Lincoln County Personnel Policy

Effective: September 1, 2005  Revised: July 19, 2021

Prepared by Lincoln County Human Resources Department
Note The content of a manual does not constitute nor shall it be construed as a promise of employment or as a contract between Lincoln County and any of its employees.

Lincoln County at its option, may change, delete, suspend, or discontinue parts or the policy in its entirety, at any time without prior notice.

Procedures are defined in a separate document called "Lincoln County Administrative Procedures Manual."
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1.0 Organization of the Personnel System

1.1 Purpose

The purpose of this Policy and the rules and regulations set forth within are to establish a fair and uniform system of personnel administration for all employees of the Lincoln County (the “County”) under the supervision of the County Manager, elected officials, Elections Board, Board of Health, and Social Services Board. These aforementioned entities are the official appointing authorities covered by this personnel policy. All previous personnel ordinances and policies are hereby void upon the adoption of this Policy. State requirements will supersede this policy for the positions subject to the State Human Resources Act whenever there is a conflict. This policy is adopted under authority of GS 153A, Section 5 and GS 126 of the General Statutes of North Carolina.

Nothing contained in this Personnel Policy as it exists now or may be amended in the future creates a contract between Lincoln County and its employees, and all employees, except as may be otherwise required by State law, are and remain employees at will.

An official copy of the Personnel Policy and rules shall be available in the offices of the County Manager and/or Human Resources Director and viewable online http://www.lincolncounty.org/. The County Manager, corresponding appointing authority, and/or Human Resources Director shall provide written procedures and forms necessary for the proper administration of the policies set forth in this manual and shall instruct staff in their appropriate use. Questions concerning the application or interpretation of the guidelines or rules of these policies shall be directed through appropriate supervisory channels. Questions by department directors regarding the applicability or interpretation of the guidelines or rules of these policies shall be directed to the County Manager, corresponding appointing authority, and/or Human Resources Director prior to making a determination for action.

The County Manager shall have the authority in individual instances to set aside sections of this Policy as he may determine in his discretion as reasonably necessary to ensure efficient operation of County government.

1.2 Policy of At-Will Employment

The County does not offer tenured or guaranteed employment. Either the County or the employee can terminate the employment relationship at any time, with or without cause, with or without notice. This at-will employment relationship exists regardless of any other written statements or policies contained in this policy or any verbal statement to the contrary. No entity except the Board of Commissioners can enter into any kind of employment relationship or agreement that is contrary to the previous statement. To be enforceable, the arrangement reflecting such relationship or agreement must be in writing; having been first lawfully adopted by the Board and is lawfully executed by the County.

1.3 Coverage

The provisions of this policy shall be applicable to all employees except as provided below.

The Board of Commissioners, County Manager, Assistant County Manager, County Attorney, Clerk to the Board, consultants, volunteers and contract employees are exempt from the provisions of this policy.
Employees of the Sheriff’s Office and the Register of Deeds Department shall be subject to this policy except that the Sheriff and Register of Deeds shall have the right to hire and discharge their employees subject to N.C.G.S. §153A-103.

The County Board of Elections appoints and dismisses all of the board’s employees except the Director of Elections, who is appointed and dismissed by the State Board of Elections (N.C.G.S. §163-35).

Persons appointed by the Board of Commissioners to advisory or special boards or commissions, or appointed per statute, and not otherwise granted employee status shall be exempt from the provisions of this policy.

All employees in the competitive service area (Public Health and Social Services) shall be subject to the provisions of this policy, except when those provisions conflict with Chapter 126 of the North Carolina General Statutes or rules and regulations as established by the State Human Resources Commission.

Employees of the North Carolina Cooperative Extension Service whose annual compensation is supplemented by State and/or Federal funds shall be subject to all provisions of this policy, except when those provisions conflict with the Memorandum of Understanding between the State of North Carolina and Lincoln County, in which case the Memorandum of Understanding shall control. These employees shall be included in the benefits of longevity pay on a pro-rated basis.

Any employees, regardless of the exceptions above, are governed by all County policies regarding use of County equipment, property, or vehicles.

1.4 Responsibilities of Officials and Employees

The Board of County Commissioners shall establish a Personnel Policy, including the Classification and Pay Plan, and shall make and confirm appointments when required by law. The County Manager shall be responsible to the Board of County Commissioners for the administration of the Personnel Policy. The County Manager shall appoint, suspend, and remove all County employees under the guidelines established in the Personnel Policy except those employees elected by the people or whose appointments are otherwise provided for by law. The County Manager shall make appointments, dismissals, and suspensions in accordance with N.C.G.S. §153A-82 of the State of North Carolina and pursuant to this Personnel Policy.

The Human Resources Director shall be responsible for the administration of the Personnel Policy and make recommendations to the County Manager on the revisions of this document subject to the approval by the Board of County Commissioners. Such recommendations may include but are not limited to revisions to: 1) the Position Classification Plan, 2) the Pay Plan, 3) leave policies, and/or 4) retirement, health insurance, and other employee benefit plans.

The Human Resources Director shall develop and administer recruiting programs to ensure an adequate supply of competent job applicants to meet the needs of the County and shall maintain compliance with all legal requirements imposed by other levels of government. The Human Resources Director shall furnish advice, technical guidance, and assistance regarding policies including devising and implementing procedures and records management practices. The Human Resources Director shall periodically investigate the operation and effect of this document and perform other duties as assigned by the County Manager not inconsistent with this document.
1.5 Changes in Policy

This manual supersedes all previous employee manuals and memos. While every effort is made to keep the contents of this document current, The County reserves the right to modify, suspend, or terminate any of the policies, procedures, and/or benefits described in the manual with or without prior notice to employees.
Lincoln County at its option, may change, delete, suspend or discontinue parts or the policy in its entirety, at any time without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.
2.0 Ethics

2.1 Standards of Conduct

All County employees are expected to uphold the integrity of the County Government and shall be subject to and abide by the standards of conduct outlined below.

2.1.1 Interest in Contracts or Agreements

With the exception of transactions specifically allowed by law, County employees may not acquire or maintain an interest in any contract or agreement with the County if the employee or their immediate family will privately benefit or profit from the contract or undertaking.

2.1.2 Use of Position

County employees may not use their position for personal gain. County employees shall not appear before or represent any private person, group or interest before any department, agency, or board of the County except in matters of purely civic or public concern. Employees shall not use their position to influence an official act or action taken by the County or its employees with regard to any matter or concern from which they or their immediate family may directly or indirectly derive personal gain.

2.1.3 Disclosure of Information

Unless disclosure is required in the performance of their official duties, County employees shall not use or disclose any information gained in the course of employment for purposes of advancing any of the following:

- The employee’s financial or personal interest, or;
- The financial interest of a business entity of which the employee is an owner (in part or in whole), an officer, or director, or from which the employee derives or may derive financial benefit, or;
- The financial or personal interest of a member of the employee’s immediate family, or;
- The financial or personal interest of any other person.

2.2 Gifts and Favors

All officers and employees of the County shall comply with G.S. §133-32 relating to regulation of gifts and favors.

Questions concerning the applicability of this regulation may be addressed to the County Manager or his/her designee, whose decision shall be final.

No employee or direct family member shall accept any gift, favor, or thing of value that may influence the proper discharge of their duties.

No employee or direct family member shall accept any gift, favor, or thing of value from any person or group of persons in return for, or in appreciation of, the performance of their official duties.

Employees may accept gifts on behalf of a County department or division provided such gifts are of general benefit to, or will be available for consumption by, all employees of the department or division. This section is not intended to prevent the gift and receipt of awards or honorariums for participating in meetings, advertising items or items of nominal value, or meals furnished at banquets.
2.3 Conflict of Interest Policy

It shall be the policy of the County that no manager, department director, supervisor, or employee may use their position, or the knowledge gained from their employment, in such a manner that a conflict of interest between the County and their personal interests should arise. Activities that represent, or appear to represent, a conflict of interest include, but are not limited to, acceptance of a favor, payment, gift, payment of expenses, or any other thing of monetary value under circumstances in which the acceptance may result in or create the appearance of a conflict of interest.

An employee is prohibited from having a direct or indirect interest in any activity that would conflict with their official County duties and responsibilities. Furthermore, employees are prohibited from engaging in any transaction, directly or indirectly, that arises from information obtained through their employment with Lincoln County.

2.4 Protection of County Property

County employees are responsible for County property. Lincoln County reserves the right to recover costs in cases where employees have been responsible for the damage or loss of County property.

2.5 Disclosure of Financial Interest

County employees having official duties that are directly or indirectly related to enforcement of federal, state or local statutes, regulations, or ordinances shall disclose any financial interest in, or compensation derived from, any activity over which they may have enforcement or regulatory authority and shall totally remove themselves from any act or actions taken by the County with regard to such interest. Following review by the County Manager, County Attorney, department directors may impose additional requirements that they deem necessary to remove any real or apparent conflict of interest among employees of their departments. Such additional requirements must be filed with the Human Resources Director.
3.0 Position Classification and Pay Plan

3.1 Policy Statement

All positions covered by this Policy are to be classified according to the duties and responsibilities assigned to the position and other related classification factors. To assure its continuing value as a personnel management tool, the Classification Plan shall be maintained to reflect the current work assignments for each classification including the relevant skill, effort, responsibility, and working conditions as required by the Equal Pay Act of 1963.

Wages are based on the County’s financial resources and may be amended annually by the Board of Commissioners as a portion of the Budget Ordinance. Lincoln County is also required to comply with the Fair Labor Standards Act (FLSA). County policies are intended to supplement or enhance FLSA; if the County Policy and FLSA are not in agreement, the FLSA will take precedence over County policy. In order to maintain internal equity, jobs substantially similar as to difficulty, complexity, and responsibility of work are grouped into classes and position. Each class and position is given a descriptive title and allocated to an appropriate pay grade. The County Manager, as provided in N.C.G.S. §153a-92(c), shall be responsible for administering and maintaining the Pay Plan. Furthermore, the County Manager shall have the authority in individual instances to set aside sections of this policy as he or she shall determine in his or her discretion as reasonably necessary to ensure efficient operation of County government.

3.2 Allocation of Positions

The Board of Commissioners shall authorize the County Manager to allocate positions to the appropriate class and salary grade in the Pay Plan. The establishment of new positions or abolishment of old positions shall be made at the approval of the Board of Commissioners and upon the recommendation of the County Manager.

3.3 Administration of Classification Plan

The County Manager and the Human Resources Director shall be responsible for the administration and maintenance of the Position Classification Plan, and shall recommend to the Board of County Commissioners amendments to the Classification Plan as may be necessary to ensure it accurately reflects the duties performed by employees.

Department directors are responsible for providing written notification to the Human Resources Director of the need for new positions and/or material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classification of any position.

3.4 Amendment and Procedure for Change

Periodically, classifications of positions may be added to or deleted from the Classification Plan in support of the needs of the County. For example, new classifications of jobs may be required due to a new field of employment or to reflect additional levels of work within an existing class series. In addition, if a department director believes a new classification is required, they shall furnish a written statement of the proposed duties of the new class to the Human Resources Director.

The Human Resources Director is responsible for determining if the nature or level of the duties and responsibilities of an existing position has changed. If a change has occurred, the Human Resources Director shall forward a recommendation to the County Manager to:
- revise the existing class specification,
- reallocate the position to an appropriate class within the existing classification plan, or
- recommend to the Board of County Commissioners to amend the position classification

3.5 Adoption of the Pay Plan

The salary schedule, reflecting both the salary grade level and step, as approved by the Lincoln County Board of County Commissioners, is hereby adopted as the "Pay Plan."

3.6 Administration of the Pay Plan

The County Manager and Human Resources Director are responsible for the administration and maintenance of the Pay Plan. The Pay Plan is intended to provide a means of equitable compensation for all positions when considered in relation to:

- Internal equity.
- Externally competitive rates of pay for similar work performed in the relevant labor market.
- Fluctuations in pay rates of the labor market and availability of candidates.
- The financial conditions of the county and other objective factors.

3.7 Maintenance

The Pay Plan shall be administered and maintained in a fair and systematic manner in accordance with work performed. The pay structure shall be externally competitive and maintain proper internal relationships among all classifications of positions based on comparable skill, effort, responsibility, and working conditions. The Pay Plan recognizes performance as the basis for pay increases within the established pay range if funds are available. The Pay Plan shall meet the requirements of the State Competitive System for local government employees, while maintaining a countywide plan.

To ensure competitiveness of salary ranges in the Pay Plan, the County Manager shall recommend to the Board of Commissioners any increases, reductions or amendments to the Pay Plan as may be deemed necessary. Based upon the recommendations of the County Manager and the general financial condition of the County, the Board of Commissioners may authorize changes to the salary ranges of salary grades in the Pay Plan. The adoption of the annual budget by the Board of Commissioners, together with any authorized amendments and appropriations, shall constitute the approval of the Pay Plan.

3.8 Allocation of Positions

The Board of Commissioners shall authorize the County Manager to allocate positions to the appropriate class and salary grade in the Pay Plan. The establishment of new positions or abolition of old positions shall be made at the approval of the Board of Commissioners and upon the recommendation of the County Manager.

3.9 New Positions

Department Directors must submit requests for all new full-time and part-time positions to the Human Resources Director for review and subsequent approval by the Board of Commissioners.
3.10 Reclassification

A re-classification is an action which may increase, decrease, or otherwise change a position’s pay grade, classification title, and/or duties and responsibilities. A Department Director, the County Manager or Human Resources Director may initiate a re-classification. The Department Director must submit in writing a request to the Human Resources Director for a review of the position to be reclassified.

When a reclassification of a position occurs, the employee whose position is reclassified to a class having a higher salary range shall be increased to the minimum step on the new pay range. If the employee's current salary is already at or above the minimum salary rate, his/her current salary shall be adjusted upward or left unchanged at the discretion of the County Manager after recommendation of the department director. If the reclassification is at a higher level of responsibility, the employee may be eligible for an increase at the end of six (6) months.

When a class of positions is assigned to a higher salary range, employees in that class may receive a pay increase of one step or an increase to the minimum step of the new range whichever is higher. If the employee's current salary is already above the new salary grade minimum, the employee's salary may be increased or left unchanged, subject to available funds and the discretion of the County Manager. In no instance, will the employee's new adjusted salary exceed the maximum of the newly assigned salary grade. If the classification of positions is reallocated to a lower salary grade and the employee's salary is above the maximum rate established for the new salary grade, the salary of the employee shall remain unchanged until such time as the position’s salary grade maximum is increased above the employee’s salary.

3.11 Reallocation

A reallocation is a change in the salary grade for a classification of positions, either higher or lower salary grade, and affects all positions in the classification. Reallocation may occur as a result of internal and/or external job studies, salary surveys that support a change due to market competitiveness, or other factors.
Lincoln County at its option, may change, delete, suspend or discontinue parts or the policy in its entirety, at any time without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.
4.0 Hiring

4.1 Diversity and Equal Opportunity Employment Statement

Lincoln County Government recognizes that its continued success in meeting the needs of its citizens requires the full and active participation of talented and committed individuals, regardless of their gender, age, race, color, creed, religion, national origin, disability, or other legally protected class. It is the policy of the County to foster, maintain, and promote equal employment opportunity. The County shall select employees on the basis of applicants’ qualifications without regard to race, color, creed, religion, national origin, disability, or other legally protected class. Discrimination on the basis of age or sex is prohibited except where age or sex constitutes a bona fide occupational qualification necessary for job performance. Applicants with disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not present an unreasonable barrier to satisfactory performance of duties, or in which reasonable accommodations to their disabilities will remove such barriers. Notices addressing equal employment matters shall be conspicuously posted in all county government buildings where notices are customarily posted.

4.2 Equal Employment Opportunity Plan (EEOP)

In establishing and following employment policies, the County strives to attract, select and employ the most qualified and best suited candidates for position vacancies, all the while fostering and promoting equal employment opportunity. These policies apply to all applicants and employees applying for position vacancies.

It is the policy of the County to employ according to merit and fitness. To that end, it shall be the practice of the County to use all available means to attract qualified candidates for employment, and to make such investigations and examinations as are deemed appropriate to fairly assess the aptitude, education and experience, knowledge and skills, abilities, character and other standards required for positions in the service of the County.

The County shall recruit for and select individuals for employment or promotion in compliance with federal, state, and local laws; executive orders; and regulations prohibiting discrimination in employment practices with regard to race, color, religion, sex, national origin, disability, age, or any other legally protected status. The Human Resources Department shall review hiring qualifications periodically to ensure that requirements conform to the actual job performance requirements and are consistently administered and shall identify and eliminate any employment practice which may result in treatment that is disparate or that has a discriminating effect.

The County Manager shall have overall responsibility for the administration of this equal employment opportunity policy. The Human Resources Director is charged with the day-to-day implementation, direction, and continuous evaluation.

The Human Resources Director shall present periodic reports on the progress of the program to the County Manager. Additionally, all management and supervisory personnel shall be equally responsible for compliance with the equal employment opportunity policy. The equal employment opportunity policy embraces all positions in county government.
4.3 Goals and Objectives

The goal of the equal employment opportunity policy is to:

- Prevent discrimination in employment practices with regard to race, color, religion, sex, national origin, non-disqualifying disability, or age, and any other legally protected status; and
- Identify and eliminate any employment practice which may result in treatment that is disparate or that has a discriminating effect.

In order to reach these goals, the following policies are reiterated and/or established:

- The Human Resources Department shall maintain records and statistical information in support of the equal employment opportunity policy to monitor the program. The information shall include the following:
  - Applicant flow by race and/or national origin, sex, and age;
  - New employees by race and/or national origin, sex, and age;
  - Transfers and promotions by race and/or national origin, sex, and age; and
  - Voluntary and involuntary terminations by race and national origin, sex, and age.
- Disability information shall be used when available. This information, as well as age and race and/or national origin, may not be required of applicants or employees.

The Human Resources Director shall annually prepare an equal employment opportunity report which reflects race and/or national origin and gender of employees by job categories.

4.4 Recruitment

The Human Resources Director is responsible for providing an active recruitment program to meet current and projected staffing needs and will ensure equal employment opportunities are based on job-related requirements with the exception of the Sheriff’s Office and the Register of Deeds Office which are each statutorily responsible for their own respective recruitment. Recruitment efforts shall be coordinated in a timely manner. The County Manager or the Human Resources Director and the department director shall jointly determine if a vacancy is to be filled by an external recruitment process or promotion from existing County employees. In instances of disagreement, the corresponding appointing authority, or County Manager, shall make the final determination as the case may be applicable.

Each department shall maintain a coordinated recruitment process with the Human Resources Department.

Pre-employment policies and procedures shall be based on essential functions of the position.

Vacancies filled from within the County work force shall be posted via intranet, and emailed. All vacancies for which outside applicants are considered shall be listed with the local job service office of the employment security commission.

Job announcements shall be readable, realistic, and accurate in describing minimum requirements for the job, essential functions, physical requirements, job title, salary, and application process.
4.5 Hiring Guidelines

All initial appointments and promotions of employees shall be made solely on the basis of qualifications. All employees other than those subject to the State Personnel Act are considered "employed at will" and these policies are considered a guide, not a contract.

