or paid administrative day(s) off.
  2. Normally, no more than one incentive award may be given for the same or substantially similar act.
  3. Incentive awards may be shared by a team of employees, provided all of the

employees contribute to the project or act.

4. Employees shall not be considered for an incentive award for performance which is routinely expected for any duty or responsibility.
5. In awarding any administrative day off, a day off may not be awarded the day preceding or following a County-recognized holiday.

**3. Cellular Telephone Allowances.** Elected Officials, Department Heads, and other employees, if required by their Elected Official or Department Head, shall have a cellular telephone which is owned by the employee, not the county. Elected Officials, Department Heads, and employees required by their Elected Official or Department Head to possess a cellular telephone shall receive a monthly allowance for cellular telephone use. The amount of the allowance shall be set by the County Commission.

**4. Vehicle Allowances.**

- a. General. County employees who drive a private vehicle in the normal course of their duties shall receive payment for mileage driven on authorized County business but shall not be paid to cover commuting mileage between an employee's residence and their customary work site.
- b. Call-Out. Employees shall be reimbursed mileage at the IRS standard mileage rate when mileage is incurred for "call-out" time. Mileage shall begin at the employee's residence for any emergency call-out.

**5. County Vehicle Assignments.** County vehicles may be assigned to employees requiring vehicles of specialized function, for example, emergency vehicles, building inspectors, maintenance personnel, etc. Approval shall be obtained from an Elected Official or Department Head and the County Commission for assignments of vehicles and the designation of which employees are assigned County vehicles. As described in Title 3, Chapter B, **the County maintains ownership in all County property, may demand the return of the property, or may assign the property to another employee at its sole discretion. Employees have no right of privacy in County property, and nothing precludes the County from tracking, monitoring, inspecting, or repossessing the same. Additionally, the County may track monitor, inspect, or review any item, program, document, and/or file created or stored on, by, or in the County property.**

a. Requirements for Assignment.

1. All employees or volunteers who drive County vehicles shall have a current Utah driver's license.
2. To assure proper vehicle maintenance, each employee assigned a vehicle will be accountable for its service and repair.

- b. Personal Use Prohibited. Except for incidental, emergency, or for authorized commuting, personal use of any County vehicle is prohibited. This does not apply to any County department; i.e. Law Enforcement or Emergency Management, which has a separate policy, properly established as Departmental Policies, related to the personal use of vehicles owned or managed by that department.
1. De minimus Use. Incidental personal use of a County vehicle is permitted when such use is a de minimus distance from the route of official use of the vehicle and when such use does not adversely affect the vehicle or the public perception of the County.
  2. Emergency Use. County vehicles may be used for personal use in emergency situations related to serious medical problems or property damage where the user of the County vehicle must respond quickly. Any emergency personal use of a County vehicle must be reported to the user's supervisor within two business days, or as soon as practical, following the emergency use.
  3. Taking Vehicles Home. Unless authorized by the County Commission, and with the exception of a designated law enforcement vehicle or as noted differently in this policy, no County vehicle may be taken home or used for normal commuting between home and work.
    - a. *Authorization for Regularly Taking Vehicle Home.* Authorization to regularly take home a County vehicle may be permitted under certain circumstances. The request must be in writing, approved by the County Commission, and placed in the employee's personnel file. No person may provide authorization to him/herself to take home a County vehicle

Permitted circumstances may include when:

- i. The user has demonstrated, and continues to demonstrate, a need to respond to an average of five (5) emergency situations or call-outs to work per month. This must be documented on an "On-Call Form." This form must be submitted to their supervisor with a copy to the County Commission.
- ii. The user's nature of work requires immediate response to situations that require a vehicle with specific capabilities or specific safety or emergency equipment that cannot reasonably be carried in the user's personal vehicle.
- iii. The user may be called or sent to locations other than where his/her County vehicle is normally parked.



Authorized users under this Section who use the County vehicle to commute to and from work will be assessed \$1.50 each way (\$720.00 per year) for 48 weeks out of the year. This takes into consideration two weeks of vacation and two weeks of holiday time away from work.

- b. *Limited Occasions.* Situations may arise when it is impractical or uneconomical for a user to acquire or return a vehicle the same day of the authorized use due to the time or distance required to do so. Permission may be given in such circumstances for the user to take the vehicle home prior to or immediately following the authorized use.
- c. Travel Outside of County. Employees may use a County vehicle outside the County only to the extent they have received prior authorization from an Elected Official or Department Head.
  1. Use Outside of the State. Authorization to use a County vehicle outside the State must be approved by an Elected Official or Department Head and the County Commission in an open public meeting. The request must be documented with the following information and kept in the department personnel file:
    - a. The name of the person authorized to use a County vehicle;
    - b. The time frame during which the authorization is effective;
    - c. The purpose of the use;
    - d. Any other terms relevant to the authorization; and,
    - e. Signatures of the authorizing Elected Official or Department Head and the County Commissioner assigned to that department.

## **Title 7. Benefits & Compensation**

### **Chapter G. Insurance and Other Employee Provided Plans**

- 1. In General.** The County provides significant policies through separate contracts with these providers. The specific rules and procedures related to these policies are found in the plan documents that will be provided to separately upon request.
- 2. Group Hospital and Medical Plan and Life Insurance.** The County provides group hospital and medical plans and life insurance as those benefits are defined in separate benefits packages that may change from time to time.
  - a. Extended Health Insurance Coverage for Retired/Terminated Employees. An employee or dependent's coverage shall terminate at the earliest time indicated below.
    1. Upon termination of employment or retirement, benefits will cease on the day the employee terminated. Cessation of active work by an employee shall be deemed termination of employment, except as follows:
      - a. In the event an employee is absent on account of illness or injury, employment shall be deemed to continue for the purpose of benefits hereunder until the date contributions received from the Employer for such employee's benefits are discontinued. For employees retiring and qualifying for retirement under the Utah Retirement Services (URS), whether Tier I or Tier II or otherwise, coverage for the retiree and his or her dependents continues from the date of eligibility for URS retirement until the retiree becomes eligible for Medicare or until age 65, whichever is sooner.
      2. In the event an employee fails to make any required contributions when due.
      3. The date the employee or dependent ceases to be eligible for coverage or ceases to be in a class eligible for coverage.
      4. When maximum benefits of this Plan have been exhausted.
      5. Subject to restrictions of law, when the employee or dependent enters the military service on a full-time active duty basis.
      6. The date the Plan is terminated.
    - b. Method of Payment for Extended Health Insurance Coverage. Extended Health Insurance Coverage premiums may be paid by the plan participant either by converting sick leave to equal, dollar for dollar, the insurance premium or by paying the full cash insurance premium. All employees and Elected Officials and

their dependents who are covered by the county's plan at the time of termination and/or retirement are eligible.

1. If cash premium payments are made the payment is due on the first of each month. Benefits will be terminated if the current month's premium is not received within 30 days of the first of the month.
2. If converted sick leave is used, upon termination and/or retirement the plan participant may consign the balance of his/her sick bank to the county. When the balance of sick leave has been exhausted, a participant may either terminate coverage or continue coverage by making cash payments.