The hiring rate for new employees will normally be the beginning rate of the salary grade assigned to the position. The department director has the discretion to hire a new employee at a pay rate of up to 5% of the beginning of the salary range without County Manager approval. However, the County Manager may authorize the hiring of an employee at a pay rate more than five percent (5%) above the beginning rate of the salary grade of the Salary Plan based on the applicant's qualifications and experience, or a shortage of qualified applicants available at the hiring rate.

If a department director desires to hire a new employee at a pay rate more than five percent (5%) above the beginning of the salary range, they shall submit a written recommendation to the Human Resources Director outlining their reasons for requesting a higher salary prior to extending an employment offer. After a careful analysis of the department director's recommendation, the Human Resources Director shall make a recommendation to the County Manager prior to extending a formal offer of employment.

4.6 Payment as a Listed Rate in the Salary Range

Employees covered by the Salary Plan shall be paid at a rate within the salary range established for their classification and position.

4.6.1 Exception – Trainee

If an employee is in trainee status, they may be paid at a rate less than the minimum of the classification of their position and are not eligible to progress to the minimum of the salary range until they are removed from trainee status. Employees subject to the State Personnel Act will be designated as "trainees" in accordance with rules and regulations established by the Office of State Personnel. Persons hired for positions requiring certification and/or license will be designated as "trainees" until such licenses or certifications are attained. The department director shall determine when the "trainee" is capable of performing the duties of the job.

4.6.2 Exception above Maximum

If an employee's salary is at or above the maximum rate of the salary range for their position, the employee is not eligible for additional salary increases until: 1) the position is reclassified to a higher salary range, 2) the employee is promoted to another position with a higher salary range, or 3) the salary range for their present position is increased. The County Manager may make exceptions to this limitation with proper justification.

4.7 Pay Rates in Promotion, Demotion, Transfer, Reclassification/Reallocation

The County shall maintain a consistent and systematic policy regarding promotions, demotions, transfers, and reclassifications. In filling vacant positions, first consideration shall be granted to qualified and eligible County employees. When an employee is promoted, demoted, transferred, reclassified, or their position is reallocated, the rate of pay for the new position shall be established as follows:
4.7.1 Promotion

Consideration for promotions will be given to County employees first based on their experience and qualifications. If a current employee is chosen for the promotion, the department manager shall forward the request to the County Manager with recommendations for classification and salary. An employee approved for the promotion by the County Manager will be placed in that position at the beginning of a specified pay period. If an employee’s current salary is already at or above the new minimum salary rate, his/her current salary shall be adjusted upward or left unchanged at the discretion of the County Manager. The employee may be eligible for a salary increase at the end of six (6) months in the new classification.

4.7.2 Demotion

If an employee is demoted as a result of a reclassification or involuntary transfer, and the employee’s current salary is above the maximum rate of the salary range for the lower class, the employee’s salary will remain unchanged for a period of two years. The employee will not be eligible for salary increases until such time as the maximum salary rate of the lower classification meets or exceeds the employee’s salary.

If an employee is demoted for cause, the employee’s salary will be reduced to the lower salary grade so long as the reduced salary does not fall below the minimum salary of the new position’s salary range.

4.7.3 Transfer

If a vacancy occurs and an eligible employee who has successfully completed a probationary period wishes consideration to transfer to another department or position he/she must complete an application during the recruitment period. If a current employee is chosen, the department director will again forward the recommendation and request to the County Manager.

An employee who is approved for a lateral transfer by the County Manager in the same salary grade shall be given his/her same current salary in that classification. Lateral transfers will not be eligible for an increase at the end of six (6) months.

An employee that wishes to accept and transfer to a lower position and salary grade will be recommended and the request forwarded to the County Manager by the department director. The request shall be subject to approval from the County Manager, with exception to the Sheriff’s Office and Register of Deeds. The employee’s current salary shall be reviewed and adjusted at the discretion of the County Manager. Transfers to lower grades will not be eligible for a salary increase at the end of six (6) months.

Any employee, who has successfully completed the six (6) months probationary period, with exception to the Sheriff’s Office and Register of Deeds, and is classified as a Regular Full-Time employee, may appeal an unrequested transfer in accordance with the grievance procedure in Section 18.0 as stated in the County Personnel Policy.

4.7.4 Reclassification

When a reclassification of a position occurs, the employee whose position is reclassified to a class having a higher salary range shall be increased to the minimum rate per the new pay
range. If the employee’s current salary is already at or above the minimum salary rate, his/her current salary shall be adjusted upward or left unchanged at the discretion of the County Manager after recommendation of the department director. If the reclassification is at a higher level of responsibility, the employee will be eligible for an increase at the end of six (6) months.

4.7.5 Reallocation

When a class of positions is assigned to a higher salary range, employees in that class may receive a pay increase to the minimum step of the new range whichever is higher. If the employee's current salary is already above the new salary grade minimum, the employee's salary may be increased or left unchanged, subject to available funds and the discretion of the County Manager. In no instance, will the employee's new adjusted salary exceed the maximum of the newly assigned salary grade. If the classification of positions is reallocated to a lower salary grade and the employee's salary is above the maximum rate established for the new salary grade, the salary of the employee shall remain unchanged until such time as the position's salary grade maximum is increased above the employee's salary.

4.8 Announcing Vacancies

The applicable department director, County Manager and/or Human Resources Director shall review vacant positions to determine the need for staffing. Position vacancy announcements will be posted for a minimum of ten (10) working days on the Lincoln County Website, the local office of the Employment Security Commission, and Emailed to each employee. Optional recruiting publicity may be carried out through the media as appropriate. Position vacancy announcements shall contain at least:

1. The title, grade, and work location of the position.
2. The closing date of the announcement.
3. A summary of the duties of the position.
4. A summary of the basic qualifications.
5. The procedures for making application.
6. A statement of equal employment opportunity.

4.8.1 Internal Posting

At a Department Director's discretion, vacant positions may be posted internally. If an internal candidate is not identified and hired, the vacancy will be posted to the public. Internal postings may be posted for 5 (5) days before being posted to the public.

4.8.2 Public Posting

The general public shall be notified of job vacancies through the posting of job announcements on the public bulletin board outside the Human Resources Department and by the listing these positions with the NC Employment Security Commission and on the County website. (www.lincolncounty.org). All public postings will run for ten (10) days.

Department Directors shall ensure all employees have access to both internal and public job announcements and opportunities to apply.
4.9 Application for Employment

The County's employment application shall be accepted for any and all position listings. No other department or agency of the County other than the County Human Resources Department is authorized to accept employment applications. The County accepts applications for vacancies that are publicized. Applicants must complete a separate application for each vacancy. Copies are not accepted. Applications are received via county online software and are kept for a minimum of one year.

4.10 Applicant Tracking

The Human Resources Department is responsible for maintaining records of all position vacancy announcements, including posting and closing dates, optional referral sources used in the recruitment process, and the pool of applicants considered for each vacancy. The applicant data pool for each position includes a list of all applicants and results of interviews or test scores, (where applicable), for each position vacancy announcement. In addition, the Human Resources Department shall maintain a separate file for EEO-4 information for Federal reporting requirements.

4.11 Citizenship Requirements

Pursuant to the provisions of the Immigration Reform and Control Act of 1986, Lincoln County hires only U.S. citizens and lawfully authorized alien workers. Applicants for employment shall be required to provide documentation of United States citizenship, or application for documentation demonstrating United States citizenship, or documentation of authorized alien worker status within 3 working days from date of employment.

4.12 Appointments

Prior to employment, the Human Resources Director may meet with the department director to discuss the selection process and review the application and any additional supporting documents. If the duties of the position include the operation of County-owned or County-insured vehicle, applicants applying for the position may be required to provide an official driving history record with their application. The driving record of the selected applicant shall become a part of the personnel file.

4.13 Probationary Period of Employment

An employee appointed to a regular full time position shall serve a probationary period of six (6) months. The department director, with approval of the Human Resources Director, may extend the probationary period of an employee up to an additional six (6) months. Sworn law enforcement officers will serve a twelve (12) month probationary period. Employees subject to the Office of State Human Resources (OSHR) must also complete a twelve (12) month probationary period including the County six (6) month requirement.

Upon the approval of the department director, Human Resources Director, County Manager, or corresponding appointing authority, an employee may be separated during the probation period without the right of appeal if the judgment is that work performance or other employment related requirements are not satisfactory. Upon the satisfactory completion of the probationary period, an employee may be dismissed only as provided in Section 17.4.(Types of Disciplinary) An employee who has been promoted or had their position reclassified may not be required to serve a new probationary period.

An employee who has successfully completed a probation period, and whose performance has been evaluated at the overall meets expectation level, shall obtain regular full time status and receive 2 1/2% pay increase in their salary range if recommended and approved by the supervisor, the department
director, and the County Manager.

The County Manager shall follow the above procedures in evaluating department directors before completion of their probationary period.

4.14 Job Offers

Job offers must be in writing and must contain the job title, starting salary, or hourly pay, start date, and any contingencies to hiring including drug testing, background checks, and verification of qualifications.

4.15 Contract Employees/Temporary Agencies

Departments must receive approval from the Human Resources Director prior to hiring an individual as an independent, non-employee contractor or hiring an individual from a temporary agency.

4.16 Nepotism

No two members of an immediate family (as defined in the Definition of Terms) may be employed within the same department if such employment would result in one member of the immediate family member supervising the other family member. This includes any situation in which one member may occupy a position of influence over the other's employment, promotion, salary administration, or related management or personnel decisions.

The Board of County Commissioners shall approve the appointments by the Sheriff or Register of Deeds of a relative by blood or marriage of nearer kinship than first cousin, as required by N.C.G.S. §153A-103.

Provisions of this section shall not be retroactive, and no action shall be taken concerning those members of the same family employed in conflict with Section 4.16 (Nepotism) before the adoption of this Policy.

Relatives of County employees may be employed in any position in any department provided neither employee will be under the direct or indirect supervision of the other. A related employee is an employee’s spouse, mother, father, guardian, child, sister, brother, grandparent, grandchild, and all combinations of half, step, in-law, and adopted relationships.

In the event of employees marrying, or of a promotion resulting in the direct or indirect supervision of a County employee by another employee to whom they are related, one of the employees shall be transferred to another position, if available, within the County. If a suitable position within the County is not secured, one of the employees may be discharged.

4.17 Qualification Standards

All applicants for employment or promotion shall meet the minimum qualification standards established by the class specification and/or job description relating to the position being advertised.

Applicants shall be considered on the basis of qualifications without regard to age, sex, race, color, creed, religion, marital status, political affiliation, disability, or national origin, except where age (if under age 18 or other legal minimum age), sex, or physical or mental requirements constitute a bona fide occupational qualification necessary for job performance. Applicants with disabilities shall be given equal consideration in compliance with Section 504 of the Rehabilitation Act of 1973 as amended and other appropriate laws.
Consideration may be given to "trainee" appointments if there is an absence of suitably qualified applicants in the selection list. In this instance, the employee will be designated a "trainee" by the Human Resources Director, and/or corresponding appointing authority, and any qualification deficiencies will be eliminated through orientation and on-the-job training. If a trainee appointment is required, the employee's supervisor will prepare a training schedule and the department director will review the progress of each trainee at a minimum of once every three months. A trainee shall not remain in trainee status for longer than one year, unless otherwise required.

Once employed, employees must remain fully qualified for the position held, in that they must continue to meet all the minimum requirements, including licenses, certifications, on-going education requirements, etc., and continue to meet the physical and mental demands of the position including the work load demands in quantity and quality of work and remain able to perform all essential functions of the position with reasonable accommodation.

4.18 Selection

All applicants must meet the minimum training, education, experience, certification, and/or license requirements established for the position, except those positions defined as trainee.

The County shall use an open competitive process for the filling of vacancies subject to occasional exceptions as may be determined from other sections of this Policy. Department directors are responsible for developing, using, and documenting the selection process that best meets the needs of the County and all methods of selection shall be valid measures of job performance.

If training and experience are among the criteria for employment, the department director will determine a procedure for evaluating the training and experience of applicants. The appraisal of training and experience shall be based on the recentness, breadth, and depth of the applicant's experience and training in relation to the job requirements. Where applicable, the appraisal process shall allow for the equitable substitution of training for experience, and experience for training, within the limits stated in the position specifications.

Applicants shall not be notified of the outcome of their application for employment unless a supervisor or department director interviews them. It is the responsibility of the department director or supervisor to notify all other interviewed applicants of the status of the position.

4.19 Appointments

Prior to employment, the Human Resources Director may meet with the department director to discuss the selection process and review the application and any additional supporting documents. If the duties of the position include operation of county-owned or county-insured vehicle, applicants applying for the position may be required to provide an official driving history record with their application. The driving record of the selected applicant will become a part of the personnel file.

4.20 Trainee Status

If an employee is in trainee status, they may be paid at a rate less than the minimum of the classification of their position and are not eligible to progress to the minimum of the salary range until they are removed from trainee status. Employees subject to the State Personnel Act will be designated as "trainees" in accordance with rules and regulations established by the Office of State Personnel. Persons hired for positions requiring certification and/or licensure will be designated as trainees until such licenses or certifications are attained. The department director shall determine when the "trainee" is capable of performing the duties of the job.
4.21 Internship/Volunteer Policy

Lincoln County strives to connect with the public by giving talented and diverse students opportunities to better understand the day-to-day functions of county government. The primary objective of the county internship policy is to instill useful skills and meaningful experiences for individual career development. This policy addresses unpaid internships. Unpaid interns will follow guidelines for approval screening process without benefits or compensation.

4.21.1 Definition:

Per the Department of Labor and under the Fair Labor Standards Act, an internship relationship is present if all of the following six criteria are met:

1. The internship, even though it includes actual operation of the facilities of the employer, is similar to training which would be given in an educational environment.
2. The internship experience is for the benefit of the intern.
3. The intern does not displace regular employees, but works under close supervision of the department director or his/her designee.
4. The employer that provides the training derives no immediate advantage from the activities of the intern; and on occasion its operations may actually be impeded.
5. The intern is not entitled to a job at the conclusion of the internship.
6. The employer and the intern understand that the intern is not entitled to wages for the time spent in the internship.

4.21.2 Policy

Internships/volunteers can be arranged with individual departments and/or through the Human Resources Department with the final approval of all requests by the County Manager. Most internships will be arranged with pre-determined secondary education, college, or university institutions. Departments will work directly with educational institutions to complete and maintain internship agreements and forms. When a department establishes educational contracts with universities and colleges for student interns, the requirements of this Internship Policy will be incorporated in the contracts. All interns will be assigned a director.

Should an internship or volunteer request come from an individual not affiliated with an educational institution, the department director shall contact the Director of Human Resources Department to ensure that the internship meets the definition as defined previously in this policy. At a minimum, the Human Resources Department will need to know the reason for the request, activities in which the intern will be engaged, and the length of time expected. The Human Resources Director will make a recommendation to the County Manager and he or she shall have the final decision.

The following background checks will be completed for all post high school graduate interns*, with satisfactory results provided before the internship begins:

1. Criminal Background Check
2. Drug Screening

Should a department require further background checks; the Human Resources Department will conduct those upon request. The department utilizing the intern will be responsible for completing and submitting the necessary release forms to the Human Resources Department to complete the checks. Interns or volunteers shall not operate County vehicles.
Lincoln County does not provide unpaid interns with any benefits. This includes workers’ compensation, medical and accident insurance and any type of paid leave.

Interns who have access to confidential information must sign a confidentiality agreement stating that they agree not to disclose any confidential information to a third party or use confidential information for their own benefit or the benefit of a third party.

*Internships for Emergency Services may waive the post high school graduate (with the approval from the County Manager) clause in order to afford an opportunity to area High School students in the associated technical programs.

**4.22 Armed Forces Reinstatement (USERRA)**

An employee who enters extended active duty with the armed forces will be granted reinstatement rights commensurate with the Uniformed Services Employment and Reemployment Rights Act (USERRA) as well as other applicable State and Federal Law. An employee who is reinstated shall be credited with previous service and previously accrued sick leave.
5.0 Conditions of Employment

5.1 Purpose

It is imperative for every County employee to maintain good character and ethical practices to ensure efficient and effective government. The purpose of this Policy is to set forth rules that promote the retention of capable, diligent, and honest career employees.

5.2 Pre-employment Criminal Background Check

Lincoln County will conduct criminal background checks on all applicants that are selected as final candidates to fill either a full-time, part-time, or temporary position. It shall be the responsibility of Human Resources to conduct and evaluate criminal background checks within the guidelines as described in this policy. When implementing this policy, the County will ensure fair and unbiased treatment regardless of gender, race, color, disability, national origin, marital status, religion, or other protected class of a candidate and will comply with the Fair Credit Reporting Act, Americans with Disabilities Act, Equal Employment Opportunity Commission guidance, and other Federal and State laws.

The purpose of this policy is to ensure employees hired by Lincoln County have not committed crimes or infractions that prohibit them from performing or limit their performance in the job for which they are applying.

5.3 Workweek

The standard FLSA workweek for Lincoln County employees, except law enforcement personnel, shall be from 12:01 AM Saturday until 12:00 Midnight Friday. The County Manager may designate other FLSA workweeks for certain departments or employees whose schedules may be better suited for different workweeks. Such workweeks will be designated and documented in County payroll records. The regular workweek for the County, unless designated otherwise is from Monday, 8:00 AM and ending on Friday, 5:00 PM of the same workweek with one hour per day permitted for lunch period. In certain instances, and dependent upon the shift assignment, employees assigned to work schedules other than a normal 40-hour week may be authorized meal periods of less than one hour. When the activities of a department require alternative work schedules to meet public service objectives, the County Manager or corresponding appointing authority may authorize a deviation from the established schedule as warranted. The FLSA "work period" for law enforcement and fire protection personnel shall be documented in payroll records and conspicuously posted so that applicable personnel may readily see it.

5.4 Timesheets

All employees are required to submit bi-weekly time sheets to the Finance Department in order to receive a bi-weekly payroll check. Time sheets need to be accurate with the actual hours worked and signed by both the employee and supervisor before turning in. Time sheets need to be turned in by 12:00 PM on the Monday of payroll.

5.3 Overtime Policy

Overtime is defined as work performed by an employee in excess of the normal established workweek or, if subject to the Fair Labor Standards Act Section 7(k), other established and authorized work period. Overtime is calculated on the basis of the employee’s workweek or work period and not on a
daily basis. For most employees (exempt or nonexempt), the normal workday is from 8:00 a.m. to 5:00 p.m. with one hour for lunch. In addition, all non-exempt County employees (excluding those subject to FLSA Section 7(k), such as sworn law enforcement personnel and fire protection personnel), shall be assigned to a seven-day work period with a maximum of 40 hours of work per week before earning overtime.

However, the activities of some departments require alternative schedules to meet their work needs. In those departments, the department director, after consultation with the County Manager, may authorize a deviation from the normal schedule, including flextime, provided the needs of the County are not compromised. It is the responsibility of the department director to determine the basis and method of scheduling employee flextime hours so that no disruption or curtailment of services occurs.

Department directors shall arrange and control the work schedules of their employees to ensure County services are provided without the use of overtime as defined by this section or the Fair Labor Standards Act (FLSA) as amended. However, at the discretion of the department director, employees may be required to work overtime to provide essential county services.

5.3.1 Non-exempt Employees

For regular nonexempt employees (those employees subject to the FLSA overtime, but excluding law enforcement and fire protection personnel subject to Section 7(k), all time worked in excess of 40 hours per work week will be paid as required by the Fair Labor Standards Act. The Human Resources Director will determine which employees are nonexempt and subject to overtime provisions of the FLSA.

Law Enforcement employees may work varied schedules totaling no more than 86 hours per pay period. Law Enforcement employees who work in excess of 86 hours per pay period will be compensated by overtime pay.

For the purpose of defining and computing overtime, authorized or unauthorized absences from duty shall not be considered as time worked. Actual time worked, including actual time spent on jury duty, in accordance with the employees regularly scheduled hours, is considered as time worked.

For all non-exempt employees, the calculation of overtime hours worked, or portions of hours worked, shall be in accordance with prevailing FLSA requirements.

5.3.2 Exempt Employees

Employees determined to be exempt (e.g., Executive, Administrative, or Professional) are not subject to the overtime and time keeping provisions of the FLSA and will not receive any additional compensation for time worked in excess of their normal work period. The regular hours of exempt employees are expected to be more than 40 hours per week. Exempt employees shall record all hours worked on their time sheets.

However, if the department director determines for valid business reasons that the amount of hours worked by an exempt employee are unusually high, he may authorize informal leave for the employee. Informal leave will not be granted on an hour for hour basis. Such leave must be used within the same bi-weekly payroll period at the convenience of the department director. Hours cannot be carried forward to any future bi-weekly payroll period. In unusual circumstances, the County Manager may authorize informal time being carried beyond the two-week payroll period for exempt employees.
The County Manager must approve any informal leave for all department directors.

The work period for sworn law enforcement officers shall be 86 hours in a biweekly pay period. Nonexempt sworn law enforcement officers are exempt from the 40-hour per week overtime provisions as authorized under Section 7K of the FLSA. The salary of law enforcement personnel shall be considered compensation at the straight time rate for all hours scheduled or required to work during the 86 hours work period. If the total hours worked by an employee exceed the overtime threshold of 171 hours as established by FLSA, all hours worked in excess of 171 hours shall be paid at the time-and-one-half rate.

Vacation leave, sick leave, or other types of leave "shall not" be counted as time worked during a workweek or work period for the purposes of calculating overtime.

Nonexempt employees are prohibited from incurring overtime liability that has not been authorized by their supervisor or department director. Violations of this Policy will be cause for disciplinary action.

County work practices will comply with the Fair Labor Standards Act to the full extent required by law, and the County Manager shall assure compliance through necessary documentation and review procedures. Department directors and supervisors shall assure that hours not worked by nonexempt employees are accounted for through the appropriate use of sick leave, vacation leave, or informal leave if authorized by the department director.

Nonexempt employees may not work for a secondary employer that provides services to the County where the employee’s services benefit the County in the secondary job without written authorization from the County Manager and compensation shall be in accordance with the FLSA and 29 CFR Part 791 for “joint employment.”

### 5.4 On-Call and Call-Back Compensation

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

- **On-call standby time** consists of scheduled non-work hours in excess of the standard work period when an employee is required to be available to be called back to work on regularly scheduled or emergency basis. Called back to work time consists of actual time spent when called back to work to handle a scheduled or emergency situation.

- **On-call standby schedules** must be approved by the County Manager or designee. The Finance Office shall maintain a list of employees who are approved for on-call compensation arrangements.

- **Compensation for on-call employees** shall be determined by the County Manager or designee and shall consist of either compensatory time off or a flat payment for the time period the employee is on-call in accordance with the department plan.

- **Compensation for employees called back to work** shall be for a minimum of two hours of pay or compensatory time. For time periods above two hours, compensation will be for actual time worked. Should this additional time exceed the standard hours of work for the workweek or pay period, overtime pay rules and regulations shall apply.
5.5 Teleworking

Upon approval of the Department Director, the Human Resources Director and the County Manager, eligible County employees in certain classifications may be permitted or required to perform approved County work functions from locations other than official and traditional government office locations.

5.5.1 Purpose

The Lincoln County Government Teleworking program is designed as a temporary work arrangement in response to a public health pandemic, state of emergency declaration, or other emergent situation where an alternative arrangement for an employee’s work location may be deemed necessary. Teleworking is not a benefit or entitlement, but an alternative work arrangement intended to keep employees safe and in good health during times where physical separation between employees from the traditional workplace may be necessary.

A teleworking arrangement may include working in an alternate location exclusively or a combination of an alternate location and conventional office. Some positions, by the nature of their expectations and responsibilities, lend themselves to the possibility of teleworking; others do not. In all cases, the needs of the County and service to the citizens and internal customers take precedence in decisions about teleworking. Teleworking does not change the basic terms and conditions of employment with the County and employees are subject to all County policies that apply when working at a County facility. This policy covers the employee’s and the County’s obligations when the employee works at an alternate location, including the employee’s residence.

5.5.2 Scope

This policy applies to employees in any position type whose job functions could be performed as effectively in an alternate work location as in a conventional work location as determined by the Department Director in consultation with the Human Resources Director and the County Manager. The decision whether to allow a position or an employee to telework is subject to the sole discretion of management and is not appealable to Human Resources.

5.5.3 Definitions

Teleworking - The practice of an employee working at a location other than the conventional office such as the employee's home.

Telework employee- Employee who works in or from a non-traditional location and conducts County business functions.

5.5.4 Organizational Rules

Employee Eligibility - Employee eligibility for teleworking will be determined based on all of the following:

- The nature of position is one where the expectations can be clearly defined and work performance can be effectively evaluated regardless of where it is performed.
- The nature of the position is analyzed by the department and is recommended as suitable by the Human Resources Director for approval by the County Manager as a teleworking arrangement.
- The alternate work site is conducive to teleworking and free of distractions deleterious to teleworking as determined by the requesting department and the Human Resources Department.
- The position can function independently and the supervisor can adequately assess the work performance.
- Non-exempt positions shall not create additional overtime liability without the approval of the Director.

### 5.5.5 Implementation

#### General Requirements

- The Department Director or the County Manager may terminate teleworking at any time and for any reason for any telework employee.
- The telework employee’s conditions of employment with the County remain the same as for non-teleworking employees and employees are subject to the same policies as applicable when working at a County facility.

- Employee salary, benefits and employer-sponsored insurance coverage will not change as a result of teleworking.
- Any change to the schedule must be reviewed and approved in advance by the Department Director and must be communicated to the Human Resources Department.
- While teleworking, the employee and Department Director or direct Supervisor shall decide in advance the method of contact whether via telephone, email, or cellular phone during agreed upon hours. Telework employees must notify their supervisor if they leave their teleworking location, as they would when leaving the traditional office during the work day.
- Telework employees are prohibited from conducting face-to-face County business from their personal residence.
- The teleworking employee has the responsibility for accounting, accurately documenting, and reporting time worked to the supervisor.
- More specific conditions relating to the employee’s teleworking arrangements are detailed in the Teleworking Agreement which must be completed by the employee and their supervisor and approved by the Department Director, Human Resources Director and the County Manager.

#### Home Office Requirements

- To ensure that safe working conditions exist, the employee assumes responsibility for maintaining a safe workplace and safe work behavior during work hours.
- Restricted-access materials shall not be taken out of the office or accessed through the computer unless approved in advance by the telework employee’s supervisor. Some materials, as determined by the County Attorney, are prohibited from being removed from governmental offices; telework employees who need to access these materials will be required to come to the County’s departmental location to access them.
- Office supplies for use in the alternative work-space will be provided by the County through normal channels and shall be obtained during the employee’s in-office work period. Telework employees shall not be reimbursed for out-of-pocket expenses for work-related supplies unless approved in advance in writing by the County.
- Basic level equipment such as a computer, printer, and software may be provided to the employee. Provision of Internet access and basic level equipment will generally be provided by the employee and will be determined in writing as a part of the Teleworking Agreement.
- County equipment (if any) that is placed in the employee’s home office is to be used for County business only. All equipment distributed for teleworking remains the property of the County. The employee is required to return all County owned equipment and related material when the teleworking arrangement is discontinued.
Information Services Requirements

- To ensure hardware and software security, all software used for teleworking must be approved through the County’s Information Technology department before installation. Networking can only be established using compatible hardware and software. Only approved communication sources may be accessed using County equipment.
- Software licensed to the County shall not be duplicated or used on any equipment not approved by the County.
- Equipment, software, or files that are stolen must be reported as soon as practical but no later than the next business day.
- Unless otherwise agreed to in writing prior to any loss, damage or wear, Lincoln County does not assume liability for loss, damage or wear of employee-owned equipment.

It is not possible to identify all of the situations that may arise from a specific teleworking relationship. As such, issues will be addressed on a case by case basis and may not be binding to other arrangements.

5.5.6 Procedures

The Department Director will assess the nature of the job role and determine the compatibility of the job role and the employee’s past performance to determine suitability for teleworking in accordance with the requirements of this policy.

If, after completing an assessment, the Department Director is prepared to recommend a teleworking arrangement, a Teleworking Agreement form will be required to be completed. The Department Director will submit the recommended Teleworking Agreement to the Human Resources Director and County Manager for approval.

5.6 Paycheck Deductions

Pursuant to N.C.G.S. § 95-25.8(2) employees must provide a written authorization for deductions or withholdings (other than taxes or other amounts empowered by law). If the deduction is for the benefit of the employer, then the employer cannot bring the employee below the minimum wage for the first 40 hours in a workweek. Repayment of wage advances or unpaid loans is not a deduction and do not require written authorization from the employee.

5.6.1 Final Paycheck Deductions

An employee’s final paycheck is subject to deductions allowable by law. This may include garnishments, payment in arrears, and deductions for equipment/clothing that was issued but not returned or damaged beyond use. Pursuant to N.C.G.S. § 95-25 an employee’s wages can be held without written authorization if criminal process has been issued against an employee, if the employee has been indicted, or if the employee has been arrested pursuant to Sections 17, 20, and 32 of Chapter 15A of the North Carolina General Statutes for a charge incident to a cash shortage, inventory shortage, or damage to an employer’s property. If the amount in dispute is equal to or more than the employee’s final pay the employer may withhold all of the employee’s wages.

5.7 Payroll Procedures

All employees shall be compensated every other Thursday, on a bi-weekly basis. Should a regular payday occur on a holiday, employees may be paid at an earlier day in the week. Mandatory electronic payroll deposit is required for all County employees. It is the responsibility of the employee to properly complete and submit their time sheet to the department director.
5.8 Effective Date of Salary Adjustments

Salary adjustments shall become effective at the first day of the next payroll period.

5.9 Longevity Pay

Longevity pay is to recognize long-term service. An eligible employee who has met the criteria for eligibility of Lincoln County service shall, upon an annual vote of approval of the Board of Commissioners, receive a lump sum payment as described below.

Annual longevity pay amounts are based on the length of Lincoln County service. Longevity pay amounts are computed by total years of service according to the following table:

<table>
<thead>
<tr>
<th>*Years of Lincoln County Service</th>
<th>***Lump Sum Bonus Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>**0 – 5 Years</td>
<td>$300</td>
</tr>
<tr>
<td>5-10 Years</td>
<td>$500</td>
</tr>
<tr>
<td>10-15 Years</td>
<td>$600</td>
</tr>
<tr>
<td>15-20 Years</td>
<td>$800</td>
</tr>
<tr>
<td>20-25 Years</td>
<td>$900</td>
</tr>
<tr>
<td>25 Plus</td>
<td>$1000</td>
</tr>
</tbody>
</table>

* Part-time employees may receive a $200 lump sum bonus payment per budget year, years of service is not calculated.
** Effective date of hire must be prior to October 1st. To be eligible, the employee must be in active pay status at the time of pay out, with the exception of FMLA, Workers Compensation leave and Military Leave.
A part-time employee will qualify for the lump sum bonus payout per budget year if employee has worked a total of 520 hours as of September 30th. Longevity will be direct deposited in November of the current year. All eligible taxes and retirement shall be deducted as instructed by IRS and NC Retirement System.
* Service time is calculated by number of eligible service years by December 31st.

If an eligible employee is in pay status or is on authorized FMLA, Military Leave or Workers’ Compensation leave, longevity shall be paid as if the employee were working.

Each Department Director shall be responsible for verifying the qualifying service of each employee of their department.

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

Longevity pay is not a vested right, and an employee who terminates his/her employment with the County or is terminated by the County shall have no right to longevity pay.

*** Longevity will be considered by the Board of Commissioners during each budget year.

5.10 Confidentiality of Information

Employees shall refrain from transmitting any knowledge of County considerations or decisions, or any other information that might be prejudicial to the interest of the County, to other persons other than in connection with the discharge of their official responsibilities.
5.11 Political Activity

While on duty, no official or employee of Lincoln County shall:

1. Engage in any political activity.
2. Use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.
3. Be required as a duty of office or employment, or as a condition for employment or promotion or tenure of office, to contribute funds for, or to a political or partisan purpose.
4. Solicit or act as custodian of funds for political or partisan purposes.
5. Coerce or compel contributions for political or partisan purposes from any other employee of Lincoln County.
6. Use funds, supplies, or equipment of Lincoln County for political or partisan purposes.

Every employee of Lincoln County has a civic responsibility to support good government by every available means and in an appropriate manner. As such, employees may join or otherwise affiliate with civic organizations of a partisan or political nature, may attend political meetings, advocate and support the principles or policies of civic or political organizations so long as such an affiliation does not violate any Federal or State law. None of these activities shall occur while on duty. Employees subject to the Hatch Act may not be candidates for elected office in a partisan election. Any violation of this section may subject the employee to dismissal or other disciplinary action.

5.12 Outside Employment

The work of the County takes priority over other employment interests of employees. As such, Lincoln County employees are required to provide written notification to their department director and Human Resources Director, or corresponding appointing authority, of their desire to engage in, or intent to engage in, any external employment. All requests for employment outside of the normal work schedule of an employee must be approved in advance by their department director, Human Resources Director, and County Manager. Outside employment by department directors must be approved by the County Manager. In order to avoid any potential conflict of interest, no current employees of departments under the authority of the County Manager shall be approved to work for a current vendor or contractor of Lincoln County.

Outside employment without prior approval from the County will be deemed improper conduct and subject the employee to disciplinary action, up to and including dismissal. Adherence to this policy, as set forth herein, is a condition of employment. Failure to comply with this policy shall result in disciplinary action, up to and including termination.

5.13 Solicitations, Distributions and Use of Bulletin Boards

Under no circumstances may an employee disturb the work of others by soliciting or distributing literature during working time. Solicitations must be for non-profit only.

Persons not employed by Lincoln County may not solicit Lincoln County employees for any purposes on County premises without authorization of the department director.

Bulletin boards maintained by Lincoln County are to be used only for posting or distributing material pertaining to notices containing matters directly concerning County business, or announcements of a business nature that are equally applicable and of interest to employees. The department director must authorize all posted material. All employees are expected to check these bulletin boards periodically for new and/or updated information and to follow the rules set forth in all posted notices. Employees are
not to remove material from the bulletin boards.

No employee shall solicit pledges, contributions, or promote sales for any cause during working hours without the prior approval of their Department Director. Vendors may not solicit from employees during working hours. County-wide solicitations must receive prior approval from the County Manager.

5.14 Safety

To help ensure every employee’s safety and the security of the work environment, the County has established a Safety Program under the supervision of the Human Resources Director. This program provides a framework for providing a safe workplace and is incorporated by reference into this Personnel Policy Manual.

5.14.1 Employee Responsibility

Each employee is responsible for following good, safe work habits and for complying with safety and health regulations. Safety and health are to be placed first in importance in the performance of work duties. The protection of employees and the public on County property is a shared responsibility of every employee. Employees are responsible for notifying their immediate supervisors of violations or deficiencies in safe and healthful working conditions. This responsibility includes recommending corrective measures.

5.14.2 Safety Incidents Notifications

Employees shall notify their immediate supervisors of every injury or accident regardless of their scope or severity by the end of their shift. Failure to follow required procedures, directives, policies, rules, supervisory orders, or safe work habits will result in corrective or disciplinary action up to and including discharge.

5.15 Employee Identification

All County employees while on duty shall be identified by either an official Lincoln County uniform, a shirt that contains the Lincoln County seal or the logo of the department, or a Lincoln County issued ID badge. (Exception: Special Unit law enforcement)
Lincoln County at its option, may change, delete, suspend or discontinue parts or the policy in its entirety, at any time without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.
6.0 Employee Benefits

6.1 Group Health Insurance

Regular full-time employees may participate in a group health and medical care plan. Lincoln County pays such portion of the employee’s coverage in the plan as determined annually during the budget process, but the employee is responsible for any additional cost of the plan for the employee's child/children or family coverage. Additional insurance options are available through payroll deduction. Employees may participate in other plans such as, life insurance, accident insurance, cancer insurance, disability insurance, etc. The employee is responsible for all premiums for any of these plans.

6.1.1 Health Insurance Coverage After Employment Termination

The Consolidated Omnibus Budget Reconciliation Act, or COBRA, requires Lincoln County to offer terminated employees a temporary extension of their health insurance benefits that would otherwise end with their termination. The insurance coverage may also be available to the employee's spouse and/or dependents, if the employee's spouse and/or children were covered under the employee's insurance policy. If the employee (or spouse or dependent if applicable) chooses this temporary continuation coverage, they must pay the total monthly premium charged Lincoln County for coverage of employees and dependents. Upon employment termination, employees shall check with the Human Resources Office for details concerning length of coverage, cost, and other criteria regarding this benefit.

6.1.2 Health Coverage at Retirement

Lincoln County offers Health Insurance Coverage for employees based on their date of hire, years of service, and vested rights as follows:

For employees who were hired prior to September 1, 2005 and have 20 years of creditable service with Lincoln County, or for employees who were hired on or after September 1, 2005 and prior to July 1, 2013 and have 25 or more years of creditable service with Lincoln County, and who occupy a budgeted full time position that is eligible for all County benefits at the time of retirement, and who have met the minimum criteria to retire with the Local Government Employees Retirement System (LGERS) as defined in the Retirement Benefits book, such employees will receive Individual Health Insurance coverage upon retirement, on terms determined by the Board of County Commissioners annually in the budget process.

Retired employees in this category, upon reaching the age of 65, will no longer be eligible to participate in the group health insurance plan, however, they will become eligible for Medicare under the Social Security Act and the County will provide a Medicare Supplement Policy. If the County is contributing toward the cost of the Medicare Supplement premium, the amount will not exceed the amount paid for the retiree’s insurance as identified above.

For an employee who does not otherwise meet the eligibility requirements of Subsections I and II, but retires with at least 15 years of creditable service with Lincoln County, who occupied a full-time or part time budgeted position that is eligible for all County benefits at the time of retirement, and who retires as part of the N.C. Local Governmental Employees’ Retirement System, such employees shall be eligible to continue their health insurance at the employee’s expense and not at the expense of Lincoln County.
For employees who are vested in the LGERS as of July 1, 2013, (i.e., hired prior to July 1, 2008), and who receive disability retirement with LGERS, the County will make available health insurance coverage upon retirement, on terms determined by the Board of County Commissioners annually in the budget process. They will remain in the County’s group plan until said employee becomes eligible for Medicare under the Social Security Act. At that time, the County will make available to the employee a Medicare Supplement Policy. Any dependent of an employee who retires under disability, and who was covered under the employee’s health insurance plan, may continue for up to eighteen (18) months through COBRA provisions.