### **3. Death Benefit.**

- a. Death On-Duty. In the event a county employee dies while on the job and that employee is covered by the county's health insurance benefit at the time of his/her death, the county will pay the premium for coverage under COBRA for a period not to exceed six (6) months from the date of death. COBRA requirements will prevail.
  - b. Death Off-Duty. In the event a county employee dies while off duty and that employee is covered by the county's health insurance benefit at the time of his/her death, the county will pay the premium for coverage under COBRA for a period not to exceed six (6) months from the date of death. COBRA requirements will prevail.
  - c. Public Safety Officer Line-of-Duty Death. In the event that a public safety officer death qualifies as a "line of duty" death as that term is defined by the Utah State Retirement and Insurance Benefit Act, a surviving spouse or child shall remain eligible to receive health coverage as required by the Public Safety Officer and Firefighter Line-of-Duty Death Act, as currently codified at Utah Code § 53-17-101 to 501, and as subsequently amended.
- 4. Employment Retirement System.** All full-time Executive and Career Service Employees receive benefits of retirement through the Utah State Retirement System. All Three Quarter Part-Time and Variable Part-Time Employees receive pro-rated retirement benefits depending on the number of hours that they work. The Utah State Retirement System provides a number of benefits to the employee. Due to the complexities of the plan, employees should refer to the information provided online regarding any questions concerning the plan or contact the Utah Retirement office. The only individuals who have the option of becoming exempt from participation in the Utah State Retirement System are Elected Officials. For other qualifications and potential exemptions, please see the information provided online.

## **Title 7. Benefits & Compensation**

### **Chapter H. Break Policy**

- 1. Periodic Breaks.** It shall be the policy of the County that employees shall receive two 15 minute breaks during an eight hour shift. These breaks shall be compensated for by the County. The first break should be scheduled in the morning preferably between 9:30 a.m. and 10:30 a.m. The second break should be scheduled during the afternoon, preferably between 2:30 p.m. and 3:30 p.m. Breaks are encouraged to be taken at their scheduled times and cannot be used (a) to make an employee's regular start time later, (b) to allow an employee to leave earlier than his or her normal work schedule, (c) accumulated and taken together, or (d) used to lengthen a lunch break.
- 2. Lunch Breaks.** Employees shall take at least one lunch break, which must be at least thirty minutes, which will be taken at a time determined by the Department Head in conjunction with the other employees, preferably between the hours of 12:00 noon and 2:00 p.m. The lunch break is not compensated. Employees may remain at their work site during their lunch break but may not be required to work during that time.
- 3. Timing and Use of Breaks.** Breaks are for the purpose of providing the employee with a respite from work during the middle of a work shift. Break time shall not be used immediately after a shift begins or immediately before a shift ends for the purpose of leaving work early or arriving to work late.
- 4. Break Time for Nursing Mothers.** The County will comply with the requirements of the Patient Protection and Affordability Care Act ("PPACA") and the Fair Labor Standards Act ("FLSA") by providing break times during the work day for nursing mothers to express breast milk for her nursing child. Break time and a designated location shall be available to employee nursing mothers for one (1) year following the child's birth. Employees shall not be compensated for breaks taken for the purpose of expressing breast milk, although nothing herein shall prevent employee mothers from expressing during their normal employee break times and being compensated in the same way that other employees are compensated for the same break times.
  - a. Consistent with the requirements of the PPACA and FLSA, the County will provide a designated location other than a bathroom, wherein employee mothers can express breast milk in a space that is sufficiently sized, shielded from view, and free from intrusion from co-workers and the public.

## **Title 8: Drug Testing Policy**

### **Chapter A. General Policy and Definitions.**

- 1. Policy.** It is the policy of the County that the unlawful manufacture, distribution, possession or use of a controlled substance or illegal drug, and/or the distribution, dispensation, possession, or use of alcohol in the workplace is expressly prohibited.
  - a. In order to achieve a drug-free work place, employees and Applicants shall be required to participate in all of the following alcohol and drug testing:
    1. When an Applicant has been extended a conditional offer of employment but before beginning work.
    2. When there is a reasonable suspicion to believe that the employee has used illegal drugs, has illegally used legal drugs, or has the presence of illegal drugs in his or her system.
    3. When the employee has been involved in an “on duty accident” or unsafe work practice.
    4. On a random basis if the employee is in a safety-sensitive position.
    5. As a condition to return to duty after testing positive for controlled substances or alcohol.
    6. As part of follow-up procedures to employment related drug or alcohol violations.
    7. As part of preannounced periodic testing.
- 2. Scope.** This policy covers all employees of and Applicants for employment at the County.
- 3. Definitions.**
  - a. The terms “alcohol” and “drugs” are defined according to Utah Code § 34-41-101(1), as amended. The term “illegal drug” means any Schedule I drug as defined under Utah Code § 58-37-4, as amended; a Schedule II, III, IV or V drug, or a prescription medication used or consumed by the employee without a lawful prescription. The term “illegal drug” does not include any medication which has been lawfully prescribed for an employee by his or her physician and taken as directed.
  - b. **On Duty Accident.** Any accident involving injury to person or property including the loss of life, or an accident in a vehicle resulting in the issuance of a moving

traffic citation.

- c. Drug and Alcohol Test. A drug or alcohol test is defined to mean a blood, urine, saliva, hair, breath, and/or any other scientifically recognized test to determine the presence of alcohol or an illegal drug or the metabolite of an illegal drug using any scientifically reliable analytical method.
- d. Positive Test. The result on any drug and alcohol test showing the presence of alcohol or any illegal drug in an employee's system at or above the cutoff levels defined below.
  - 1. Illegal Drug Cutoff Levels shall be the Drug Test Cutoff Levels generally accepted by the drug testing community or levels established by any scientifically reliable analytical method.
  - 2. Alcohol Cutoff Level shall be a Blood Alcohol Content ("BAC") level of 0.04 grams/ml or more.
- e. Refusal to Submit to Testing. (a) Failure or refusal to provide an adequate sample without a valid and verified medical explanation after the employee has received notice that he or she is being tested or (b) engaging in conduct that clearly obstructs the testing process, including, but not limited to, delaying the test to avoid the efficacy of the testing methodology used.
- f. Reasonable suspicion. An articulated belief based on recorded specific facts and reasonable inferences drawn from those facts that an employee is in violation of Emery County's drug and alcohol policy.
- g. Safety Sensitive Duties. Any duties which directly affect the safety of governmental employees, the general public, or duties involving access to controlled substances as defined in Title 58, Chapter 37, Utah Controlled Substances Act or chemicals during the course of performing job duties.
- h. Sample. A sample means urine, blood, breath, saliva, hair, or any other substance from which a drug and alcohol test can reliably identify the presence of alcohol and/or drugs in a person's body.

## **Title 8: Drug Testing Policy**

### **Chapter B. Testing Policy**

#### **1. Testing Notice.**

- a. Before performing any alcohol or drug test authorized by this Policy, the County, through its designated representative shall notify the employee being tested, verbally or in writing, whether the test being administered is required by the Omnibus Transportation Employees Testing Act of 1991, or whether it is required by this policy.
- b. County employees who, under applicable job descriptions, are required to hold CDLs are required under rules established by the Federal Highway Administration to be subjected to pre-employment, reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing.
  1. When conducting any of the above-noted tests on CDL employees, the County shall provide the employee with the following notice:
    - a. The drug and/or alcohol test you are being required to take is required under rules established by the Federal Highway Administration pursuant to the Omnibus Transportation Employees Testing Act of 1991.
    - b. If you refuse to submit to the required testing you may be subject to disciplinary action, up to and including termination. And your refusal will be reported in the Federal Motor Carrier Safety Administration Clearinghouse.
  2. Although the procedures in this policy apply to all employees, including CDL employees, drug and alcohol tests that are required by the Omnibus Transportation Employees Testing Act are administered separately by the Personnel Director. Detailed information regarding such drug testing can be obtained directly from Mary Huntington, Personnel Director at 435.381.3578 and maryh@emery.utah.gov.
- c. County employees are also subject to pre-employment, reasonable suspicion, random (if employment involves safety-sensitive duties), preannounced period testing, post-accident, return-to-duty, and follow-up drug and alcohol testing under this policy.
  1. When conducting any of the above-noted tests pursuant to County Policies for any other reason other than as required by the federal regulations and statutes identified in section 8.B.1.b above, the County shall provide the employee with the following notice:

- a. The drug and/or alcohol test you are being required to take is required by the Personnel Policies and Procedures of the County.
- b. If you refuse to submit to the required testing you may be subject to disciplinary action, up to and including termination.

**2. Pre-Employment Testing.** The County requires a final Applicant selected for employment with the County to undergo a drug screen test to detect the presence of illegal drugs in the body. Refusal to take such a test shall be grounds for denial of employment. An applicant who tests positive for illegal drugs may be denied employment with the County.

- a. Drug testing shall be conducted after the selected applicant has been extended a conditional offer of employment but before beginning work.
- b. All of the County's job announcements and conditional offers of employment may contain the following notice:
  - 1. All Applicants selected for employment with Emery County may be required to take a drug test with negative results as a precondition of employment.
  - 2. A positive test result or failure to submit to the required testing shall result in the withdrawal of any conditional offer of employment with Emery County.
- c. If the final Applicant tests positive for drugs as set forth above, or refuses to submit to testing as defined by this policy, the conditional offer of employment shall be withdrawn in writing and the applicant shall not be employed by the County.

**3. Prohibited Employee Conduct.**

- a. Employees shall not use or be in possession of alcohol, illegal drugs, or legal drugs obtained illegally, while on duty, on County premises or while in the County vehicles. The County premises includes buildings, parking lots, grounds and vehicles owned by the County or personal vehicles being used for County business.
- b. Employees shall not use, be under the influence of, be in possession of, or be in such a condition as to test positive for alcohol or illegal drugs while on duty, on the County premises or while in County vehicles. The County premises includes buildings, parking lots, grounds and vehicles owned by the County or personal vehicles being used for County business.
- c. Employees violating the terms of this Policy shall be subject to questioning and disciplinary action.



- d. Any employee violating this Policy may be subject to immediate termination.

**4. Reasonable Suspicion Testing.**

- a. When a designated Department Head or other responsible individual makes a determination that there is reasonable suspicion to believe that an employee is using or has used and has alcohol or illegal drugs in his or her system, is under the influence of, or is in possession of alcohol or illegal drugs, the employee shall be subject to drug/alcohol testing.
  - 1. The Department Head or other responsible individual making the determination that reasonable suspicion exists shall submit written documentation setting forth the specific, contemporaneous articulable observations that resulted in the reasonable suspicion determination. Reasonable suspicion of use of illegal drugs or alcohol may also be based on observation of indications of the chronic and withdrawal effects of those substances.
    - a. The required observations underlying reasonable suspicion testing must be made by a Department Head or County Official who has received at least two (2) hours of training on the physical, behavioral, speech, and performance indicators of alcohol and/or drug use.
    - b. Observations underlying the reasonable suspicion testing must be documented in writing and signed by the Department Head or County Official within twenty four (24) hours or before the results of the tests are announced, whatever is later.
  - 2. Reasonable suspicion testing may not be conducted by the same Department Head or responsible individual who makes the reasonable suspicion determination.
  - 3. Upon required testing due to reasonable suspicion, the employee tested shall not engage in the operation of any County equipment or engage in any employment related duties until the results of the tests are received and the employee is released back to work.

**5. Random Testing.**

- a. Employees assigned to, or performing, safety sensitive duties are subject to random drug/alcohol tests.
- b. Random tests shall be both of the following:
  - 1. Unannounced.

2. Reasonably spread throughout the year.
- c. Each employee within a testing pool must have an equal chance of being tested each time a random test is conducted.
- d. Random Testing for CDL Drivers.
  1. County Employees having CDL licenses may be subjected to random alcohol testing only while performing safety sensitive function, just before the driver is to perform safety sensitive functions, or just after the driver has ceased performing safety sensitive functions when those tests are conducted not pursuant to the requirements of the separate provisions of this Policy found in Section 8.B.5.e but only pursuant to federal regulations.
  2. Drug tests may be performed at any time the driver is on duty.
  3. Employees having CDL licenses are also subject to random testing pursuant to Section 8.B.5.e. Tests conducted pursuant to that subsection are not subject to the requirements of this subsection.
- e. Random Testing for Safety Sensitive Employees not having CDL Licenses. (a) Employees performing safety sensitive duties but not having CDL licenses and (b) employees with CDL licenses when performing safety sensitive duties unrelated to their CDL licensure may be subjected to random alcohol and drug tests any time the employee is on duty.
- f. Pool Testing – Consortiums.
  1. The County may join a consortium with testing pools large enough so that the County’s CDL drivers are always subject to random testing and the required annual testing rate shall be met by tests conducted of all drivers within the pool.
  2. If and when the County chooses to join a drug/alcohol testing consortium, the County shall designate a liaison to coordinate with the testing consortium and obtain and maintain all of the following records and information:
    - a. How the random selection pool was assembled.
    - b. The method of selection and notification of drivers.
    - c. The location of collection sites.
    - d. Methods of reporting the tests results on each employee.
    - e. Summary reports on the consortiums program showing that the consortium

tested at the prescribed minimum annual rates for alcohol and/or controlled substances.

**6. Post Accident Testing.**

- a. Any employee involved in an On Duty Accident that by observation of the employee and the circumstances of the accident reasonably could indicate violation of the Emery County drug and alcohol policy shall be tested as soon as practical for alcohol and illegal drugs.
  - 1. An employee who is subject to post-accident testing shall remain readily available for such testing or shall be deemed to have refused to submit to testing.
  - 2. The results of tests conducted by federal, state, or local law enforcement officers having independent authority to conduct tests to detect alcohol or controlled substances may be used by the employer to meet post-accident testing requirements.
- b. Upon requested testing due to an accident, the employee tested shall not engage in the operation of any County equipment or engage in any employment related duties until the results of the tests are received and the employee is released back to work.

**7. Preannounced Periodic Testing.** The County may test all of its employees on a regular, periodic basis so long as the testing is conducted pursuant to a schedule that identifies periodic intervals for the testing and that the employees who are to be tested on any scheduled test date are notified, at least, two weeks in advance of the date of the test. Additionally, the testing schedule should be available for employees' inspection after the schedule is set.

**8. Consequences of Positive Drug/Alcohol Test.**

- a. Except for in situations described in subsection 1 below, all drug tests conducted pursuant to this Title 8 shall require a split urine sample of at least 45 ml of urine. The urine shall be divided into two specimen bottles, with at least 30 ml of urine in one bottle and at least 15 ml of urine in the other.
  - 1. If an employee attempts to evade an alcohol or drug test and delays taking the test past the time that a drug test on a sample of urine will be effective to identify illegal drug or alcohol use, the County may test a sample in any other approved method identified in this policy that will effectively test for the presence of alcohol or illegal drugs.
- b. The test shall be conducted during or immediately after the regular work period of the employee and shall be considered paid work time for the employee.