Employees who are not vested in LGERS as of July 1, 2013, are not eligible for this benefit.

Employees who are employed by Lincoln County as of October 2, 2016, and
(a) were hired by Lincoln County no earlier than April 23, 1990, and no later than February 20, 1995; and
(b) meet one of the following three criteria:

(i) do not retire on or before March 1, 2017, and thereafter retire with at least 24 years of service with Lincoln County, at least 15 years of which are continuous service with Lincoln County; or

(ii) do not retire on or before June 1, 2017, and thereafter retire with at least 22 years of service with Lincoln County, at least 15 years of which are continuous service with Lincoln County; or

(iii) do not retire on or before November 1, 2017, and thereafter retire with at least 20 years of service with Lincoln County, at least 15 years of which are continuous service with Lincoln County;

shall receive the following benefit upon retirement: a $345.00 per month stipend, payable the first full month after retirement, and payable each month thereafter until the employee reaches the age of 65 or dies, whichever is first. This stipend is intended to be applied by the employee toward health insurance. In lieu of receiving a monthly stipend, the retiree can take, at retirement, upon meeting the above requirements, a lump sum one-time payment calculated as the number of months until the employee reaches age 65 multiplied by the sum of $170.00.

Employees who are hired on or after July 1, 2013, are not eligible for the medical insurance coverage benefits outlined in above section.

The following additional criteria must be met as they relate to retiree health insurance:

a. For part time employees who are in a budgeted position that is eligible for all County benefits, the cost of the part time employee’s medical insurance coverage would be pro-rated based on the percentage of hours worked and the employee would be responsible for the balance.

b. The same company that provides health insurance coverage to employees will provide the retiree health insurance coverage. However, nothing in this Policy shall limit Lincoln County from contracting with other health insurance companies to provide health insurance coverage for their employees or retirees.

c. Any partial or full payment of insurance premiums is based upon service with Lincoln County only. Service with other North Carolina Retirement System employers does not qualify an employee or retiree for benefits within this Section.
d. Dependents who may have been covered under the employee’s health insurance plan may continue to be covered under the County’s health insurance plan for up to eighteen (18) months through COBRA provisions in Section 6.1.1. However, any cost of coverage that extends benefits to the dependents shall be borne by the retired employee and not Lincoln County. The dependent coverage will be discontinued after 18 months.

e. All premium payments owed by the employee are due the 25th of each month. Upon the failure of an employee to pay such premium, Lincoln County may at its option, immediately terminate the coverage provided herein.

6.2 Dental Insurance

Regular full-time employees may participate in the County’s dental plan. Lincoln County pays such portion of the employee’s coverage in the plan as determined annually during the budget process, but the employee is responsible for any additional cost of the plan for the employee’s child/children or family coverage. Information on the types, levels of coverage, and rates for services can be obtained from the Human Resources Department.

6.3 Vision Care Benefits

Vision care benefits are available to regular full time employees. Information on the types, levels of coverage, and rates for services can be obtained from the Human Resources Department.

6.4 Social Security

Employees of Lincoln County are covered by Social Security. The County matches employee contributions to the Social Security System. Further information about Social Security benefits can be obtained from the local office of the Social Security Administration.

6.5 Unemployment

Employees are covered for unemployment compensation as provided under North Carolina law. County employees laid off or dismissed may apply for unemployment compensation through the office of the State Employment Security Commission.

6.6 Retirement

Lincoln County participates in retirement systems operated by the State of North Carolina to provide future security for eligible employees. Membership in Law Enforcement Officers’ Benefit and Retirement Fund or the North Carolina Local Governmental Employees’ Retirement System (LGERS) is mandatory as a condition of employment. The Human Resources Department shall administer the system for the County and shall provide information and assistance to employees as to its operation and benefits. An employee, who is employed to fill a regular budgeted position, and works a minimum of 1,000 hours per year, becomes a member of the Local Governmental Employees’ Retirement System. After completion of one year of employment, the LGERS provides a death benefit for each member employee equal to the annual salary of the member but not less than $25,000 and not more than $50,000. Other benefits and highlights of the LGERS can be found in the booklet provided to all employees upon employment, or from the Human Resources Office.
6.7 Supplemental Retirement Income Plan of NC (401K)

The Supplemental Retirement Income Plan of North Carolina, often referred to as the 401(k) program, is a supplemental retirement plan for all employees who are members of the Local Governmental Employees' Retirement System of North Carolina. The plan is designed to be a supplemental income upon retirement. All deductions are tax-deferred on both the employee's investment and the income that might be generated by the investment until a later date, usually at retirement. Employees may select from a variety of investment plans. All amounts contributed are vested immediately.

6.8 Credit Union

Credit Union membership is available to regular and part time employees through the Local Government Employees' Credit Union. Membership is open to employees and family members.

6.9 Deferred Compensation and Supplemental Retirement

The Deferred Compensation Plan 457(b) is open to all employees. Employees may defer a portion of their salary on a regular basis, and as with the 401(k) plan, all deductions are tax deferred on both the employee's investment and the income that might be generated by the investment until a later date. The program provides a tax shelter and investment opportunity and deferred amounts may be invested in one fund or in a combination of funds to maximize the investment return. The amounts deferred to the program are from gross wages, which results in a lower net income on which to pay Federal tax, which reduces current taxes. Both the amount deferred and what it earns is permitted to accumulate tax deferred in the employee's account. Federal income taxes on the deferred amount and earnings are not payable until payments are received from the accumulated account.

6.10 Flexible Benefits Account

The County has an established Flexible Benefit Plan that allows employees the opportunity to tax shelter or "pre-tax" that portion of their income paid for health, accident, sickness, disability, cancer, and intensive care premiums, as well as, medical reimbursement, insurance reimbursement and dependent care through payroll deduction. There are two plans, 1) medical and, 2) dependent care, in which an employee may elect to participate.

The Flexible Spending Account Plan year is January 1 through December 31 with an annual "open enrollment" period.

6.11 Employee Assistance Program

Through the Employee Assistance Network, Lincoln County provides an Employee Assistance Program for its employees. The program is designed to assist employees by providing counseling for personal, family, or other problems for employees and their family members that are on the employees insurance plan. Lincoln County will pay for the first three sessions. For more information contact the Human Resources Department.

6.12 Law Enforcement Supplemental Retirement Income Plan (401K)

The Supplemental Retirement Income Plan of North Carolina, often referred to as the 401(k) program, is a supplemental retirement plan for law enforcement officers who are members of the Local Governmental Employees' Retirement System of North Carolina. The plan is designed to supplement the law enforcement officer’s income upon retirement. Law enforcement officers may also voluntarily participate in the plan by contributing their own payroll deductions to the investment program of their choice. All deductions are tax-deferred on both the employee's investment and the income that might be generated by the investment until a later date, usually at retirement. Employees may select from a
variety of investment plans. All law enforcement officers participate in the plan beginning on the date of employment. State law requires the County to contribute, on a monthly basis, an amount equal to five percent (5%) of each law enforcement officer’s salary. All amounts contributed are vested immediately.

6.13 Law Enforcement Special Separation Allowance

Certified Lincoln County Law Enforcement Officers who retire with 30 years creditable service in the NC Local Government Employees Retirement System (NCLGERS) at any age, or; with 5 years creditable service at age 55 are entitled to a special separation allowance as defined in NCGS §143.166.41(a). The term of this benefit will be provided from the date of retirement until the month following the retiree’s 62nd birthday.
Lincoln County at its option, may change, delete, suspend or discontinue parts or the policy in its entirety, at any time without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.
7.0 Holidays and Leave

7.1 Holidays Observed

The County’s holiday schedule follows the State holiday schedule. The following holidays, as designated by the Board of Commissioners, shall be observed as paid holidays by County offices and shall be counted as hours worked:

The following days are holidays with pay for permanent and probationary full-time County employees in pay status (actively working, or utilizing paid leave time).

1. New Year’s Day
2. Martin Luther King, Jr. Day
3. Good Friday
4. Memorial Day
5. Independence Day
6. Labor Day
7. Veteran’s Day
8. Thanksgiving Day (2 days including Fri. Immediately following Thanksgiving Day)
9. Christmas Day (3 workdays)

If a holiday falls on Saturday, the preceding Friday will be observed and when the holiday falls on Sunday, the following Monday will be observed. The schedule for the calendar year shall be considered for approval by the Board of Commissioners and published by December 1 of the preceding calendar year for the distribution to County employees.

All salaried employees appointed to a budgeted position, and normally scheduled to work on the day a holiday occurs, shall receive the above mentioned holidays with pay (pay for time not worked). Employees must be in pay status the day before and the day after a holiday to be eligible for payment of that holiday.

Regular employees in the Sheriff's Office, Jail, Communications Center, Solid Waste, Emergency Services, Animal Services and Water Plant will be allowed to carryover Christmas holidays that have been approved by the Board of County Commissioners to the next calendar year. Any additional holiday time will be converted to sick leave.

7.2 Work on Holidays and Other Types of Paid Leave

Holidays that occur during an employee's annual or sick paid leave period shall not be charged against the employee’s annual or sick leave. Employees who are on unpaid leave during a holiday will not receive holiday pay or be credited for holiday time.

7.3 Holidays – When Work Required

Employees required to work on the designated holidays shall be given another day for the holiday as approved by the department. Employees will be allowed to carry over three (3) holidays at the end of each year. Holidays above three (3), not taken by the end of the year shall be converted to sick leave. Employees will be paid for any balance of holidays upon termination.
7.4 Annual Leave

Annual leave is paid leave earned by regular budgeted full-time or regular budgeted part-time employees that may be taken for reasons not covered by other leave policies. For the purpose of earning annual leave, the period of twenty-six pay periods between January 1 and December 31 is established as the leave year.

Annual leave will be granted to employees at such times as will not hinder the orderly and efficient operations of the department.

7.5 Transfer of Annual Leave

The County shall not accept any transfer of annual leave from another county, municipality, or state government agency.

7.6 Annual Leave Accumulation

Employees who are employed as regular full-time employees working a workweek of at least forty (40) hours, or who are on paid leave, shall earn annual leave at the following rates:

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Hours/Pay Period</th>
<th>Hours/Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 2</td>
<td>3.25</td>
<td>84.50</td>
</tr>
<tr>
<td>More than 2, less than 5</td>
<td>3.75</td>
<td>97.50</td>
</tr>
<tr>
<td>More than 5, less than 10</td>
<td>4.75</td>
<td>123.50</td>
</tr>
<tr>
<td>More than 10, less than 15</td>
<td>5.50</td>
<td>143.00</td>
</tr>
<tr>
<td>More than 15, less than 20</td>
<td>6.50</td>
<td>169.00</td>
</tr>
<tr>
<td>More than 20</td>
<td>7.50</td>
<td>195.00</td>
</tr>
</tbody>
</table>

An employee must be in pay status one-half or more of the scheduled workdays in a payroll period in order to be credited with annual leave.

Annual leave may be accumulated without any maximum limit until the last pay period in the calendar year. However, if at the end of a calendar year an employee has more than 240 hours of annual leave, any excess annual leave will be converted to sick leave so that only 240 hours are carried forward to January 1 of the next calendar year.

7.7 Approval and Use of Leave

An employee requesting annual leave must complete a Request for Leave or Approved Absence form. Employee annual leave requests must be submitted and approved in advance by the employee’s supervisor. Annual leave shall be scheduled at a time consistent with the operating needs of the department. Annual leave may be taken in 15 minutes increments if necessary. An employee may not take annual leave not already earned at the time for which leave is requested.
7.8 Payment for Accumulated Leave at Separation

Regular employees shall receive pay for their accumulated annual leave upon resignation, dismissal, retirement, or layoff not to exceed 240 hours, unless the employee elects to transfer the leave balances to another accepting jurisdiction. If an employee dies, payment of annual leave credit will be made to the employee's estate, not to exceed the maximum of 240 hours.

When an employee retires from the county, the employee has the option to transfer any hours over 240 to sick leave on the last day of the month prior to retirement, by informing the Human Resource department in writing at least thirty (30) days prior to retirement.

7.9 Sick Leave

The regulations regarding sick leave shall apply to all departments except, Federal, State, and County employees of the North Carolina Cooperative Extension Service.

Sick leave with pay is not a right that an employee may demand, but instead a privilege granted by Lincoln County for the benefit of an employee when either the employee or an immediate family member is sick. Sick leave shall be used by an employee for absences from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, pregnancy, childbirth and postpartum care, or exposure to a contagious disease when continuing to work might otherwise jeopardize the health of others. Sick leave may also be used for illness or injury of a member of the employee's immediate family that requires the employee to provide care.

**Immediate Family** - Immediate family is considered a County employee’s spouse, mother, father, guardian, child, sister, brother, grandparent, grandchild, and all combinations of half, step, in-law and adopted relationships.

7.9.1 Accumulation

Each full-time employee working a normal workweek will accumulate sick leave at the rate of 3.75 hours per pay period, or 97.50 hours for each completed year of service. Sick leave may be accumulated without any maximum limit while the employee is in continuous service with Lincoln County and in pay status.

7.9.2 Verification

If sick leave is requested, employees may be required to provide documentation, including medical certification of the need for sick leave. Falsification of information or misuse of sick leave policies may be grounds for disciplinary action, including dismissal.

7.9.3 Use

Notification of the desire to take sick leave shall be submitted to the employee's supervisor prior to the leave (when possible), but not later than one hour before the beginning of the scheduled workday.

For each occasion in which an employee uses consecutive days of sick leave, they may be required to furnish a physician's statement concerning the nature of the illness and the employee's physical capacity to perform the duties. If the physician indicates that the employee is able to resume their duties, then the employee shall be required to return to work.

No employee may use sick leave that has not already been accrued at the time it is needed. An employee unable to perform the duties of the job after exhausting all accumulated sick leave may...
request annual leave or leave without pay for the remaining period of recuperation.

The provisions for the use of sick leave shall not apply when an injury by accident arising out of and in the course of County employment that is covered by the provisions of the North Carolina Worker's Compensation Act, except when the injury causes a disability of seven days or less for which there is no compensation under the Worker's Compensation Act.

An employee who has already submitted a letter of resignation will not be allowed to use more than one day of sick leave during the notice period without a written physician's statement.

**7.9.4 Transfer of Sick Leave to Lincoln County**

Benefited Lincoln County employees may transfer accrued but unused sick leave hours that were credited to them while employed with another local government that is a member of the Local Government Retirement System of North Carolina. This Policy applies only to sick leave accrued monthly during employment under a duly adopted sick leave policy while the employee was a member of the Local Government Retirement System of North Carolina and for which the employee may have been able to take credits and receive payment for sick leave without restriction. It is the responsibility of the employee to secure and forward to the Human Resource Department appropriate documentation that verifies the amount of accrued but unused sick leave the employee had to their credit at the time of termination from the former employer within 90 days. Sick leave accrued but unused during previous employment with Lincoln County will be reinstated effective immediately upon re-employment. The employee shall be credited with their previously accrued sick leave if they are rehired within five years.

**7.9.5 Sick Leave Upon Separation**

Upon separation of employment from Lincoln County, no employee will receive payment for unused accumulated sick leave.

**7.9.6 Retirement Credit for Accumulated Sick Leave**

Employees who are members of the North Carolina Local Governmental Employee’s Retirement System will receive credit for accrued Sick Leave at the time of retirement as established by the retirement system.

**7.10 Bereavement Leave**

Bereavement leave used by the employee will be deducted from accumulated sick leave up to three (3) working days, for a death in the employee's immediate family. Should additional time be needed to settle affairs of the family, it shall be charged to annual leave and approved by the department director. Leave to attend the funeral of someone other than immediate family may be granted by the department director and charged to annual leave. Employees will not be allowed to use sick leave in less than increments of less than fifteen (15) minutes.

**7.11 Leave without Pay**

A regular employee may be granted a leave of absence without pay for compelling personal reasons. The department director shall submit the recommendation for leave without pay for an employee for approval by the Human Resources Director.

Leave without pay requested for a department director shall be submitted to the County Manager for approval.
A request for leave without pay must be submitted in writing to the supervisor. The employee is obligated to return to duty within or at the end of the time determined by the department director or appointing authority. Upon returning from a leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted, or to one of like classification, seniority, and pay.

With proper documentation, extended medical leave without pay, not exceeding six months, may be granted upon written request in the event of a serious health condition of an employee or a member of the employee’s immediate family.

Immediate family is considered a County employee’s spouse, mother, father, guardian, child, sister, brother, grandparent, grandchild, and all combinations of half, step, in-law and adopted relationships.

Leave without pay is subject to the following conditions:

- This leave cannot exceed six months, including up to 12 weeks of family medical leave with or without pay.
- All accrued sick leave must be used first and may not be advanced.
- After all accrued sick leave has been exhausted, all accrued annual leave must be exhausted before leave without pay will be approved.

Leave without pay for non-medical reasons may be granted upon written request to the supervisor subject to the following conditions:

- This leave cannot exceed 30 working days.
- All accrued annual leave must be exhausted before leave without pay will be approved.

7.11.1 Insurance

Employees transferring from active pay status to leave without pay under the FMLA, workers’ compensation, or Military Leave may continue to benefit from County-paid insurance premiums for the duration of the leave but will be responsible for timely paying the employee’s portion of any insurance premiums. Employees transferring to or in a leave without pay status for any other reason shall become ineligible to benefit from County-paid insurance premiums beginning the first pay period in which they are paid for less than 1/2 of their regular work schedule. The employee, however, may elect to pay the total premium for their insurance(s) coverage during such periods of leave without pay. Failure to pay premiums within 30 days of the due date will result in termination of insurance coverage.

7.12 Unauthorized Leave

Employees will be considered to be on Unauthorized Leave if they are absent at any time during their regularly scheduled work day, and do not have approved leave by the authorizing party. Unauthorized Leave is considered voluntary resignation and grounds for discharge.

7.13 Family and Medical Leave (FMLA)

7.13.1 Eligibility

Pursuant to the provisions of the Family and Medical Leave Act (FMLA), employees who have worked for Lincoln County for at least 12 months and at least 1,250 hours during the prior 12 months may take unpaid leave for the following reasons:
• the birth of a child and to care for the newborn child within one year of birth;

• the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;

• to care for the employee’s spouse, child, or parent who has a serious health condition;

• a serious health condition that makes the employee unable to perform the essential functions of his or her job;

• any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered active duty”; or

• Eligible employees may take a total of 12 workweeks of FMLA based on a 12-month rolling calendar or twenty-six (26) work weeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member’s spouse, son, daughter, parent, or next of kin (military caregiver leave).

Use of FMLA for the birth, adoption, or placement of a child must be completed within 12 months after the birth, adoption, or placement. If both parents are employed by Lincoln County, they are allowed 12 weeks total.

7.13.2 Serious Health Condition

Lincoln County shall charge any work absences due to a serious health condition against an employee’s FMLA entitlement. FMLA leave is not available for colds, stomach viruses, the flu or similar conditions unless they require inpatient care or continuing treatment by a health care provider. A serious health condition means an illness, injury, or impairment, or physical or mental condition that involves any period of incapacity:

• Any period of incapacity requiring the absence of more than three full, consecutive calendar days that also involves continuing treatment by a health care provider (Continuing treatment means one in-person visit to a health care provider within the first 7 days of incapacity and either a second visit within the first thirty days or a regimen of continuing treatment under the supervision of a health care provider).