- c. The County shall pay all the expenses of the sample collection, testing, and transportation for testing conducted off the worksite.
- d. A test shall be conducted by an entity that is independent of the County and certified for employment drug testing by either the Substance Abuse and Mental Health Services Administration or the College of American Pathology. Additionally, all instructions, chain of custody forms, and collection kits used for sample collection shall be prepared by that entity.
  - 1. The entity taking the samples shall ensure that (a) the collection of samples is performed under reasonable and sanitary conditions, (b) the collection method ensures the privacy of the person being tested, and (c) the manner is reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples.
  - 2. The entity shall also ensure that (a) the samples are labeled and sealed so as to reasonably preclude the probability of erroneous identification of test results, (b) those being tested have a chance to provide identification of currently used or recently used prescription or nonprescription drugs or other relevant medical information, (c) sample collection, storage, and transportation to the place of testing are performed in a manner that reasonably precludes the probability of sample misidentification, contamination, or adulteration, and (d) sample testing conforms to scientifically accepted analytical methods or procedures.
  - 3. The entity shall verify or confirm any positive initial screening test by gas chromatography, gas chromatography-mass spectroscopy, or other comparably reliable analytical methods.
- e. The County shall ensure that the employee or prospective employee be notified as soon as possible the results of the test and of the employee's option to have the 15 ml urine sample tested at the equally shared expense of the employee and the County. The notice shall be given (a) by telephone at the employee's last known telephone number, or (b) in writing at his or her last known address of the results of the initial test.
- f. Positive Test Results.
  - 1. Alcohol.
    - a. If an employee's test is positive for alcohol or an employee refuses to submit to testing, the employee shall be subject to discipline pursuant to the policies established in Title 5 of the Personnel Policies and Procedures Manual. Additionally, the employee shall be removed from, and cannot return to a safety sensitive function until, at a minimum, all of the

following are met:

1. The employee undergoes evaluation by a substance abuse professional and, where necessary, rehabilitation.
  2. The substance abuse professional determines that the employee has successfully complied with any required rehabilitation.
  3. The employee undergoes a return-to-duty test with no positive alcohol or illegal drug test results.
- b. In the event a test establishes a BAC level under 0.04 grams/ml but establishes a BAC level at or between 0.01 to 0.039 grams/ml, the County shall retest an employee after fifteen minutes. If after retest, the BAC level is at or over 0.04 grams/ml, the test shall be considered a positive test result and the employee will be subject to the provisions of Section 8.B.8.f.1.a.
  - c. If after retest, the BAC level is 0.02 to .039 grams/ml, the employee shall not be permitted to perform any safety-sensitive functions and shall suffer no disciplinary sanctions.
  - d. If after retest the BAC level is at or below 0.01 to 0.019 grams/ml, the employee shall (a) suffer no disciplinary sanction and (b) have no restriction unless signs and indicators of impairment are evident and articulated by a trained and certified drug and alcohol evaluation technician. If, after the evaluation, it appears that the employee is impaired, he or she shall not be permitted to perform any safety related function.
2. Illegal Drugs. If an employee's drug or alcohol test is positive for illegal drugs, the employee shall be subject to discipline pursuant to the policies established in Title 5 of the Personnel Policies and Procedures Manual. Additionally, the employee shall be removed from, and cannot be returned to, a safety sensitive position until, at a minimum, all of the following are met:
    - a. The employee undergoes evaluation by a substance abuse professional, and, where necessary, rehabilitation.
    - b. The substance abuse professional determines that the employee has successfully complied with any required rehabilitation.
    - c. The employee undergoes a return-to-duty test with a verified negative test result for illegal drugs and alcohol.
  3. Refusal to Submit to Testing. For purposes of enforcement of this rule, an

employee's refusal to submit to a test lawfully requested and permitted by this policy shall be treated as a positive test for illegal drugs.

g. General.

1. If through any of these detection methods or on the employee's initiative, an employee tests positive or seeks rehabilitation treatment, the County will pay for an initial substance abuse evaluation. However, the County reserves the right to discipline any employee violating its drug or alcohol abuse policies up to and including termination. If an employee's employment is terminated prior to the initial substance abuse evaluation, the County will have no obligation to pay for the evaluation.
2. The County encourages employees to enroll in a counseling or rehabilitation program. Any employee that the County determines not to dismiss for violations of the drug or alcohol abuse policies and who does enroll in a counseling or rehabilitation program will be required to sign a document agreeing to the following conditions in order to remain employed with full rights and benefits:
  - a. Any employee for whom treatment is recommended will be responsible for costs not covered by insurance. The employee will be required to use accrued annual vacation leave and sick leave until all leave is expended.

**9. Follow-up Testing.** Employees who have violated this Policy and continue to work for the County shall be subject to follow up drug/alcohol testing for a period of not less than one (1) year and not to exceed sixty (60) months.

- a. Employees subject to follow up testing will be tested a minimum of six (6) times in the first (1<sup>st</sup>) twelve (12) months following their return to duty.
- b. Follow-up testing beyond one (1) year shall be based on a needs assessment provided by a substance abuse professional.

**10. Additional Requirements for Drivers with Commercial Driver Licenses**

- a. **Safety-Sensitive Duties.** In addition to the definition above in Section A.3.g., safety-sensitive duties are defined for CDL drivers to include waiting to be dispatched while on duty, inspecting, servicing, or conditioning a commercial motor vehicle, driving or sitting at the driving controls of a commercial motor vehicle, being present inside a commercial motor vehicle (except when resting in a sleeper berth), loading or unloading a vehicle, or attending a vehicle being loaded or unloaded, repairing a vehicle, obtaining assistance for a vehicle, and attending a disabled vehicle.
- b. **Prohibited CDL Employee Conduct.** CDL employees must not consume alcohol while on duty or four hours prior to on-duty time.

c. Post-Accident Testing.

1. When an alcohol test is required following an accident, Emery County shall administer the test within eight hours following the accident.
  - a. An employee who is involved in an On Duty Accident shall not use alcohol up to eight hours following an Accident or until the employee undergoes a post-accident test, whichever occurs first.
2. When a drug test is required following an accident, Emery County shall administer the test within thirty-two hours following the accident.

d. Information Reported to FMCSA Clearinghouse.

1. Emery County shall report the following to The Federal Motor Carrier Safety Administration's national Clearinghouse:
  - a. All positive, adulterated, or substituted drug test result, all alcohol confirmation tests with a concentration of 0.04 or higher, and all refusals to submit to testing;
  - b. All reports from other Emery County employees concerning observation of a CDL driver's on-duty or pre-duty alcohol use, alcohol use following an accident, or controlled substance use;
  - c. Reports from a substance abuse professional indicating that an employee has successfully completed the return-to-duty process;
  - d. All negative return-to-duty tests; and
  - e. Reports that an employee has completed follow-up testing.

**11. Miscellaneous.**

- a. The County maintains the right to conduct unannounced inspections of County owned property, work stations, equipment, desks, cabinets, vehicles, etc. This property is the property of the County and individual employees should expect no privacy with respect to the use of this property.
- b. The County maintains the right to utilize detection methods necessary for the enforcement of this policy including blood, urine, or other tests, and the use of electronic detection equipment and trained animals.
- c. Failure to cooperate with these detection methods or inspections is grounds for disciplinary action up to and including termination of employment.

- d. Employees may direct any questions regarding this policy to the Personnel Officer.