• Any period of incapacity or treatment connected with inpatient care;

• Any period of incapacity due to pregnancy;

• Any period of incapacity or treatment due to a chronic health condition;

• Any period of incapacity that is long-term or permanent due to a condition for which treatment may not be effective (e.g., cancer, AIDS)

• Any absence to receive multiple treatments (and to recover from the treatments) for a condition that would likely result in an incapacity for more than three consecutive days if left untreated (e.g., physical therapy, chemotherapy, dialysis).

7.13.3 Use of Leave with FMLA

Employees are required to use available Sick Leave, Compensatory time, and Annual Leave, in this order, concurrently with FMLA. Worker’s Compensation will always run concurrently with FMLA.

7.13.4 Notice

Employees must provide sufficient information for their supervisor to determine if the leave may qualify
for FMLA, and the anticipated timing and duration of the leave.

When the need for leave is foreseeable employees must provide the County at least 30 days’ notice of their intent to take leave.

When the need for leave is unforeseeable, the employee must give notice as soon as possible.

7.13.5 Beginning Date
The County shall determine the beginning date of FMLA in accordance with Federal Law.

7.13.6 Intermittent Leave
FMLA may be taken intermittently. When an employee requests FMLA on an intermittent basis, the County may, at its sole discretion, require the employee to temporarily transfer to an alternative position for which the employee is qualified. During this time, the employee will receive pay and benefits equivalent to their regular position. At the conclusion of FMLA, the employee will be returned to their regular position, as specified in Return to Duty.

7.13.7 Health Provider’s Certification
Any FMLA leave request based on a serious health condition of an employee or their family member must be supported by certification from a health care provider. The employee must provide a completed copy of the certification on Department of Labor Form WH-380 within 15 calendar days of submitting the request.

If a certification is returned incomplete or insufficient, the employee will have seven (7) days to provide the required information.

The County may obtain a second opinion on an employee’s condition. The selection and payment of the physician for a second opinion shall be the County’s responsibility. If the second opinion does not agree with the opinion of the employee’s health care provider then a third opinion may be obtained and shall be binding. The selection of the physician for a third opinion shall be made jointly by the employee and the County at the County’s expense.

Employees who do not return the certification within 15 days lose their right to FMLA leave and to return to the same or a substantially equivalent job.

7.13.8 Insurance and Benefit Accrual
During FMLA, the County and affected employees will continue to pay their respective portions of health insurance premiums. Failure of the employee to pay their share of the health insurance premium may result in loss of coverage; loss of coverage may be averted if the employee notifies the Director of the department, Human Resources and establishes a repayment schedule based on their ability to pay. If the employee does not return to work after the expiration of FMLA, they will be required to reimburse the County for payments of health insurance premiums during leave, and the County may institute legal action to collect these payments. The employee may be required to sign a promissory note in favor of the County for the amount to be reimbursed.

Employees who are in concurrent pay status during a period of FMLA shall continue to accrue paid leaves of absence (Sick Leave, Vacation Leave, Compensatory Time Off, and Holidays), provided they are in pay status for at least 40 hours during the pay period in which leave accrues. Employment benefits accrued by the employee up to the day FMLA begins, and not taken by the employee during the leave period, will not be lost.
7.13.9 Outside Employment While On FMLA
The County prohibits outside employment while on FMLA leave.

7.13.10 Employee Reporting and Recertification
The County may require an employee on FMLA to report periodically on their status and intent to return to work. The County also may require periodic recertification of the employee’s medical condition.

7.13.11 Return to Duty
When applicable employees returning from FMLA are required to provide a fitness for duty release from their physician.

Employees, who return to work from FMLA, prior to or on the business day following the expiration of said leave, are entitled to return to their job, or an equivalent position, without loss of benefits or pay.

Employees who are unable to return to duty at the conclusion of their FMLA may:

Use any remaining sick leave or annual leave accrual, or request additional FMLA if they have not exhausted their FMLA entitlement.

If an employee has exhausted all leave and fails to return to work, the absence will be considered unauthorized, and the employee may be discharged.

7.14 Qualifying Exigency Leave
Qualifying Exigency Leave allows up to 12 weeks of leave for employees to deal with some of the informational, financial and child-related issues that arise when a family member (spouse, child of any age or parent) is called to or on federal active duty in support of a contingency operation of the Reserve or National Guard.

Qualifying Exigency Leave may be taken on an intermittent or reduced schedule.

7.14.1 Eligibility
Qualifying Exigency Leave can be used for the following events:

- Deployment of a service member with fewer than a seven day notice;
- Military ceremonies and events, as well as support, family-assistance or informational programs related to a service member’s active duty call to active duty status;
- Providing urgent, immediate childcare or arranging for alternative childcare for the children of the service member called to active duty;
- Attending school or daycare meetings relating to the child of a service member on or called to active duty;
- Making financial or legal arrangements related to a service member’s active duty status or call to active duty; or
- Post-deployment activities for a period of 90 days after the termination of the service member’s active duty status.

If both spouses are County employees they are limited to a combined total of 12 weeks.
7.14.2 Notice
Notice of the need for qualifying exigency leave must be as soon as possible.

7.14.3 Certification
Employees requesting qualifying exigency leave must:
- fill out form WH-384 and return it to their supervisor within 15 days; and
- Provide a copy of the military member’s active duty orders or other documentation issued by the military indicating that the military member is on or called to active duty in support of a contingency operation and the dates of active duty.

7.15 Military Caregiver Leave

Eligible employees may take up to 26 weeks of leave within a single 12 month period (to begin the first day the employee takes leave) to care for a family member (spouse, child or next of kin) who has been injured or become ill while serving in the armed forces. Military Caregiver Leave is limited to one-time per covered service member per injury. Military Caregiver leave may be taken on an intermittent or reduced schedule.

7.15.1 Eligibility
Military Caregiver leave can be used for family members in the following branches of service:
- Members of the regular Armed Forces
- Members of the National Guard or Reserves, and
- Members of the regular Armed Forces or National Guard or Reserves who are on the temporary disability retired list.

To qualify for Military Caregiver Leave, a family member must have a serious injury or illness incurred in the line of duty or active duty that renders them medically unfit to perform the duties of his or her office, grade or rating, and for which:
- the service member is undergoing medical treatment, recuperation or therapy,
- is otherwise in outpatient status or
- is otherwise on the temporary disability status list.

Employees may not take military caregiver leave to care for former or retired members of the regular Armed Forces, National Guard or Reserves or for members on the permanent disability retired list.

If both spouses are County employees they are limited to a combined total of 26 weeks.

7.15.2 Notice
Employees requesting military caregiver leave must provide a 30 day notice when the leave is foreseeable or as soon as possible when it is not foreseeable.

7.15.3 Certification
Employees requesting military caregiver leave must fill out form WH-385 and return it to their supervisor within 15 days. Invitational Travel Orders will be accepted in lieu of Form WH-385.
7.16 Worker’s Compensation Leave

All County employees are covered by the North Carolina Worker's Compensation Act (the "Act") at no cost to the employees. In event of inconsistency with this document, the "Act" supersedes this document.

If an employee is accidentally injured or contracts an occupational disease as a result of their employment with the County, employee medical expenses related to the injury or disease will be paid by this program. A disability of greater than seven (7) days is required before Workers' Compensation benefits begin as authorized under the Workers' Compensation Act. If the disability exceeds twenty-one 21 days, Workers' Compensation benefits will be provided for the first seven (7)

G.S. § 97-28). If an employee is unable to work after a seven (7) day waiting period, the employee will receive a weekly cash benefit of up to two-thirds of the employee's salary, but not over the maximum established by State law.

To ensure the continuation of this benefit, an employee must immediately submit a Form 19 ("Employer's Report of Injury to Employee") identifying any job-related injury or accident specifying in detail how the injury was sustained. The employee must state whether they saw a doctor or visited a hospital or other health care facility. Form 19 is then forwarded to the Personnel Department through the employee's department. If the employee is prevented from immediately reporting the injury by reason of physical or mental incapacity, such written notice must be given within 30 days after the occurrence of the accident (N-C- G.S. §§97-22; 97-23). They in turn will complete the applicable form within 24 hours of the accident/injury and send one copy to the Personnel Department. Failure to submit a Form 19, as soon as possible, may subject the employee, the supervisor or any other responsible person to disciplinary action. Department directors will be responsible for cooperating in investigations of the accidents as requested and take necessary steps to prevent recurrences.

An employee unable to work will not receive compensation during the first seven calendar day waiting period. Employees may choose to use accrued sick or annual leave during the first seven-day period. If the injury results in a disability of more than 21 days, the Workers' Compensation shall be allowed from the date of the disability at a rate Lincoln County Personnel Policy established under State law. Any period of leave without pay or “light duty” if available for a Workers Compensation disability that qualifies as a "serious health condition "and "period of incapacity" under FMLA will run concurrently with FMLA leave.

If an employee is able to work, they may seek medical care during work time. The employee will not be charged sick or annual leave while receiving medical treatment.

While on Workers' Compensation leave, an employee retains benefits. Employees placed on Workers' Compensation leave will cease to accrue annual and sick leave hours for any pay period during which they are on leave for more than 50% of the period. Employer/employee contributions to the Local Government Retirement System of North Carolina will not be made and retirement service credit will not be earned while on leave without pay. Premiums for dependent coverage are the employee's responsibility. The employee will be in a leave without pay status and must send payment for dependent coverage to the Finance Department.

Employees receiving Workers' Compensation can expect to return to an equivalent position if they return within the 52-week limit and with a written release from their physician. However, if the employee is medically unable to perform the essential duties of their previous position, they will be placed in a suitable position according to their qualifications, availability of a position, and North Carolina Workers' Compensation Law.

Effective Date:July 19, 2021
7.17 Return to Work Program

Lincoln County is committed to providing a safe workplace for our employees. Preventing work related illness and injury is a primary goal.

Our Return to Work Program provides a mechanism for employees who are injured on the job to work toward returning to full duty. If the injured employee is not physically capable of returning to full duty, the program provides opportunities to perform his or her regular job with modifications or, when available, to perform alternate temporary work that meets the injured employee's physical capabilities, until he or she can return to full duty.

This Return to Work Program is intended to conform with and comply with all applicable law, including but not limited to the NC Workers' Compensation Act, the Americans with Disability Act, and the FMLA. To the extent this policy is inconsistent with any such law, the provisions of the applicable law shall control. This policy is not intended as, nor shall it be construed as a specific term of employment, guarantee, or right. The application of this Program is subject to budget constraints and other organizational concerns. This Program is not intended as a contract, nor shall it be construed as a guarantee of employment for any specific period of time.

7.17.1 Goals

The overall goal of the Program is to return an employee to work as soon as they are medically able after suffering from job-related injury or illness. To do so is in the best interest of the employee. The Return to Work Program promotes rehabilitation and enhances the recovery process of employees experiencing work-related injuries or illnesses, while maximizing productivity and controlling related expenditures. The Program is a partnership, which includes the injured employee, medical providers, and key Lincoln County personnel working together toward the common goal of expediting the employee’s return to physical and psychological wellbeing.

7.17.2 Benefits of Return to Work Program

Studies have shown that Return to Work Programs help both the employer and the employee. A Return to Work Program will help control costs directly related to the injury and reduce the impact of the injury on the County operations as well as on the injured worker’s life.

Employees, who return to work as soon as possible following an injury, have been shown to heal faster and better than those injured employees who remain off work. Injured employees who return to work during their healing period tend to require fewer medical treatments and incur less medical expense related to the injury. Work becomes part of medical treatment and rehabilitation and allows the injured employee to take an active role in his or her recovery.

Below are benefits Lincoln County and Lincoln County employees from this program:

Employee Benefits:

- Recovery time is shortened;
- Injured workers remain active and productive;
- Permanent disability associated with injury is reduced;
- Concerns about continued employment are resolved;
- Full or partial wages are earned bringing the injured worker’s income closer to pre-injury wages;
- Injured workers and their families experience less disruption to lives and family and social
lifestyles are maintained;
- Injured workers maintain contact with and support from co-workers and friends;
- Injured worker maintains job skills;
- Overall wellness is promoted; and
- Reduced accident and injury related costs may help preserve benefits and jobs as well as contribute to improved work environment.

Lincoln County Benefits:
- Our interest and concern for employees are reinforced;
- Workers’ compensation costs are reduced;
- Medical and disability costs are reduced and recovery time shortened;
- Decreased loss ratios and experience modifiers help control premium costs;
- Productivity is maintained and human resources are used to the maximum extent;
- Wage costs for substitute employees are saved.
- Retains skilled and experienced workers;
- Injured employees will continue to contribute;
- Expenses are not incurred for recruiting, hiring, training or salary of replacement workers;
- Work delays and business interruptions are eliminated when an experienced employee returns to work;

7.17.4 How the Return to Work Program Process

Once the injured employee has reported their injury to their Department Director/Supervisor, they will be given a packet of information advising them about the Return to Work Program. They will be referred to a contracted physician to evaluate their injury and their capabilities for performing job tasks based on job descriptions and job task analysis information.

The County’s Worker’s Compensation third party administrator shall be responsible for overseeing, coordinating, and approving the injured employee’s medical care. The physician may recommend treatment and will make a determination on the employee’s ability to return to work. The physician may recommend the employee:

- **Can return to work at full capacity without restrictions:** When the doctor gives the injured employee full release to work; the employee can go back to his or her original job.
- **Can return to work in a “Transitional Duty” assignment:** This status would include temporary modifications to the employee’s regular job such as schedule changes, reduced hours, reduced capacities, or sharing parts of the work with others are effective accommodations.
- **Is unable to return to work.** In this case the workers compensation claim would be processed and completed.

7.17.5 Transitional Duty

If the employee requires temporary modifications to his or her job, the Workers Compensation Coordinator in the Human Resources Department will work with the Department Director/Supervisor to coordinate the needed changes. Every effort will be made to ensure that Transitional Duty assignments are meaningful and productive and within the injured employee’s restrictions, as defined by the doctor.

- Transitional Duty assignments will be consistent with the treating physician’s work release, and will be consistent with and not exceed the limitations set by the treating physician (e.g., limits on how much the injured employee can lift, how long the injured employee can sit or stand, use of injured employee’s hands, etc.).
Transitional Duty assignments will be considered temporary and no longer than thirty (30) days without status review by the Workers’ Compensation Coordinator and designated management. Upon status review, Transitional Duty may be extended up to ninety (90) days at the discretion of Lincoln County. Extensions beyond ninety (90) days will be on a case-by-case basis and at the discretion of Lincoln County.

No permanent jobs will be created to accommodate a disability from a work related injury. Transitional Duty assignments will include tasks not being completed by others at the present time, tasks that are only done occasionally, tasks not being performed that, if assigned to someone participating in a Transitional Duty assignment, would allow co-workers time to accomplish additional work assignments.

Work availability may make it necessary to transfer injured employees from one Transitional Duty work assignment and department to another. Pay will be at the rate of the employee’s appointed position classification and all hours worked while on Transitional Duty may be counted as FMLA. It is the option of Lincoln County to change regular days off and work hours while an employee is in a Transitional Duty work assignment.

If Transitional Duty is offered and the injured employee refuses the offer, the Department Director/Supervisor and Human Resources Director must meet with and discuss options with the employee and determine the reasons for not participating in the Transitional Duty return to work program. After determining the reasons, the Workers’ Compensation Insurance Carrier may be notified of the injured employee’s refusal to participate and Workers’ Compensation benefits may be terminated.

Injured employees participating in Transitional Duty may be eligible to work overtime as determined on a case-by-case basis by the Workers’ Compensation Coordinator. However, injured employees may be denied overtime opportunities based on restrictions imposed by the medical provider or other factors.

When an injured employee is released to participate in the Transitional Duty Program, the injured employee does not have the option to substitute paid sick leave because he/she does not personally feel ready to perform Transitional Duty.

Once the employee is determined to be medically capable, he /or she would be returned to their normal job duties.

7.17.6 Procedures and Responsibilities in the Event of an Injury

Employee Responsibilities When Injury Occurs

An employee who is injured at work must immediately report the incident to their Department Director/Supervisor.

If medical treatment is necessary the employee will be directed by the Department Director/Supervisor to go to the County’s contracted physician, unless it is a true emergency and then emergency assistance shall be obtained.

The injured employee is responsible for following medical instructions on and off the job.

Employee will receive a Form 19 Notice of Injury Form from the County within three (3) business days. If the employee does not agree with the description or time of the accident as stated on the Form 19, the employee shall make a written report to Lincoln County Human Resources
Department within thirty (30) days of the injury.

- If placed on restricted/modified work by the treating physician, the employee is required to provide the Workers’ Compensation Coordinator with the restrictions as noted by the physician, as soon as possible after the physician’s appointment, but no later than 24 hours after the appointment. If the injury occurs after hours (defined as Friday after 5:00 p.m. and Monday before 8:00 a.m.), the employee is required to provide the medical restrictions by close of business on the next working day.

- If the employee's medical status changes at any time during the processing of an open claim, it must be reported immediately to the Workers’ Compensation Coordinator and Department Director.

**Employee Responsibilities When Returning to Work**

- Following return to work, the injured employee must immediately report any difficulties with performing assigned work to their Department Director/Supervisor and the Worker’s Compensation Coordinator. If the injured employee reports any difficulties, the Department Director/Supervisor and the Workers’ Compensation Coordinator will work with the injured employee and the workers’ compensation medical provider to determine the appropriate resolution.

- If an employee is in a Transitional Duty assignment and is unable to report to work, the employee must call and report in to the Department Director/Supervisor who is overseeing the Transitional Duty assignment.

- Maintain regular communication with Department Director/Supervisor.

- Advise Workers Compensation Coordinator when Physician authorizes return to full/regular duties.

**Department Director/Supervisor Responsibilities When Injury Occurs**

- Obtains immediate medical attention for the injured employee.

- Report incident to Lincoln County Workers Compensation Coordinator within 24 hours but no later than the close of business the next working day.

- Complete an incident investigation report within 72 hours after the injury.

- Provide employee with Lincoln County Return to Work information packet.

- If the injured employee is unable to return to work on the day following the injury, the Department Director/Supervisor is responsible for notifying the Workers’ Compensation Coordinator.

- The Department Director/Supervisor reviews information received from the doctor and in conjunction with Workers Compensation Coordinator determines if appropriate work is available.

- The Department Director/Supervisor must complete the Job Task Analysis/Job Risk Assessment Form and forward to the Workers’ Compensation Coordinator.

**Department Director/Supervisor Responsibilities When Employee is Unable to Return to Work**

- If the treating physician determines that an employee is unable to return to work, and Transitional Duty work assignment is not available, the Department Director/Supervisor is responsible for notifying the Worker’s Compensation Coordinator.
• The Department Director/Supervisor must maintain weekly communications with employee.

**Department Director/Supervisor Responsibilities When Employees Return to Work**

- When an injured employee is unable to return to work on the day following the injury, the Department Director is responsible for notifying the Workers’ Compensation Coordinator in the Human Resources Department. The Workers’ Compensation Coordinator will review information about the case with the Department Director including information received from the doctor. The Workers’ Compensation Coordinator and Department Director will decide jointly as to whether or not a Transitional Duty work assignment can be provided which will be consistent with the treating physician’s work release.