## **Title 9. Reporting Governmental Waste or Legal Violations**

### **Chapter A. Employee Good-Faith Reporting**

- 1. General Policy.** No employee may be subject to any adverse action as that term is defined in the Utah Protection of Public Employee's Act (UPPEA), currently codified at Utah Code § 67-21-1, *et seq.*, because the employee communicates in good faith the waste or misuse of public funds, property, or manpower, a violation of a federal, state, or local law, rule, or regulation. Moreover, no employee may be subject to adverse action because he or she has objected to or refused to carry out a directive that the employee reasonably believes violates a federal, state, or local law, rule, or regulation adopted by the federal, state, or local government.
- 2. Reporting.** An employee may report such conduct by giving written notice or otherwise formally communicating the alleged conduct to (a) a person having authority over the alleged perpetrator, (b) the Utah attorney general's office, (c) law enforcement (if the conduct is criminal in nature), or (d) a member of the Board of County Commissioners or the County Clerk/Auditor.
- 3. Copy of Statute.** As required by UPPEA, a copy of the statute is attached as Appendix A to this Title 9.

# Title 9: Reporting Governmental Waste, Fraud, and Abuse

## Appendix A

§ 67-21-1. Short title.

### Utah Statutes

#### Title 67. State Officers and Employees

#### Chapter 21. Utah Protection of Public Employees Act

*Current through 2018 General Session*

#### § 67-21-1. Short title

This chapter is known as the "Utah Protection of Public Employees Act."

**Cite as Utah Code § 67-21-1**

**History.** Enacted by Chapter 216, 1985 General Session

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§ 67-21-2. Definitions.

### Utah Statutes

#### Title 67. State Officers and Employees

#### Chapter 21. Utah Protection of Public Employees Act

*Current through 2018 General Session*

#### § 67-21-2. Definitions

As used in this chapter:

- (1) "Abuse of authority" means an arbitrary or capricious exercise of power that:
  - (a) adversely affects the employment rights of another; or
  - (b) results in personal gain to the person exercising the authority or to another person.
- (2) "Adverse action" means to discharge, threaten, or discriminate against an employee in a manner that affects the employee's employment, including compensation, terms, conditions, location, rights, immunities, promotions, or privileges.
- (3) "Communicate" means a verbal, written, broadcast, or other communicated report.
- (4) "Damages" means general and special damages for injury or loss caused by each

violation of this chapter.

- (5) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied.
- (6)
  - (a) "Employer" means the public body or public entity that employs the employee.
  - (b) "Employer" includes an agent of an employer.
- (7) "Gross mismanagement" means action or failure to act by a person, with respect to a person's responsibility, that causes significant harm or risk of harm to the mission of the public entity or public body that employs, or is managed or controlled by, the person.
- (8) "Judicial employee" means an employee of the judicial branch of state government.
- (9) "Legislative employee" means an employee of the legislative branch of state government.
- (10) "Political subdivision employee" means an employee of a political subdivision of the state.
- (11) "Public body" means any of the following:
  - (a) a state officer, employee, agency, department, division, bureau, board, commission, council, authority, educational institution, or any other body in the executive branch of state government;
  - (b) an agency, board, commission, council, institution member, or employee of the legislative branch of state government;
  - (c) a county, city, town, regional governing body, council, school district, local district, special service district, or municipal corporation, board, department, commission, council, agency, or any member or employee of them;
  - (d) any other body that is created by state or local authority, or that is primarily funded by or through state or local authority, or any member or employee of that body;
  - (e) a law enforcement agency or any member or employee of a law enforcement agency; and
  - (f) the judiciary and any member or employee of the judiciary.
- (12) "Public entity" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.
- (13) "Public entity employee" means an employee of a public entity.
- (14) "Retaliatory action" is as defined in Section 67-19a-101.
- (15) "State institution of higher education" is as defined in Section 53B-3-102.

- (16) "Unethical conduct" means conduct that violates a provision of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

**Cite as Utah Code § 67-21-2**

**History.** Amended by Chapter 427, 2013 General Session, §7, eff. 5/14/2013.

Amended by Chapter 329, 2007 General Session

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§ 67-21-3. Reporting of governmental waste or violations of law - Employer action - Exceptions.

**Utah Statutes**

**Title 67. State Officers and Employees**

**Chapter 21. Utah Protection of Public Employees Act**

*Current through 2018 General Session*

**§ 67-21-3. Reporting of governmental waste or violations of law - Employer action - Exceptions**

- (1) (a) An employer may not take adverse action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith:
- (i) the waste or misuse of public funds, property, or manpower;
  - (ii) a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States; or
  - (iii) as it relates to a state government employer:
    - (A) gross mismanagement;
    - (B) abuse of authority; or
    - (C) unethical conduct.
- (b) For purposes of Subsection (1)(a), an employee is presumed to have communicated in good faith if the employee gives written notice or otherwise formally communicates the conduct described in Subsection (1)(a) to:
- (i) a person in authority over the person alleged to have engaged in the conduct described in Subsection (1)(a);

- (ii) the attorney general's office;
- (iii) law enforcement, if the conduct is criminal in nature;
- (iv) if the employee is a public entity employee, public body employee, legislative employee, or a judicial employee:
  - (A) the state auditor's office;
  - (B) the president of the Senate;
  - (C) the speaker of the House of Representatives;
  - (D) the Office of Legislative Auditor General;
  - (E) the governor's office;
  - (F) the state court administrator; or
  - (G) the Division of Finance;
- (v) if the employee is a public entity employee, but not an employee of a state institution of higher education, the director of the Division of Purchasing and General Services;
- (vi) if the employee is a political subdivision employee:
  - (A) the legislative body, or a member of the legislative body, of the political subdivision;
  - (B) the governing body, or a member of the governing body, of the political subdivision;
  - (C) the top executive of the political subdivision; or
  - (D) any government official with authority to audit the political subdivision or the applicable part of the political subdivision; or
- (vii) if the employee is an employee of a state institution of higher education:
  - (A) the State Board of Regents or a member of the State Board of Regents;
  - (B) the commissioner of higher education;
  - (C) the president of the state institution of higher education where the employee is employed; or
  - (D) the entity that conducts audits of the state institution of higher

education where the employee is employed.

- (c) The presumption described in Subsection (1)(b) may be rebutted by showing that the employee knew or reasonably ought to have known that the report is malicious, false, or frivolous.
- (2) An employer may not take adverse action against an employee because an employee participates or gives information in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review held by the public body.
- (3) An employer may not take adverse action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law of this state, a political subdivision of this state, or the United States, or a rule or regulation adopted under the authority of the laws of this state, a political subdivision of this state, or the United States.
- (4) An employer may not implement rules or policies that unreasonably restrict an employee's ability to document:
  - (a) the waste or misuse of public funds, property, or manpower;
  - (b) a violation or suspected violation of any law, rule, or regulation; or
  - (c) as it relates to a state government employer:
    - (i) gross mismanagement;
    - (ii) abuse of authority; or
    - (iii) unethical conduct.

**Cite as Utah Code § 67-21-3**

**History.** Amended by Chapter 178, 2018 General Session , §2, eff. 5/8/2018.

Amended by Chapter 427, 2013 General Session , §8, eff. 5/14/2013.

Amended by Chapter 324, 2010 General Session

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§ 67-21-3.5. Administrative review of adverse action against a public entity employee.

**Utah Statutes**

**Title 67. State Officers and Employees**

**Chapter 21. Utah Protection of Public Employees Act**

*Current through 2018 General Session*

**§ 67-21-3.5. Administrative review of adverse action against a public entity employee**

- (1) A public entity employee who believes that the employee's employer has taken retaliatory action against the employee in violation of this chapter may file a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5 and subject to Section 67-21-4.
- (2) If the Career Service Review Office determines that retaliatory action is taken in violation of this chapter against the public entity employee, the Career Service Review Office may order:
  - (a) reinstatement of the public entity employee at the same level held by the public entity employee before the retaliatory action;
  - (b) the payment of back wages, in accordance with Subsection 67-19a-406(5)(b) ;
  - (c) full reinstatement of benefits;
  - (d) full reinstatement of other employment rights; or
  - (e) if the retaliatory action includes failure to promote, as described in Subsection 67-19a-101 (11)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.
- (3) A public entity employer has the burden to prove by substantial evidence that the public entity employer's action was justified.
- (4) A public entity employee or public entity employer may appeal a determination of the Career Service Review Office as provided in Section 67-19a-402.5.

**Cite as Utah Code § 67-21-3.5**

**History.** Amended by Chapter 390, 2018 General Session , §14, eff. 5/8/2018.

Added by Chapter 427, 2013 General Session , §9, eff. 5/14/2013.

**Related Legislative Provision:** *See Chapter 427, 2013 General Session , §17.*

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§ 67-21-3.6. Administrative review for political subdivision employees.

**Utah Statutes**

**Title 67. State Officers and Employees**

## **Chapter 21. Utah Protection of Public Employees Act**

*Current through 2018 General Session*

### **§ 67-21-3.6. Administrative review for political subdivision employees**

- (1)
  - (a) A political subdivision may adopt an ordinance to establish an independent personnel board to hear and take action on a complaint alleging adverse action.
  - (b) The ordinance described in Subsection (1)(a) shall include:
    - (i) procedures for filing a complaint and conducting a hearing; and
    - (ii) a burden of proof on the employer to establish by substantial evidence that the employer's action was justified by reasons unrelated to the employee's good faith actions under Section 67-21-3.
- (2) If a political subdivision adopts an ordinance described in Subsection (1), a political subdivision employee may file a complaint with the independent personnel board alleging adverse action.
- (3) If an independent personnel board finds that adverse action is taken in violation of the ordinance described in Subsection (1)(a), the independent personnel board may order:
  - (a) reinstatement of the employee at the same level as before the adverse action;
  - (b) the payment of back wages;
  - (c) full reinstatement of fringe benefits;
  - (d) full reinstatement of seniority rights; or
  - (e) if the adverse action includes failure to promote, as described in Subsection 67-19a-101(8)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.

**Cite as Utah Code § 67-21-3.6**

**History.** Added by Chapter 427, 2013 General Session, §10, eff. 5/14/2013.

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§ 67-21-3.7. Administrative review for state institution of higher education employees.

### **Utah Statutes**



**Title 67. State Officers and Employees**

**Chapter 21. Utah Protection of Public Employees Act**

*Current through 2018 General Session*

**§ 67-21-3.7. Administrative review for state institution of higher education employees**

- (1)
  - (a) As used in this section, "independent personnel board" means a board where no member of the board:
    - (i) is in the same department as the complainant;
    - (ii) is a supervisor of the complainant; or
    - (iii) has a conflict of interest in relation to the complainant or an allegation made in the complaint.
  - (b) A state institution of higher education shall adopt a policy to establish an independent personnel board to hear and take action on a complaint alleging adverse action.
  - (c) The policy described in Subsection (1)(b) shall include:
    - (i) procedures for filing a complaint and conducting a hearing; and
    - (ii) a burden of proof on the employer to establish by substantial evidence that the employer's action was justified by reasons unrelated to the employee's good faith actions under Section 67-21-3.
- (2)
  - (a) An employee of a state institution of higher education may file a complaint with the independent personnel board described in Subsection (1)(b) alleging adverse action.
  - (b) An independent personnel board that receives a complaint under Subsection (2)(a) shall hear the matter, resolve the complaint, and take action under Subsection (3) within the later of:
    - (i) 30 days after the day on which the employee files the complaint; or
    - (ii) a longer period of time, not to exceed 30 additional days, if the employee and the independent personnel board mutually agree on the longer time period.
- (3) If an independent personnel board finds that adverse action is taken in violation of the policy described in Subsection (1)(b), the independent personnel board may order, or

recommend to a final decision maker:

- (a) reinstatement of the employee at the same level as before the adverse action;
  - (b) the payment of back wages;
  - (c) full reinstatement of fringe benefits;
  - (d) full reinstatement of seniority rights; or
  - (e) if the adverse action includes failure to promote, as described in Subsection 67-19a-101(8)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.
- (4) A final decision maker who receives a recommendation under Subsection (3) shall render a decision and enter an order within seven days after the day on which the final decision maker receives the recommendation.

**Cite as Utah Code § 67-21-3.7**

**History.** Amended by Chapter 178, 2018 General Session , §3, eff. 5/8/2018.

Added by Chapter 427, 2013 General Session , §11, eff. 5/14/2013.

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§ 67-21-4. Choice of forum - Remedies for employee bringing action - Proof required.

**Utah Statutes**

**Title 67. State Officers and Employees**

**Chapter 21. Utah Protection of Public Employees Act**

*Current through 2018 General Session*

**§ 67-21-4. Choice of forum - Remedies for employee bringing action - Proof required**

- (1)
  - (a) Except as provided in Subsection (1)(b) or (d), and subject to Subsections (1)(d) through (e), an employee who alleges a violation of this chapter may bring a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.
  - (b) Except as provided in Subsection (1)(d):
    - (i) an employee of a political subdivision that has adopted an ordinance described in Section 67-21-3.6 :
      - (A) may bring a civil action described in Subsection (1)(a) within 180

- days after the day on which the employee has exhausted administrative remedies; and
- (B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies; and
- (ii) an employee of a state institution of higher education :
- (A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and
- (B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies.
- (c) Except as provided in Subsection (1)(d), a public entity employee who is not a legislative employee or a judicial employee may bring a claim of retaliatory action by selecting one of the following methods:
- (i) filing a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5; or
- (ii) bringing a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.
- (d) (i) A claimant may bring an action after the 180-day limit described in this Subsection (1) if:
- (A) the claimant originally brought the action within the 180-day time limit;
- (B) the action described in Subsection (1)(d)(i)(A) failed or was dismissed for a reason other than on the merits; and
- (C) the claimant brings the new action within 180 days after the day on which the claimant originally brought the action under Subsection (1)(d)(i)(A).
- (ii) A claimant may commence a new action under this Subsection (1)(d) only once.
- (e) A public entity employee who files a grievance under Subsection (1)(d)(i):
- (i) may not, at any time, bring a civil action in relation to the subject matter of the grievance;
- (ii) may seek a remedy described in Subsection 67-21-3.5(2) ; and

- (iii) waives the right to seek a remedy or a type of damages not included in Subsection 67-21-3.5(2).
- (f) A public entity employee who files a civil action under Subsection (1)(d)(ii) may not, at any time, file a grievance with the Career Service Review Office in relation to the subject matter of the civil action.
- (2) An employee who brings a civil action under this section shall bring the action in the district court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has the person's principal place of business.
- (3) To prevail in an action brought under this section, the employer shall prove by substantial evidence that the employer's action was justified.