- Following an injured employee’s return to work, the Department Director/Supervisor shall monitor the injured employee’s progress to assure that restrictions are carefully followed and assist to resolve any difficulties.

- Maintain regular communication with employee.

**Workers Compensation Coordinator Responsibilities When Injury Occurs**

- Complete a Form 19 Notice of Injury and forward to Workers Compensations Claims Administrator within three (3) business days. Send a copy of this form to the employee.

- If the employee provides a written statement disputing the description or time outlined on Form 19, will conduct a follow up investigation.

**Workers Compensation Coordinator Responsibilities When Employee Returns to Work**

- Review all changes in medical status throughout an open claim and assess job restrictions.

- Coordinate and monitor Transitional Duty work assignments. If transitional work is not available in the injured employee’s department, the Workers’ Compensation Coordinator will determine if appropriate work meeting the employee’s medical restrictions is available in other departments. The Workers’ Compensation Coordinator is responsible for facilitating discussions among Department Director/Supervisors to assure placement of injured employee in Transitional Duty work assignments.

- Obtain employee signature on Transitional Duty Work Assignments Right and Responsibilities Form and Transitional Duty Offer Letter. The original copy of the Transitional Duty Work Assignment Form and Transitional Duty Offer Letter will be maintained by the Workers’ Compensation Coordinator and one copy of the Transitional Duty Work Assignment form and Transitional Duty Offer Letter will be provided to the employee.

- Forward the Return to Work/Transitional Duty Physician’s Medical Form to the treating physician.

- Monitor the injured employee’s progress, in conjunction with Department Director/Supervisor, to assure that restrictions are carefully followed and assist to resolve any difficulties.

- The Workers’ Compensation Coordinator will schedule and coordinate a status review with the employee, Department Director/Supervisor, and physician if applicable, every thirty (30) days for all employees on transitional assignments. The status reviews determine if an extension of transitional employment will be recommended to the Human Resources Director for final approval.

- Coordinate communications and the exchange of information among the treating doctor, the Department Director/Supervisor and workers’ compensation administrator.
- Coordinate benefit payments.
- Provide the employee a copy of the Transitional Duty Completion/Closure form at the conclusion of the Transitional Duty assignment.
- Coordinate monthly open claims status meetings with County Manager, Human Resources Director, Department Director/Supervisor, and claims administrator as appropriate.

7.18 Military Leave

Permanent employees who are members of the National Guard or Armed Forces Reserves will be allowed fifteen (15) work days of Military Leave with pay each calendar year, with a maximum of eight (8) hours per day. If more than fifteen (15) days of military duty is required during a calendar year, the employee shall be eligible to take accumulated Annual Leave or Leave Without Pay. Employees shall submit a copy of their orders to their Supervisors and the Human Resources Department when military obligations require them to be absent from County employment. Employees who are unable to provide their orders before taking Military Leave are required to submit them, via fax or mail, to their Supervisors and the Human Resources Department as soon as they are available.

While taking Military Leave, the employee’s leave credits and other benefits shall continue to accrue. Permanent employees who are in the National Guard or Armed Forces Reserves have all job rights specified in the Veterans’ Readjustment Assistance Act and the Uniformed Services Employment Reemployment Rights Act (USERRA). Employees who are called to extended active duty (in excess of 15 days in a calendar year) may continue to participate in the County’s group health insurance plan to the same extent as prior to call-up, subject to periodic plan changes as might be imposed on other County employees. Employees who choose to continue under the County plan must inform the County of their desire to do so within 30 days following call-up.

7.19 Jury Duty/Civil Leave

A County employee called for jury duty in State or Federal court shall receive leave with pay for such duty during the required absence without charge to accumulated annual leave or sick leave. The employee, in addition to their regular compensation, may keep all fees and allowances paid by the courts to the employee for jury duty.

7.19.1 Witness

A County employee subpoenaed, as a witness in State or Federal court, in connection with their official duties shall receive regular compensation for such court appearance. All witness fees and travel allowances received by the employee must be submitted to the County upon receipt. Employees who are dismissed from court duties early in the day, or who report late to court in the morning, shall report to work as soon as possible, within reason. A County employee subpoenaed as a witness in State or Federal court for situations unrelated to their official duties shall not receive leave with pay for their absence. Any such absence for private matters shall be charged to accumulated annual leave or leave without pay. Witness fees and travel expenses for private court appearances are to be retained by the employee. While on jury duty, or when subpoenaed as a witness in connection with their official duties, benefits and leave shall accrue as though the employee were at work.
7.20 Voluntary Shared Leave

The purpose of voluntary shared leave is to provide economic relief for employees who are likely to suffer financial hardship as a result of a prolonged absence caused by serious medical conditions. Only regular status full-time employees are eligible to donate and/or receive donated leave. To receive donated leave, the employee at the time of receipt, must have no more than 80 hours (10 days) of sick and annual leave combined. Employees can only donate annual leave.

The Voluntary Shared Leave Donation Policy shall apply to only serious medical conditions suffered by the employee or immediate family members as defined in the Definition of Terms. An employee wishing to donate leave to another employee must complete a Voluntary Shared Leave Donation of Leave Form with the employee’s signature and forward to the County Manager for approval or disapproval.

To be eligible to donate annual leave to another employee, an employee must have in excess of eighty (80) hours of earned annual leave. A donating employee may not donate annual leave in excess of the amount that could be earned in one year. An employee may not reduce his or her annual leave balance below eighty (80) hours.

Any regular full time employee, who has completed their initial probationary period, may apply to the County Manager for donated leave by completing a Voluntary Shared Leave Application for Participation form. The County Manager shall approve or disapprove all requests for receipt of donated leave. A third person, department director, or family member may also make application acting on the employee’s behalf.

All leave donations must be made to a designated employee that has been approved by the Human Resources Director or the County Manager. Leave may not be donated to a pool or bank.

All donations of leave, and the amount of hours donated, must be signed by the donating employee with the name of the employee to receive the donation of leave clearly visible and legible on the donation form. The donating employee may not receive compensation in any form for the donation of leave. Acceptance of compensation for donated leave may result in dismissal.

An employee may normally receive no more than 1,040 hours (130 workdays) of donated leave, either continuously or for the same condition on a recurring basis for up to 12 months. Holidays falling during the period of the use of donated leave will be paid as full time for regular full time employees. An employee receiving donated leave will continue to earn annual leave and accrue sick leave as long as they remain in pay status and using donated leave.

7.21 Leave for Parental Involvement in Schools

Employees shall be granted eight (8) hours of leave per school year to attend or otherwise be involved at their child’s school in accordance with N.C.G.S. § 95-28.3. This includes any employee who is a parent, grandparent, guardian, or person standing in loco parentis of a school-aged child. Any leave under this section is subject to the following conditions:

• The leave shall be at a mutually agreed upon time between the supervisor and the employee.
• The employees must provide a request for Parental Involvement at least 48 hours before the time desired for the leave.
• Supervisors shall require that the employee furnish written verification from the child’s school that the employee was involved at that school during the time of the leave.

For the purpose of this section, "school" means any public school, private church school, or nonpublic school that regularly provides a course of grade school instruction, preschool, or child care facility.
These donated hours do not accumulate and unused hours will not carry over from year to year. There is no entitlement for this additional benefit during employment or in the event the employee leaves employment with the County.

7.22 Conference Attendance

An employee may be permitted to attend professional conferences, workshops, or educational meetings or classes when directly related to the employees’ field of work. Request to attend shall be submitted in writing to the supervisor for his/her approval and final approval by the department director prior to the date of the meeting. The County shall reimburse the employee for approved fees of the conferences, provided the employee submits the proper receipts.

7.23 Employee Training

A leave of absence at full or partial pay during regular working hours may be granted by the County Manager or his designee to an employee to attend seminars, conferences, or job training programs designed to enhance the employee’s ability to perform their job roles. The County may reimburse the employee provided the employee submits a receipt of course expenses and a notice of successful completion of the course. While attending employee training, the employee shall continue to earn leave credits and any other benefits to which County employees are entitled. This does not apply to an employee attending classes to obtain an Associates, Bachelors, Masters or Doctorate Degree or for personal enrichment even if it applies to the employee’s field of work.

7.24 Leave Without Pay

A regular employee may be granted a leave of absence without pay for compelling personal reasons. The department director shall submit the recommendation for leave without pay for an employee for approval by the Human Resources Director. Leave without pay requested by a department director shall be submitted to the County Manager for approval. Final approval of all leaves without pay must come from the County Manager.

A request for leave without pay must be submitted in writing to the supervisor. The employee is obligated to return to duty within or at the end of the time determined by the department director or appointing authority. Upon returning from a leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted, or to one of like classification, seniority, and pay.

With proper documentation, extended medical leave without pay, not exceeding six months in any given year, may be granted upon written request in the event of a serious health condition of an employee or a member of the employee’s immediate family. (Immediate Family - means a County employee’s spouse, mother, father, guardian, child, sister, brother, grandparent, grandchild, and all combinations of half, step, in-law and adopted relationships. This shall be subject to the following conditions:

1. This leave cannot exceed six (6) months, including up to twelve (12) weeks of family medical leave with or without pay.
2. All accrued sick leave must be used first and may not be advanced.
3. After all accrued sick leave has been exhausted, all accrued annual leave must be exhausted before leave without pay will be approved.

Leave without pay for non-medical reasons may be granted upon written request to the supervisor
subject to the following conditions:

1. This leave cannot exceed 30 working days.
2. All accrued annual leave must be exhausted before leave without pay will be approved.

Employees on leave without pay shall not earn leave of any kind.

7.24.1 Retention and Continuation of Benefits

An employee ceases to earn leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the County's group insurance plans, subject to any regulations adopted by the Board of County Commissioners and the regulations of the respective insurance carriers.

7.24.2 Absence From Duty

An employee shall notify their supervisor, not later than one hour prior to the beginning of their duty assignment, of plans to be absent from duty for any reason. Failure to do so without good reason shall be grounds for disapproval of leave and for disciplinary action.

An employee who is absent from duty for three consecutive workdays without notifying their immediate supervisor shall be considered to have resigned from their position with Lincoln County, unless failure to notify can be shown to have been beyond the employee’s control.

7.24.3 Returning to Work After Leave Without Pay

If an employee decides not to return to work from an approved leave without pay, they shall notify their supervisor immediately. The supervisor shall report this decision to the department director and the Human Resources Director. Failure to report for duty at the expiration of a leave of absence, unless an extension has been requested and approved, shall be considered a resignation.

7.25 Maternity Leave

An employee who has exhausted all FMLA leave, or who is ineligible for FMLA leave, may request to take a leave of absence from work for reasons caused by or contributed to by pregnancy, miscarriage, abortion, childbirth, or recovery there from, and for the adoption of a child under the age of five years. The employee shall apply in writing to his/her supervisor stating the nature of the condition, the anticipated dates and duration of the requested leave and the types of leave requested. The department director shall forward the request to the Human Resources Director for approval. The employee is obligated to return to duty by the end of the time determined appropriate. If the employee determines they will not return to work, they shall notify their supervisor immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested and approved shall be considered a resignation.
Lincoln County at its option, may change, delete, suspend or discontinue parts or the policy in its entirety, at any time without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.
8.0 Pandemic Flu Policy

8.1 Purpose

Lincoln County promotes a safe and healthy environment for its employees. To this end, this policy was created to:

- Manage the intrusion of an epidemic or pandemic event in which county operations and employee health are threatened.

- Minimize exposure and absenteeism in the event that an influenza/pandemic event causes a threat to employees and/or their families.

- Provide guidance on how to address situations when an employee may be infected with a contagious disease as a result of an epidemic or pandemic event.

8.2 Declaration of Pandemic Flu Event

The County Manager, in conjunction with the Chair of the Board of Commissioners and the County Health Director, will declare the effective dates that the County is in a state of an influenza/pandemic event.

The following considerations will be given in the declaration; however, due to the unpredictability of emerging infectious disease, this is not all inclusive and will serve as a baseline for determining when such a declaration will be made:

- There is a super spreading event ongoing. A super spreading event (SSEV) is an event in which an infectious disease is a significant threat and being transmitted at a much higher rate than normal.

- The CDC, WHO, or NCDHHS has declared an epidemic or pandemic due to an emerging infectious disease (EID) and there is evidence of local infection or the likelihood of local infection is imminent.

- There is an ongoing outbreak within the local region (i.e. flu, SARS, etc.) that is extraordinary and demonstrates a high probability of impacting the county and its resources.

8.3 Expectations of All Employees

All employees shall be encouraged to get flu shots or other relevant vaccines. If available, the County will provide flu shots or another appropriate vaccine to employees and they will be able to receive the vaccine during working hours. If the vaccine(s) is not available to the County, employees shall be encouraged to see a physician to receive a vaccine.

Employees shall use hand sanitizer or soap and warm water to clean hands to help minimize cross contamination.

8.4 Employees Who Become Sick

All employees shall be encouraged to stay at home, and seek medical care if necessary, if they are experiencing any flu like symptoms or other related symptoms to an ongoing event. Related symptoms
are defined as any combination of symptoms directly associated with an illness from a currently active emerging infectious disease or similar in which the person demonstrating related symptoms is likely infectious.

If an employee comes to work and appears to have related symptoms, the supervisor shall tell the employee that, unless they agree to go home, the County will need to take their temperature (each Department shall have a supply of thermometers) and monitor the employee.

- The supervisor shall monitor the employee while they take their own temperature.
- If the employee’s temperature is 100.4 or above they shall be sent home immediately.
- Employees who are sent home with related symptoms or those who have called in sick due to flu-like illness or related symptoms, must not return to work unless they are free of fever for 24 hours without the use of fever-reducing medication (i.e. Tylenol, aspirin, etc.).

If the employee’s temperature is greater than 100.4 and the employee believes they do not have the flu or active EID, they shall still be sent home. In order to be allowed to return to work, the employee may bring a note from their personal doctor stating they do not have the flu or EID and are not contagious to other employees or clients..

As soon as the Supervisor/Director becomes aware that an employee has developed flu-like/EID symptoms, they shall limit anyone from using the employee’s workspace until after the area has been disinfected.

The Supervisor shall contact the appropriate staff responsible for their work site to clean the surface with a commercial product that is both a detergent and disinfectant.

8.5 Leave for Sick Employees

If an employee is absent from work or sent home from work with flu-like/EID symptoms, the employee must use sick leave.

If an employee is absent from work due to the care of an immediate family member with flu-like/EID symptoms, the employee must use sick leave.

If an employee does not have sick leave time, the employee must use annual leave, holiday leave, or any accrued compensatory time.

If an employee does not have sick leave, annual leave, holiday leave, or accrued compensatory time, the County may approve an advance of sick leave up to a maximum of 40 hours. Sick leave will be advanced for the sickness of an employee only for flu or flu-like/EID symptoms.

8.6 Request for Advance of Sick Leave

The employee must request and receive approval for the advance of sick leave from their department director. The director shall forward the request to the Human Resources Director, with final approval by the County Manager. The Supervisor/Department Director must record on the employee’s timesheet:

- Approval of advanced sick leave time.
- Amount of advanced sick leave time.
- Reason for advancement of sick leave, flu or flu-like/EID symptoms.
8.7 Repayment of Advance Sick Leave

Advance sick leave time will be deducted from accrued sick leave, annual leave, holiday, or compensatory time until the advanced time has been repaid to the County.

Employees requesting advanced sick leave will be required to sign a written statement to repay the advanced sick leave.

If an employee leaves employment, all advanced sick leave time must be reimbursed to the County.

8.8 Family Medical Leave Act (FMLA)

If medical notes are received or if the employee has been hospitalized due to influenza or designated EID, the Supervisor/Department Director must forward the medical note along with an Employee Action Form to the Human Resources Office stating the dates the employee will be absent from work. Human Resources will then determine if the Family Medical Leave Act (FMLA) applies and will prepare the necessary documents to be sent to the employee.

8.9 Employee Assistance Program During a Pandemic Event

Employees experiencing problems shall be advised that Lincoln County offers an Employee Assistance Program (EAP). The EAP provides 24-hour confidential access to assistance and counseling for personal and workplace issues. EAP services remain available to staff and their family members to the extent practical and reasonable during an influenza outbreak or pandemic event. For more information, please contact the Human Resources Offices.

8.10 Work Place Preparedness Prior to the Pandemic Flu Event

All Department directors shall prepare and maintain a list of essential and non-essential positions. Back up plans shall be prepared to carry out the duties of essential employees in the event that their work cannot be conducted due to staff shortages. Back up plans may include assistance from other counties/departments.

Information on proper hand washing/hygiene, illness prevention, and flu/EID symptoms shall be disseminated to employees via staff bulletin boards, newsletters etc.

All County departments shall have waterless antibacterial hand cleanser available in the offices.

Departments shall inventory essential operating supplies to be sure there will be adequate available. shall vendors not be able to supply items during an influenza/pandemic event.

All County departments shall have a supply of disposable thermometers available to take the employees’ temperatures. Emergency Medical Services (EMS) will provide disposable thermometers to each department at cost.

8.11 Work Place Actions during a Pandemic Flu Event

Department directors shall notify the Human Resources Director and the County Manager if they are experiencing significant staff shortages due to illness.

The County Manager may designate the suspension of specific services to the public or specific County operations if necessary due to staff shortages or to protect staff from infection.
Unless all County operations are officially suspended, certain essential functions will still have to be maintained and all County staff that are not actively ill or infectious must report to work, or serve from a remote location, unless otherwise instructed. The County Manager may reassign staff as required in emergency situations.

The County Manager may designate essential employees to comprise the Pandemic Flu Events Team, who will be responsible for monitoring conditions for the purposes of communicating and implementing emergency plans to maintain the safety and security of Lincoln County employees and operations.

The County’s overtime for non-exempt and informal leave for exempt employees (Lincoln County Personnel Policy - Overtime Policy) will remain in effect during an influenza/pandemic event, unless the County Manager and/or Board approve a modification to the policy for the emergency.
9.0 Accommodation

9.1 Purpose

Lincoln County is committed to the fair and equal employment of people with disabilities. It is the policy of Lincoln County to accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship or a direct threat to the health or safety of the employee or others in the workplace.

Accommodations will be provided to qualified individuals with disabilities when such accommodations are directly related to performing the essential functions of a job, competing for a job, or to enjoy equal benefits and privileges of employment. This policy applies to all applicants and employees.

9.2 Definitions

Disability
For purposes of determining eligibility for accommodation, a person with a disability is one who has a physical or mental impairment that materially or substantially limits one or more major life activity, has a record of such impairment, or is regarded as having an impairment.

Accommodation
An accommodation is a modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to perform the essential functions of the job and/or enjoy an equal employment opportunity. Depending on circumstances, examples of accommodations may include but not be limited to: acquiring or modifying equipment or devices; modifying training materials; making facilities readily accessible; modifying work schedules; and re-assignment to a vacant position.

Undue Hardship
"Undue hardship" means significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of Lincoln County.

Requests for Accommodation
Requests for accommodation will be processed as quickly as reasonably practicable under the circumstances. Any individual requesting an accommodation is required to fully cooperate in the process, including providing relevant information and providing any required HIPAA consent in order for Lincoln County to contact and obtain information from the individual's health care provider, if applicable.