**Cite as Utah Code § 67-21-4**

**History.** Amended by Chapter 178, 2018 General Session , §4, eff. 5/8/2018.

Amended by Chapter 427, 2013 General Session , §12, eff. 5/14/2013.

Amended by Chapter 177, 1999 General Session

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§ 67-21-5. Court orders for violation of chapter.

**Utah Statutes**

**Title 67. State Officers and Employees**

**Chapter 21. Utah Protection of Public Employees Act**

*Current through 2018 General Session*

**§ 67-21-5. Court orders for violation of chapter**

- (1) A court, in rendering a judgment in an action brought under this chapter, may order reinstatement of the employee at the same level, the payment of back wages, full reinstatement of fringe benefits and seniority rights, damages, or any combination of these remedies.
- (2) A court shall award the complainant all or a portion of the costs of litigation, which are defined to include reasonable attorney fees and witness fees, if the court determines that the complainant prevails.

**Cite as Utah Code § 67-21-5**

**History.** Amended by Chapter 427, 2013 General Session , §13, eff. 5/14/2013.

Amended by Chapter 177, 1999 General Session

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§ 67-21-6. Civil fine.

**Utah Statutes**

**Title 67. State Officers and Employees**

**Chapter 21. Utah Protection of Public Employees Act**

*Current through 2018 General Session*

**§ 67-21-6. Civil fine**

- (1)
  - (a) A person who violates this chapter is liable for a civil fine of not more than \$500.
  - (b) The person who takes an adverse action against an employee in violation of this chapter, and not the public body that employs the employee, shall, after receiving notice and an opportunity to be heard, pay the civil fine under this Subsection (1).
  - (c) If a person is ordered to pay a civil fine under this Subsection (1), the employer may dismiss the person who took the adverse action in violation of this chapter.
- (2) A civil fine ordered under this chapter shall be submitted to the state treasurer for deposit in the General Fund.
- (3) The civil fine described in this section may be imposed if a violation of this chapter is found by:
  - (a) an independent personnel board described in Subsection 67-21-3.6(1)(a) or 67-21-3.7(1)(a);
  - (b) the Career Service Review Office; or
  - (c) a court.

**Cite as Utah Code § 67-21-6**

**History.** Amended by Chapter 427, 2013 General Session , §14, eff. 5/14/2013.

Enacted by Chapter 216, 1985 General Session

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§ 67-21-7. No impairment of employee rights under collective bargaining agreement.

**Utah Statutes**

**Title 67. State Officers and Employees**

**Chapter 21. Utah Protection of Public Employees Act**

*Current through 2018 General Session*

**§ 67-21-7. No impairment of employee rights under collective bargaining agreement**

This chapter shall not be construed to diminish or impair the rights of an employee under any collective bargaining agreement.

**Cite as Utah Code § 67-21-7**

**History.** Enacted by Chapter 216, 1985 General Session

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§ 67-21-8. No compensation when participation in public inquiry.

**Utah Statutes**

**Title 67. State Officers and Employees**

**Chapter 21. Utah Protection of Public Employees Act**

*Current through 2018 General Session*

**§ 67-21-8. No compensation when participation in public inquiry**

This chapter shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing, or inquiry held by a public body in accordance with Section 67-21-3.

**Cite as Utah Code § 67-21-8**

**History.** Enacted by Chapter 216, 1985 General Session

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§ 67-21-9. Notice of contents of this chapter - Posting.

**Utah Statutes**

**Title 67. State Officers and Employees**

**Chapter 21. Utah Protection of Public Employees Act**

*Current through 2018 General Session*

**§ 67-21-9. Notice of contents of this chapter - Posting**

- (1) An employer shall post notices and use other appropriate means to keep employees informed of their protections and obligations under this chapter.
- (2) An employer shall provide an employee with a copy of this chapter:
  - (a) when the employee is hired;
  - (b) upon a request by the employee; and
  - (c) when the employee files a grievance under this chapter.

**Cite as Utah Code § 67-21-9**

**History.** Amended by Chapter 178, 2018 General Session , §5, eff. 5/8/2018.

Amended by Chapter 427, 2013 General Session , §15, eff. 5/14/2013.

Enacted by Chapter 216, 1985 General Session

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§ 67-21-10. False accusations.

**Utah Statutes**

**Title 67. State Officers and Employees**

**Chapter 21. Utah Protection of Public Employees Act**

*Current through 2018 General Session*

**§ 67-21-10. False accusations**

- (1) An employee violates this chapter if the employee knowingly makes a false accusation against an employer under this chapter.
- (2) An employee who violates Subsection (1), is subject to:
  - (a) a fine not to exceed \$5,000; and

(b) dismissal from employment.

**Cite as Utah Code § 67-21-10**

**History.** Added by Chapter 427, 2013 General Session, §16, eff. 5/14/2013.



## **Title 10. Grievances**

### **Chapter A. Issues Subject to Grievance Procedure**

- 1. General Policy.** Employees who perceive that they have a grievance against the County should exhaust the administrative procedure set forth in the body of this Policy before pursuing any appeal to the Career Services Council. An employee may file a grievance about any perceived work related injustice or oppression resulting from an act, occurrence, omission, condition, or unfair labor practice that adversely affects the employee grieving. Issues addressable throughout the grievance process include, but are not limited to:
  - a. Employee-Supervisor relationships
  - b. Duty assignments not affecting job classification
  - c. Shift and job location assignments
  - d. Working conditions
  - e. Practices affecting granting of leave
  - f. Any disciplinary action issued against the employee grieving
  - g. Any claim of adverse action taken against them for reporting pursuant to Title 9 of these policies and procedures

Although employees may grieve the application of policies and procedures to themselves or their particular circumstances, given that policies and procedures adopted by the County and a Department must be amended through a public process in which employees have a right to express their views, employees may not grieve general application or adoption of policies and procedures or seek relief that would require an amendment to policies and procedures.

Moreover, employees may only grieve issues that have adversely affected them. They cannot grieve the County's imposition or refusal to impose discipline against another employee nor can they use the grievance process to demand disciplinary action against another employee.

- 2. Applicability.** No Executive Employee, Contract Employee, Seasonal Employee, Provisional Employee, Limited-Duties Employee, Part-Time Employee, Temporary Employee, or Probationary Employee is entitled to the use of this Grievance Process. Accordingly, the provisions of Title 9 of this Manual do not apply to such employees unless expressly made applicable to the particular classification of employees in the body of the applicable provision.

## Title 10. Grievances

### Chapter B. Grievance Process

1. **Resolution Encouraged at the Lowest Levels.** Grievances should be resolved at the lowest administrative level possible. Each level of the grievance process is mandatory unless expressly waived in writing by the Personnel Officer. Employees must first raise their grievance informally with their immediate supervisor before they may file any grievance in writing. Each employee pursuing a formal grievance must prepare and submit a separate written grievance to the appropriate responding official. Written grievances shall contain, at a minimum, the following information:
  - a. Name of the employee
  - b. Date the occurrence or action underlying the grievance occurred
  - c. Nature of the grievance
  - d. Historical information related to the grievance
  - e. Requested resolution
  - f. Signature of the employee filing the grievance and date filed
2. **Time for Filing Grievance.** Employees will be allowed a reasonable amount of time during work to prepare written grievances. Employee grievances must be filed within ten (10) days of the occurrence or event giving rise to the grievance, or within ten (10) days of when the employee acquires knowledge of the occurrence or event giving rise to the grievance. In the event that an employee determines to move to the next grievance level, the employee's grievance must be filed within ten (10) days of the response that the employee received from the preceding level of grievance. In the event that the responding official failed to respond within the time allotted, the ten (10) days begins to run from the date that the response was due.
3. **Time for Response to Grievance.** At each level of the grievance process, after a responding official has received an employee grievance, the responding official shall have ten (10) working days to respond in writing to the grievance.
  - a. Permissible Extension. If a responding official is unable to answer the grievance within the specified time period due to extenuating circumstances, the official may take an additional ten (10) working days to answer the grievance if he or she notifies the employee in writing of the circumstances and that the extension is being exercised. If after receiving the response from the responding official, the employee believes that the decision is unacceptable, the employee may grieve the decision to the responding official at the next level of the grievance process.

- b. Failure to Respond. If the responding official fails to respond within the allotted time, the employee may proceed to the next level of grievance.
- 4. **Issues Subject to Grievance.** Only the issues presented in the original grievance raised informally with the supervisor may be considered throughout the grievance process.
- 5. **Chain of Grievance.** A grievance shall be processed through the following chain of responding officials:
  - a. Immediate Supervisor
  - b. Department Head
  - c. Personnel Officer

In the event that the responding official holds multiple titles, i.e., the employee's Immediate Supervisor is also the Department Head, the employee need only submit one grievance to that responding official before proceeding to the next responding official in the chain.

- 6. **Personnel Officer Decision is Final.** The decision of the Personnel Officer constitutes the final grievance level. The Personnel Officer shall issue a decision within forty-five days of the filing of the grievance. If the Personnel Officer fails to respond within forty-five days, the grievance is deemed to be denied by the Personnel Officer.
- 7. **Record of Grievance.** No document relating to a grievance shall be placed in the employee's personnel file. If any disciplinary action against an employee is rescinded as a result of the grievance process, the Department Head shall remove the record of the disciplinary action from the employee's personnel file. If any disciplinary action against an employee is modified as a result of the grievance process, the unmodified record of the disciplinary action shall be removed from the employee's personnel file and the modified record of the disciplinary action shall be placed in the employee's personnel file.

## **Title 11. Volunteers**

### **Chapter A. Generally**

- 1. Policy Statement.** The Commission recognizes that volunteers are essential to the productivity, efficiency, and cost-effectiveness of County operations, and therefore encourages and welcomes individuals and groups who have the skill, talent, ability, and time to volunteer in departments, divisions, and facilities.
  
- 2. Definition.** “Volunteer” is a person who, of his or her free will, provides goods or services to any unit of County government without receiving monetary or material compensation. Except as expressly provided in this Title 10, volunteers are not considered employees for any purposes, including but not limited to the purposes of Titles 1 through 9 of this Manual, and volunteers are not entitled the protections or benefits found in Titles 1 through 9 of the Personnel Policies and Procedures Manual. Accordingly, the provisions of Titles 1 through 9 of the Personnel Policies and Procedures Manual do not apply to Volunteers.

## **Title 11. Volunteers**

### **Chapter B. Status**

- 1. Insurance for Volunteer.** As mandated by Utah Code § 67-20-3, as amended from time to time, the County shall consider all volunteers as employees solely for purposes of:
  - a. receiving workers' compensation medical benefits, which shall be the exclusive remedy for all injuries and occupational diseases as provided under Utah Code Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act, as amended from time to time, respectively.
  - b. the operation of motor vehicles or equipment if the volunteer is properly licensed and authorized to do so; and
  - c. liability protection and indemnification normally afforded paid government employees.
  
- 2. Classifications.** The County recognizes the following classifications of volunteers:
  - a. "Regular-service volunteer" means a person engaged in specific voluntary service activities on an ongoing or continual basis.
  - b. "Episodic volunteer" means a person who offers to provide a one-time or occasional voluntary service.
  - c. "Material donor" means a person who may be unable to give the time required for volunteer service, but chooses to express his or her contribution by providing funds or materials.
  - d. "Community service volunteer" means a person who is court-ordered to complete a required number of volunteer hours as part of their probation.
  
- 3. County Employee Volunteers.** Volunteers who are County officers and/or employees are not permitted to voluntarily perform services which are the same as or are similar to their duties for which they are paid to perform by the County.

## **Title 11. Volunteers**

### **Chapter C. Management**

- 1. Registration.** All volunteers shall register with the Personnel Officer before performing any volunteer work on behalf of the County. The Personnel Officer shall coordinate volunteer placement and activities within the County. The Personnel Officer is entitled to delegate the registration process to others. The Personnel Officer is expressly delegated authority by the Commission and Personnel Department to authorize specific volunteer services, as required by Utah Code § 67-20-4, as amended from time to time. All volunteers must be approved by the Commission in an open and public meeting.
- 2. Time.** A Volunteer Log will be maintained by the Personnel Officer, and by all departments or facilities, and will contain volunteer names, dates, hours of service, and tasks assigned. Volunteers will daily sign in and out in the Volunteer Log before performing any volunteer services on behalf of the County. The Personnel Officer may treat the volunteer logs kept by departments or facilities as the Personnel Volunteer Log so long as the Personnel Officer requires transmission of the volunteer logs to the Personnel Officer on a regular basis.
- 3. Training.** The Department Head or Elected Official overseeing the function the volunteers are assisting with shall verify that all volunteers receive appropriate training for the services that will be performed, before the volunteer performs any of those services, including training on the use of equipment required for the service to be performed. Regular service volunteers shall receive periodic training appropriate for the types of services the volunteers are performing. Episodic volunteers and community service volunteers shall receive preliminary training, as much as practicable and reasonable within the circumstances, before beginning any County approved services. No training is required for material donors.
- 4. Licenses and Certification.** Volunteers must not be knowingly exposed to any unnecessary danger or hazards and must not perform any functions requiring a license or certification unless they have a current license or certification to do so.
- 5. Screening.** Before providing any services, volunteers are required to pass physical and/or medical screening requirements that apply to employees performing the same services that the volunteer will be performing on behalf of the County.
- 6. Confidentiality.** Volunteers will maintain strict confidentiality of any information to which they may have access within the performance of their volunteer services. Volunteers are prohibited from using information or materials not generally available to the public and obtained by reason of their volunteer positions for the personal benefit of themselves or others.
- 7. Departments.** Volunteers will work within the policies, procedures, and rules set by the responsible Departmental Heads. Volunteers who do not adhere to the

policies, procedures, or rules of a Department or who fail to satisfactorily perform their volunteer assignment are subject to dismissal by Department Heads or their delegates.

- 8. Age Restrictions.** All volunteers must be at least sixteen years of age before being eligible to volunteer for the County. Additionally any volunteer who will be traveling out of state as part of their volunteer activities must be at least eighteen years of age.

## **Title 11. Volunteers**

### **Chapter D. Equipment**

- 1. Equipment Use.** Volunteers will use only the space, equipment, and materials authorized during their assignment by the Personnel Officer or by the supervising Department.
- 2. Insurance.** The County will provide liability insurance coverage for all volunteer activities conducted under specific County authorization. Such liability coverage shall extend to authorized volunteer use of County equipment.



## **Stand- Alone Policies**

**Computer, E-Mail, Internet, and Social Media Usage**

**Dating Policy**

**Gifts and Awards**

**Travel Policy**

**Compensation of Department Heads Managing Multiple Departments**

**Repayment for Training Expenses**

**Policy on COVID19-Related Leave**