9.3 Employee Procedures

Employees shall submit accommodation requests to the Human Resources Department by informing the ADA Coordinator of the need for an accommodation, and providing any requested documentation of the individual's functional limitation to support the request. (All medical documentation will remain confidential.)
9.4 Reasonable Accommodation Process

When a qualified individual with a disability has requested an accommodation, the employer shall, in consultation with the individual:

Discuss the purpose and essential functions of the particular job involved. Completion of a job analysis questionnaire may be necessary.

Determine the precise job-related limitation.

Identify the potential accommodations and assess the effectiveness each would have in allowing the individual to perform the essential functions of the job.

Select and implement the accommodation that is the most appropriate for both the individual and the employer. While an individual’s preference will be given consideration, the County is free to choose among equally effective accommodations.

The ADA Coordinator will work with the employee to obtain technical assistance as needed.

The ADA Coordinator will respond to the employee within five (5) working days of receipt of the request.

If there is no reasonable accommodation that would enable the employee to perform the essential job functions, the employee and the ADA Coordinator shall work together to determine whether reassignment may be an appropriate accommodation. The ADA Coordinator will provide a decision to the employee within 20 days.
10.0 Severe Weather and Emergency Conditions

10.1 Purpose

As a local government, the essential services of Lincoln County must be provided even during periods of severe weather or emergency conditions. The County is committed to maintaining full service levels to the extent possible. However, there are certain severe weather conditions or other emergency conditions that may necessitate closing, delaying the opening of County offices, or extending work periods beyond the employee’s regular work schedule:

- Severe weather conditions may be due to weather events such as tornadoes, ice storms, high winds, snowstorm, and thunderstorm.
- Other emergency events may include natural disasters, industrial disasters, traffic/transport disasters (railroad, transfer truck accidents), and/or terrorist activities that result in a risk to persons and/or property.

If a severe weather condition or other emergency event results in extensive property damage or loss of lives, the Chairman of the Board of County Commission may declare the event to be a Disaster. Under severe or emergency weather conditions, the County Manager may modify the employees’ work schedule as necessary at his discretion.

10.2 Announcements and Notifications

When conditions warrant, the County Manager will determine and announce all decisions to close, delay, or cancel activities of the County.

When the County's schedule is altered, an announcement will be available through news media outlets, the Lincoln County Government Contact System, via the County’s website, employee contact list (Lincoln County’s mass notification System), or other automated notification system.

If severe weather or emergency conditions develop during the day, employees will be notified of closings through normal supervisory channels.

10.3 Reporting For Work

All employees are expected to make the necessary advance preparations to report each scheduled workday. All employees are responsible for ensuring they can be reached via valid contact information at all times. For purposes of severe weather or other emergency events, County Operations are deemed “Essential” or “Non Essential.

**Essential County Operations** are expected to report for work on their regular schedule in spite of any closing, delay, or cancellation. Essential County Operations are designated as, but not limited to:

i. Sheriff’s Office and Jail – Shift officers and supervisors report for shift
ii. Emergency Management – Report as necessary
iii. Fire Marshall – Report as necessary
iv. Emergency Medical Services Shift personnel and supervisors report for shift
v. Emergency Sheltering (Health and DSS) – Report when activated
vi. Water and Wastewater Field Operations – Report as normally scheduled
vii. Solid Waste – Report as assigned
viii. Water Treatment Plant – Report as normally scheduled
ix. Waste Water Treatment Plant – Report as normally scheduled
x. Facilities Management – Report as assigned
xi. Planning and Inspections – Inspectors report as dispatched
xii. Animal Services – Kennel staff report as normally scheduled
xii. Communications- report as normally scheduled.

**Non-Essential County Operations** are County provided services that are not generally needed at the time of a severe weather or other emergency event. Departments not listed under Essential County Operations are considered non-essential.

Non-essential are excused from reporting during an official closing, delay, or cancellation unless they are notified by an appropriate supervisor that they must report for work to support the necessary operations of County Government in spite of the closing, delay, or cancellation of other activities. Such determinations and notifications are made on a situation-specific basis.

Clerical staff of Essential Operations are considered Non-Essential.

Employees who do not report to work during periods of severe weather when County departments and agencies are operating under a normal work schedule, shall account for the absence by using accrued annual or holiday leave equal to the scheduled workday. In the absence of any formal department or agency guideline for notification of an unplanned leave event, the employee is required to provide notice of an absence from work no later than 30 minutes after reporting time.

Some County departments may allow employees to work a flexible schedule. However, when the County is operating on a delayed-opening schedule, all flexible scheduling is suspended unless specifically approved by the County Manager. If an employee desires to leave work early due to inclement weather conditions, approval shall first be obtained from the supervisor prior to leaving the assigned workstation. The employee shall account for the absence by using accrued annual or holiday leave to equal the number of hours not worked in the scheduled workday. Employees who leave work on approved leave prior to an official early closing time, as well as employees who report for work late or do not report for work at all, will be required to use earned annual leave or holiday leave for the hours or days taken.

All county employees are expected to work their normal work schedule in the event of adverse weather conditions. County offices and departments shall remain open for the full scheduled working day, unless authorization for early closing or other deviation is received from the County Manager’s Office. The safety of all Lincoln County employees is of paramount concern; as a result, the County Manager will always take these events very seriously when deciding the county work schedule. All offices and departments will be given as much advance notice of any authorized shutdowns or early closings as possible.

**10.4 Adverse Weather at Night**

The County Manager or his/her designee will make a decision about the County office work schedule by 6:30 a.m. the following morning. This decision will be relayed to all employees though the Lincoln County Government Contact System. The Human Resources Director will notify the media if there will be an office closing.
In the event the relay system is inoperable, the director and supervisors are expected to contact their staff.

Department Directors shall maintain an emergency contact list for their department personnel in the event that the automated Lincoln County Government Contact System does not function or there is a need for more detailed communication.

Employees shall contact their supervisor if they have any questions about reporting to work.

Employees who report for work later than the specified work schedule or who do not report for work at all will be required to use earned annual leave time for the hours or days taken.

10.5 Adverse Weather During Work Hours

The County Manager or his/her designee will make a decision about the County office work schedule. Department Directors will be notified of the work schedule through an email sent to all Department Directors.

It is the responsibility of each Lincoln County Department to develop and maintain an emergency call-back plan. Drafted plans shall be submitted to the Human Resources Director for approval prior to implementation.

For events related to snow and ice, see the Lincoln County Snow/Ice Management Policy for facility priorities.

Administrative Leave
When offices have been declared closed, employees (full-time or part-time) scheduled to work on that day will be compensated for scheduled work time with Administrative Leave (up to eight hours). Employees already scheduled for leave of any type on that day will not be compensated with Administrative Leave. Employees who work during a closing will not be compensated with Administrative Leave.

Offices Open
When offices have not been declared closed per policies described above, it is the responsibility of employees to make a good faith effort to come to work during times of inclement weather conditions without putting themselves at undue risk of injury. Absences under these circumstances require the use of compensatory time, annual leave, or leave without pay if annual leave is not available.

10.6 Compensation

Employees are categorized as exempt or non-exempt in the Lincoln County Classification Plan.

**Essential Non-Exempt Employees:** An essential non-exempt employee who is required to report to work during a period of severe weather or emergency conditions will receive their base rate of pay/normal compensation for work performed. FLSA overtime rules apply. Overtime is to be compensated as direct pay and requires the approval of the employee’s department director prior to overtime being worked. Administrative leave shall not be granted to Non-Exempt Essential employees in the event of reporting to work during a severe weather or emergency condition event.

**Essential Exempt Employees:** The County Manager may authorize the award of administrative leave for an essential exempt employee who responds to a severe weather or other emergency event, and works beyond the expected hours for the position. The awarding of administrative leave
in such case is intended to be compensation for working extended periods beyond the regular schedule, and not for trivial amounts of time (i.e. less than three or four hours). Such administrative leave must be used within six months or it is forfeited. In the event of a Disaster Declaration that authorizes FEMA reimbursement, the County Manager may authorize overtime compensation for essential exempt employees, provided such overtime is eligible for reimbursement.

**Non-Essential Employees** will not forfeit pay for regularly-scheduled work hours missed due to official closing, delay, or cancellation, nor will they be required to make up the work time or report such time as accrued leave. When Non-Essential Employees report for work to support the necessary operations of County Government during a period of severe weather or emergency conditions, they will receive their base rate of pay. FLSA overtime rules will apply. Overtime will be compensated as direct pay and requires the approval of the employee’s department director prior to being worked. Administrative leave may be granted by the County Manager for all non-essential employees in the event of closure due to a severe weather or emergency condition event.

**10.7 Extended Duty Pay for Exempt Employees**

When the County Manager determines that external circumstances create an extraordinary situation or event that threatens the operations of the County, require increased health or safety related services, or places the residents of Lincoln County at risk, the County Manager may authorize a department to offer exempt employees additional pay on a straight-time basis for work that requires additional hours beyond the regular work schedule. The additional work must be pre-scheduled and pre-authorized by the department. The number of extended duty hours will be limited to no more than 20 hours per week unless authorized by County Manager. What constitutes external circumstances that create an extraordinary situation or event is in the sole discretion of the County Manager. Examples of extraordinary situations or events include, but are not limited to, natural disasters, disease or infection outbreaks, and external attacks on County facilities or equipment. Exempt employees performing Extended Duty must perform their normal duties or other duties qualifying as exempt under the FLSA. Exempt employees performing Extended Duty shall not perform solely non-exempt duties as part of their primary duties except as allowed by law. The County Manager may also authorize Extended Duty Pay when the Board of County Commissioners declares a state of emergency in Lincoln County.
11.0 Drug Policy

Drug and Alcohol Testing Policy
Zero Tolerance
Commercial Driver's License (CDL) Non-CDL (all employees)
Employees/Safety Sensitive and Non-Safety Sensitive Employee Testing Program

11.1 Purpose

As an employer, Lincoln County is committed to provide, within its means, a healthy and safe work environment; to provide the best possible services to County citizens; to maintain the public's confidence in its employees; and to protect the County from the economic losses that occur due to alcohol and drug abuse. The intention of this policy is to make the County a safer and better place to work. It has been estimated that American companies spend over one hundred billion dollars each year on the consequences of substance abuse in the workplace. This considerable amount of money covers the costs of absenteeism, accidents and equipment damage, as well as the increased medical costs and insurance premiums that accompany such events. We know for example, that health insurance costs for employees with alcohol problems are about twice those of other employees. It has also been estimated that employees who abuse alcohol or drugs have two times as many accidents, three times as many vehicular accidents, and use three times as much sick time as those who do not. The financial cost of substance abuse is substantial; however, the emotional impact of losing a friend, co-worker, or family member to drugs or alcohol is even greater. In fact, there is no way to calculate the enormity of this kind of loss. Each of us reacts differently to drugs and alcohol, but one thing is clear -- these substances affect our judgment and our ability to perform. The danger of abusing these substances becomes especially clear when you add a motor vehicle to this picture. In an effort to prevent the effects of substance abuse in the transportation industry, the Federal Highway Administration of the Department of Transportation, the DOT, has expanded its current drug and alcohol regulations for federal motor carriers. These regulations can be found in Title 49, the Code of Federal Regulations, Part 382, entitled, "Controlled Substances & Alcohol Use and Testing", and Part 40 (as amended), entitled, "Procedures for Transportation Workplace Drug Testing Programs". To maintain a drug-free work force and to eliminate the safety risks, lost time and reduced productivity that results from the use and the influence of alcohol and/or drugs in the workplace, Lincoln County, hereafter called the County, has adopted a substance abuse policy. Any provisions set forth in this policy that are included under the sole authority of Lincoln County and are not provided under the authority of the above-named Federal regulations are underlined.

11.2 Applicability

This Drug and Alcohol Testing Policy applies to all applicants being considered for full or part time positions with Lincoln County and all full-time employees being considered for, or currently performing safety sensitive duties as defined by Title 49, Code of Federal Regulations. This applies to every person who operates a commercial motor vehicle in interstate or intrastate commerce, and is subject to the commercial driver's license requirements in Title 49, of the Code of Federal Regulations, Part 382, entitled, “Controlled Substances and Alcohol Use and Testing”, and Part 40, entitled, “Procedures for Transportation Workplace Drug Testing Programs”. Lincoln County employees who do not perform safety-sensitive functions are also covered under this policy under the sole authority of Lincoln County. A safety-sensitive function is operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or person controlling the movement of revenue service vehicles and any other County employee who is required to hold a Commercial Driver's License. Maintenance Section 15.0 Lincoln County Personnel Policy Effective September 1, 2005 functions includes the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions that perform one...
or more of the above-mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

**11.3 Definitions**

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

i. An individual dies;

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

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

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

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

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

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

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

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

**Covered Employee:** An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees), and other employees, applicants, or transferee that will not perform a safety-sensitive function but falls under the policy of the County’s own authority.
Designated Employer Representative (DER): An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Revenue Service Vehicles: All transit vehicles that are used for passenger transportation service or that require a CDL to operate. Include all ancillary vehicles used in support of the transit system.

Safety-sensitive functions: Employee duties identified as:
(1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.

(2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Driver’s License (CDL).
(3) Maintaining a revenue service vehicle or equipment used in revenue service.

(4) Controlling the movement of a revenue service vehicle.

(5) Carrying a firearm for security purposes.

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

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state–licensed marriage and family therapist or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

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

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

(1) Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer.

(2) Fails to remain at the testing site until the testing process is complete.

(3) Fails to provide a urine or breath specimen for any drug or alcohol test required by Part 40 or DOT agency regulations.

(4) In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of your provision of a specimen.

(5) Fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.

(6) Fails or declines to take a second test the employer or collector has directed you to take.

(7) Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the “shy bladder” or “shy lung” procedures.

(8) Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process).

(9) If the MRO reports that there is verified adulterated or substituted test result.

(10) Failure or refusal to sign Step 2 of the alcohol testing form.

(11) Failure to follow the observer’s instructions during an observed collection including instructions to
raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.

(12) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.

(13) Admit to the collector or MRO that you adulterated or substituted the specimen.

11.4 Education and Training

Every employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered Directors/Supervisors will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

All Directors/Supervisors or the County officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse. Under the Lincoln County’s own authority, supervisory personnel will also be trained on how to intervene constructively and how to effectively integrate an employee back into his/her work group following intervention and/or treatment.

Information on the signs, symptoms, health effects, and consequences of alcohol misuse is presented in Attachment B of this policy

11.5 Prohibited Substances

Prohibited substances addressed by this policy include the following:

Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to:

- Marijuana metabolites
- Cocaine metabolites
- Amphetamines
- Opiate metabolites
- phencyclidine (PCP)
- Ecstasy, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.

Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, as which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy. Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all covered employees be tested for ecstasy, cocaine, amphetamines, functions are
prohibited. An alcohol test can be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions. Under Lincoln County authority, an alcohol test can be performed any time a covered employee is on duty.

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

**Alcohol:** The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited. An alcohol test can be performed on a covered employee under 49 CFR Part 655 just before, during, or just after the performance of safety-sensitive job functions. Under Lincoln County authority, an alcohol test can be performed any time a covered employee is on duty.

### 11.6 Prohibited Conduct

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

Each covered employee is prohibited from consuming alcohol while performing safety sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline.

Lincoln County shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.

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

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

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

Lincoln County under its own authority also prohibits the consumption of alcohol all times employee is on duty, or anytime the employee is in uniform.

Consistent with the Drug-free Workplace Act of 1988, all Lincoln County employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including Transit Department premises and transit vehicles. Any employee arrested for the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances must notify Lincoln County Management within 24 hours of arrest.

Failure to notify the County shall result in disciplinary action.
11.7 Drug Statute Conviction

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify Lincoln County management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section 11.17 of this policy.

11.8 Testing Requirements

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49CFR part 40 as amended. All covered employees shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Sections 11.11, through 11.14 of this policy, and return to duty/follow-up.

At the County’s discretion, all employees who have tested positive for drugs or alcohol will be re-tested prior to returning to duty after completion of the Substance Abuse Professional's recommended treatment program and subsequent release to duty. Follow-up testing will also be conducted following return-to-duty for a period of one to five years, with at least six tests performed during the first year. The duration and frequency of the follow-up testing above the minimum requirements will be at the discretion of the Substance Abuse Professional.

A drug test can be performed any time a covered employee is on duty. An alcohol test can be performed just before, during, or after the performance of a safety-sensitive job function. Under Lincoln County authority, an alcohol test can be performed any time a covered employee is on duty.

All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with Lincoln County. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section 11.17 of this policy.

11.9 Drug Testing Procedures

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

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

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

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

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

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

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

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

i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Lincoln County that there was not an adequate medical explanation for the result;

ii. The MRO reports to Lincoln County that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;

iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to you as negative dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).
iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;

v. The temperature on the original specimen was out of range;

vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.

vii. All follow-up-tests; or viii. All return-to-duty tests.

11.10 Alcohol Testing Procedures

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

An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section 11.17 of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section 11.17 of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.

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

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

11.11 Pre-Employment Testing

All applicants being considered for employment for covered Lincoln County positions shall undergo urine drug testing and breath alcohol testing prior to performance of a safety-sensitive function.

a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug and alcohol test. An applicant shall not be placed into a safety-sensitive position unless the applicant takes a drug test with verified negative results, and an alcohol concentration below 0.02.
b. A non-covered employee shall not be placed, transferred or promoted into a covered position until the employee takes a drug test with verified negative results and an alcohol concentration below 0.02.

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

When an employee being placed, transferred, or promoted from a non-covered position to a covered position submits a drug test with a verified positive result, and/or an alcohol concentration above 0.04 the employee shall be subject to disciplinary action in accordance with Section 11.17.

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

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

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

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

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

**11.12 Reasonable Suspicion Testing**  
(This applies to all Lincoln County Employees)

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

(2) Lincoln County shall be responsible for transporting the employee to the testing site. Supervisors shall avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section 11.17 of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section 11.17 of this policy.

(3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the Lincoln County management and shall be attached to the forms reporting the test results.

(4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred to the SAP for an assessment. Lincoln County shall place the employee on administrative leave in accordance with the provisions set forth under Section 11.17 of this policy. Testing in this circumstance would be performed under the direct authority of Lincoln County. Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections 11.12 through 11.14 of this policy or the associated consequences as specified in Sections 11.17.

11.13 Post-Accident Testing

(1) All covered employees will be required to undergo urine and breath testing if they are involved in an accident with a transit revenue service vehicle regardless of whether or not the vehicle is in revenue service that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance cannot be completely discounted as a contributing factor to the accident.

(2) Post-accident testing will be conducted if an employee (safety sensitive or non-safety sensitive) while on the job, is involved in an accident:

• That involves a fatality
• In which the driver is issued a citation under state or local law for a moving violation arising from the accident:
  • Where one or more vehicles incurs disabling damage
  • Which results in injuries requiring immediate transportation to a medical treatment facility;

Employees involved in the above listed accidents will be required to undergo urine and breath testing (unless the employee can be completely discounted as a contributing factor to the accident).

This includes all surviving employees who are operating the vehicle and any other employee whose performance could have contributed to the accident.
As soon as practicable following an accident, as defined in this policy, the supervisor investigating the accident will notify the employee operating the vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision. The appropriate supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and within 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

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

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

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

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

11.14 Random Testing
(Non-CDL/CDL and Safety Sensitive Employees Only)

(1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees.

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

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

(4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
(5) Covered Lincoln County employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of employees that are included solely under Lincoln County authority.

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

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

11.15 Return to Duty Testing

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work at the discretion of Lincoln County. For an initial positive drug test a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undo concerns for public safety.

11.16 Follow-Up Testing

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

11.17 Result of Drug/Alcohol Test

(1) Any covered employee that has a verified positive drug or alcohol test will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, immediately terminated and referred to a Substance Abuse Professional (SAP) for assessment. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP and the employer. The employee is responsible for paying for all SAP services.

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

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

i. After receiving notice of a verified positive drug test result, a confirmed alcohol test result, or a test refusal, the Lincoln County Drug and Alcohol Program Manager will contact the employee’s supervisor to have the employee cease performing any safety-sensitive function and be terminated immediately.
ii. The employee shall be immediately terminated and referred to a Substance Abuse Professional for an assessment. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse. iii. Refusal to submit to a drug/alcohol test shall be considered a positive test result and a direct act of insubordination and shall result in termination. A test refusal includes the following circumstances:

a) A covered employee who consumes alcohol within eight (8) hours following involvement in an accident without first having submitted to post-accident drug/alcohol tests.

c) A covered employee who leaves the scene of an accident without a legitimate explanation prior to submission to drug/alcohol tests.

d) A covered employee who provides false information in connection with a drug test.

e) A covered employee who provides an insufficient volume of urine specimen or breath sample without a valid medical explanation. The medical evaluation shall take place within 5 days of the initial test attempt.

f) A verbal or written declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test within the specified time frame.

g) A covered employee whose urine sample has been verified by the MRO as substitute or adulterated.

h) A covered employee fails to appear for any test within a reasonable time, as determined by the employer, after being directed to do so by the employer.

i) A covered employee fails to remain at the testing site until the testing process is complete;

j) A covered employee fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations;

k) A covered employee fails to permit the observation or monitoring of a specimen collection.

l) A covered employee fails or declines to take a second test the employer or collector has directed you to take;

m) A covered employee fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures.

n) A covered employee fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector; behave in a confrontational way that disrupts the collection process).

o) Failure to sign Step 2 of the Alcohol Testing form.

p) Failure to follow the observer's interactions during an observed collection including interactions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process.
q) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.

r) Admit to the collector or MRO that you adulterated or substituted the specimen.

(4) For the first instance of a verified positive test from a sample submitted as the result of a random, drug/alcohol test (≥ 0.04 BAC), disciplinary action against the employee shall include immediate termination as well as:

a. Mandatory referral to Substance Abuse Professional for assessment, formulation of a treatment plan, and execution of a return-to-work agreement; (Employee must pay for SAP services).

b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from Lincoln County employment. i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the judgment of the SAP the employee is cooperating with his/her SAP recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in Section 11.17 of this policy.

c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination.

d. A periodic unannounced follow-up drug/alcohol test which results in a verified positive shall result in termination from Lincoln County employment.

(5) A verified positive post-accident or reasonable suspicion drug and/or alcohol (≥ 0.04) test shall result in termination.

(6) An alcohol test result of ≥0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder of the workday whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to an alcohol test with a result of less than 0.02 BAC. If the employee has an alcohol test result of ≥ 0.02 to ≤ 0.039 two or more times within a six month period, the employee will be removed from duty and referred to the SAP for assessment and treatment consistent with Section 11.17 of this policy.

(7) The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. The employee will be permitted to take accrued sick leave or annual leave to participate in the SAP prescribed treatment program. If the employee has insufficient accrued leave, the employee shall be placed on leave without pay until the SAP has determined that the employee has successfully completed the required treatment program and releases him/her to return-to-duty. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family and Medical Leave Act.

(8) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:

a. Mandatory referral to a Substance Abuse Professional for assessment, formulation of a treatment plan, and execution of a return-to-work agreement;

b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination
from Lincoln County employment.

i. Compliance with the return-to-work agreement means that the employee has submitted to a
drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the
judgment of the SAP the employee is cooperating with his/her SAP recommended treatment program;
and, the employee has agreed to periodic unannounced follow-up testing as defined in Section 11.16 of
this policy.

c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct
act of insubordination and shall result in termination.

d. A self-referral or management referral to the SAP that was not precipitated by a positive test result
does not constitute a violation of the Federal regulations and will not be considered as a positive test
result in relation to the progressive discipline defined in Section of this policy.

e. Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral or
management referral which results in a verified positive shall be considered a positive test result in
relation to the progressive discipline defined in Section 11.17 of this policy.

f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment
with Lincoln County.

g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and
alcohol testing.

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

11.18 Grievance and Appeal

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

11.19 Proper Application of the Policy

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

11.20 Disclosure of Information

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

(2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their
use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered
employees have the right to gain access to any pertinent records such as equipment calibration
records, and records of laboratory certifications. Employees may not have access to SAP referrals and
follow-up testing plans.
(3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, Department Supervisor and Personnel Manager on a need-to-know basis.

(4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.

(5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the preceding. The information will only be released with binding stipulation from the decision maker will make it available only to parties in the preceding. Records will be released to the National Transportation Safety Board during an accident investigation.

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

(7) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.

(8) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Lincoln County or the employee.

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

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

This Policy was adopted by the Lincoln County Board of Commissioners on January 24, 2011.

11.21 Attachment A

**CDL / SAFETY-SENSITIVE EMPLOYEE POSITIONS**

<table>
<thead>
<tr>
<th>Job Title</th>
<th>Testing Authority</th>
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<tr>
<td>Heavy Equipment Operator</td>
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<td>Sanitation Equipment Operator</td>
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<td>Van Driver</td>
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<td>Transportation Manager</td>
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<td>Utility Maintenance Worker</td>
<td>FTA</td>
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<tr>
<td>Sr. Heavy Equipment Operator</td>
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12.0 Zero Tolerance Drug and Alcohol Testing Policy Transportation Lincoln County

12.1 Purpose

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

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

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

12.2 Applicability

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties. See Attachment A for a list of employees and the authority under which they are included. A safety-sensitive function is operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or persons controlling the movement of revenue service vehicles and any transit employee who operates a vehicle that requires a Commercial Driver’s License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

12.3 Definitions

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

a. An individual dies;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Safety-sensitive functions: Employee duties identified as:

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

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

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

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

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

1. Fails to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer, after being directed to do so by the employer.
2. Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
3. Fails to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
(4) In the case of a directly observed or monitored drug collection, fail to permit monitoring or of your provision of a specimen.

(5) Fails to provide a sufficient quantity of urine or breath without a valid medical explanation.

(6) Fails or declines to take a second test as directed by the director or the employer for drug testing.

(7) Fails to undergo a medical examination, as required by the MRO or the employer’s Designated Employer Representative (DER).

(8) Fails to cooperate with any part of the testing process.

(9) Fails to follow the observer’s instructions to raise your clothing and to turn around during a directly-observed test.

(10) Possesses or wears a prosthetic or other device that could be used to interfere with the collection process.

(11) Admits to the adulteration or substitution of a specimen to the collector or MRO.

(12) Refuses to sign the certification at Step 2 of the Alcohol Testing form (ATF).

(13) Fails to remain readily available following an accident.

(14) As a covered employee, if the MRO reports that you have refused to take a drug test.

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

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

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

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

12.4 Education and Training

Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

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

12.5 Prohibited Substances

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

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids and phencyclidine as described in Section 11.5 of this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

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

Alcohol: The use of beverages containing alcohol (including any mouthwash, medication, food, candy) or any other substances such that alcohol is present in the body while performing safety-sensitive job functions is prohibited.

12.6 Prohibited Conduct

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

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

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

Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.

a. An employee with a breath alcohol concentration which measures 0.02 - 0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations. However, if the employee has a breath alcohol concentration of 0.02 – 0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:

i. The employee’s alcohol concentration measures less than 0.02; or
ii. The start of the employee’s next regularly scheduled duty period, but not less than eight hours
following administration of the test.

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

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

**TRANSPORTATION LINCOLN COUNTY**, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.

Consistent with the Drug-free Workplace Act of 1988, all **TRANSPORTATION LINCOLN COUNTY** employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the workplace including transit system premises and transit vehicles.

### 12.7 Drug Statute Conviction

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the **TRANSPORTATION LINCOLN COUNTY** management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section 11.17 of this policy.

### 12.8 Testing Requirements

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Sections 11.11, 11.12, 11.13 and 11.14 of this policy, and return to duty/follow-up. All employees covered under company authority will also be subject to testing for reasonable suspicion, post-accident, random and return to duty/follow-up using NON-DOT testing forms.

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

All covered employees will be subject to urine drug testing and breathe alcohol testing as a condition of ongoing employment with **TRANSPORTATION LINCOLN COUNTY**. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section 11.17 of this policy.

### 12.9 Drug Testing Procedures

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

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

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

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

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

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

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

i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to TRANSPORTATION LINCOLN COUNTY that there was not an adequate medical explanation for the result;

ii. The MRO reports to TRANSPORTATION LINCOLN COUNTY that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;

iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to you as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).

iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;

v. The temperature on the original specimen was out of range;

vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.

vii. All follow-up-tests; or

viii. All return-to-duty tests

12.10 Alcohol Testing Procedures

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC’s Web page for “Approved Evidential Breath Measurement Devices”. Alcohol screening tests may be performed using a non-evidential testing device (Alcohol Screening Device (ASD)) which is also approved by NHSTA. A list of approved ASD’s can be found on ODAPC’s Web page for “Approved Screening Devices to Measure Alcohol in Bodily Fluids”. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section 11.17 of
this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section 11.17 of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.

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

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

12.11 Pre-Employment Testing

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

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

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

C. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in 49 CFR 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.

D. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section 11.17 herein.

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

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

G. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
H. Applicants are required (even if ultimately not hired) to provide TRANSPORTATION LINCOLN COUNTY with signed written releases requesting FTA drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. TRANSPORTATION LINCOLN COUNTY is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must provide TRANSPORTATION LINCOLN COUNTY proof of having successfully completed a referral, evaluation and treatment plan as described in 49 CFR 655.62 of subpart G.

12.12 Reasonable Suspicion Testing

All TRANSPORTATION LINCOLN COUNTY FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee’s appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under TRANSPORTATION LINCOLN COUNTY’s authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty. TRANSPORTATION LINCOLN COUNTY shall be responsible for transporting the employee to the testing site. Supervisors shall avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section 11.17 of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section 11.17 of this policy.

A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to TRANSPORTATION LINCOLN COUNTY. When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section 11.17 of this policy. TRANSPORTATION LINCOLN COUNTY shall place the employee on administrative leave in accordance with the provisions set forth under Section 11.17 of this policy. Testing in this circumstance would be performed under the direct authority of the TRANSPORTATION LINCOLN COUNTY. Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections 11.12 through 11.14 of this policy or the associated consequences as specified in Section 11.17.
12.13 Post-Accident Testing

FATAL ACCIDENTS - All covered employees will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle regardless of whether or not the vehicle is in revenue service that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.

NON-FATAL ACCIDENTS - A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:

The accident results in injuries requiring immediate medical treatment away from the scene, and the covered employee may have contributed to the accident.

One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, and the covered employee may have contributed to the accident.

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

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

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

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

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

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

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

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

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

The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set by the FTA Administrator. The current year testing rates can be viewed online at [https://www.transportation.gov/odapc/random-testing-rates](https://www.transportation.gov/odapc/random-testing-rates).

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

Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under [TRANSPORTATION LINCOLN COUNTY](#) authority.

Random tests can be conducted at any time during an employee’s shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under [TRANSPORTATION LINCOLN COUNTY](#)'s authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee’s shift.

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

12.15 Return-To-Duty Testing

[TRANSPORTATION LINCOLN COUNTY](#) will terminate the employment of any employee that tests positive or refuses a test as specified in section 11.17 of this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. For an initial positive drug test a Return-to-Duty drug test is required and an alcohol test is allowed. For an initial positive alcohol test a Return-to-Duty alcohol test is required and a drug test is allowed. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undo concerns for public safety.
12.16 Follow-Up Testing

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

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

12.17 Result of Alcohol Test

Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAP) for assessment, and will be terminated.

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

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

a. Failure to appear for any test (excluding pre-employment) within a reasonable time, as determined by the employer. Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.

b. Failure to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.

c. In the case of a directly observed or monitored urine drug collection, failure to permit monitoring or observation of your provision of a specimen.

d. Failure to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breathe specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
e. In the case of a directly observed or monitored urine drug collection in a drug test, fails to permit the monitoring or observation of your provision of a specimen.

f. Failure to provide a sufficient quantity of urine or breath without a valid medical explanation.

g. Failure or refusal to take a second test as directed by the collector or the employer for drug testing.

h. Failure to undergo a medical evaluation, as directed by the MRO or the employer’s Designated Employer Representative (DER).

i. Failure to cooperate with any part of the testing process.

j. Failure to follow an observer’s instructions to raise and lower clothing and turn around during a directly-observed test.

k. Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process.

l. Admitting to the adulteration or substitution of a specimen to the collector or MRO.

m. Refusal to sign the certification at Step 2 of the Alcohol Testing Form (ATF)

n. Failure to remain readily available following an accident as a covered employee. If the MRO reports that the employee has a verified adulterated or substituted test result, you have refused to take a drug test.

1) An alcohol test result of $\geq 0.02$ to $\leq 0.039$ BAC shall result in the removal of the employee from duty for eight hours or the remainder of the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NON-DOT alcohol test with a result of less than 0.02 BAC.

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

a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return to work agreement;

b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from TRANSPORTATION LINCOLN COUNTY employment.

i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in Section 11.17 of this policy; however, all follow-up testing performed as part of a return-to-work agreement required under section 11.16 of this policy is under the sole authority of TRANSPORTATION LINCOLN COUNTY and will be performed using non-DOT testing forms.

c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. All tests conducted as part of the return to work agreement will be conducted under company authority and will be performed using non-DOT testing forms.

d. A self-referral or management referral to the employer’s counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal
regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section 11.17 of this policy.

e. Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section 11.16 of this policy.

f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with TRANSPORTATION LINCOLN COUNTY.

g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.

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

12.18 Grievance and Appeal

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

12.19 Proper Application of the Policy

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

12.20 Information Disclosure

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

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

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

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

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

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

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

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

Records will be released if requested by a Federal, state or local safety agency with regulatory authority over TRANSPORTATION LINCOLN COUNTY or the employee.

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

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

### 12.21 Attachment A

<table>
<thead>
<tr>
<th>Job Title</th>
<th>Job Duties</th>
<th>Testing Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Driver</td>
<td>Drives Van/Bus</td>
<td>FTA/DOT</td>
</tr>
<tr>
<td>Transportation Manager</td>
<td>Manages Transportation</td>
<td>FTA/DOT</td>
</tr>
<tr>
<td>Transportation Dispatcher</td>
<td>Supervises Calls for TLC</td>
<td>FTA/DOT</td>
</tr>
<tr>
<td>Transportation Supervisor</td>
<td>Supervises Dispatch and Drivers</td>
<td>FTA/DOT</td>
</tr>
</tbody>
</table>

### 12.22 Attachment B - Contacts

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

**Transportation Lincoln County Drug and Alcohol Program Manager**
Name: Andrew Bryant
Title: Director Planning and Inspections
Address: 115 West Main Street Lincolnton, NC 28092
Telephone Number: 704-736-8726

**Medical Review Officer**
Name: Dr. James Connolly, Nationwide Testing Association
Title: MRO – Medical Review Officer
Address: P.O. Box 508 Mooresville, NC 28115
Telephone Number: 704-660-8600

**Substance Abuse Professional**
Name: Employee Assistance Program and Counseling Associates
Title: EAP
Address: 2591 E. Main Street, Lincolnton, NC 28092
Telephone Number: 1-866-472-3272

**HHS Certified Laboratory Primary Specimen**
Name: Laboratory Corporation of America
Address: 1904 Alexander Drive, Research Triangle Park, NC 27709
Telephone Number: 800-341-1150
HHS Certified Laboratory Split Specimen
Name: Laboratory Corporation of America
Address: 1904 Alexander Drive, Research Triangle Park, NC 27709
Telephone Number: 800-341-1150
13.0 Internet and Email Use Policy

13.1 General Principals

Lincoln County information systems are intended for performing County business.

Users of County information systems are expected to abide by this Policy, as well as any other applicable local, state or federal laws and regulations, and County policies and procedures, regardless of whether a particular County information system is located internally or remotely, as in a cloud or similar type of off-site data storage, or whether data is transmitted, stored or received on mobile or fixed devices.

Examples of applicable information systems and resources may include, but is not limited to:

- Desktop PCs and Workstations
- Servers and network communications equipment
- Mobile devices such as laptops and tablets
- County issued cell phones, smartphones, and other voice and data devices
- County provided desktop telephones, projectors, and teleconferencing equipment
- Accessible enterprise resources such as email, instant messaging, internet, and other productivity software
- Remote access technologies that enable secure communications between County owned and personal devices for instances of telework or other purposes
- Other enterprise technologies acquired and approved for enabling electronic access to County resources and data
- Acquired information technology services, systems, and/or application hosted in a non-County environment, also known as “cloud” or “software as a service”
- Internet-based Information technology resources and applications used to conduct business on behalf of the County or otherwise engage, collaborate, and/or communicate with the public, partners, or other employees. This may include but is not limited to social media, streaming media, media sharing, online storage, and other non-County internet-based tools.

13.2 Acceptable Use – County Ownership

Information systems and capabilities are provided to County users for the facilitation of County business. These systems and resources are explicitly owned by Lincoln County Government.

The County owns all property rights in any content or other matter created, received, transmitted, stored on, or deleted from, any County information system.

Any County information stored on a user’s personal mobile communications device or fixed device also is County property and may be viewed, accessed, retrieved, copied or disseminated by the County at any time.

13.3 User Privacy

Users of any County information system shall not have any expectation of privacy in any message, file, image, or data created, sent, retrieved, or received by their use of these systems.

All user activity on any County information system and County-approved mobile communications or
fixed devices is subject to monitoring, logging, auditing, review, dissemination and archiving by IT. County agencies have the right to monitor any and all aspects of the County’s information systems, including any chat group, material downloaded or uploaded, and any email sent or received. This monitoring may occur at any time without notice and without the user’s awareness or permission. Internet traffic over County information systems shall be proxied and inspected for malicious code or inappropriate content prior to delivery to the user. Filters shall track user Internet activity, and be monitored for violations of this Acceptable Use Policy, as well as any other applicable laws, regulations, and County policies and procedures.

Storage of user personal information on County information systems is done at the user’s risk and is discouraged. Personal information stored on County information systems and mobile communication or fixed devices may be subject to mandatory disclosure under the North Carolina Freedom of Information Act (FOIA). Such information also may be subject to public disclosure or review by County officials. By using any County information system, the user agrees to surrender any data contained in such information system whether the data is owned by the County or alleged to be owned by anyone other than the County. Personally-owned mobile devices that have been formally approved for access to County systems or data may also need to be provided to IT in the instance that a FOIA request is made to the County, a County employee, or County agent, for IT to make a determination if any County data on the personal device is relevant to the request.

Personally-owned mobile communication devices which have been approved for access to County information or technology resources may be subject to confiscation by IT, and/or may be released to law enforcement, in the event of an information-system or data security breach, or other investigation.

13.4 Confidential Information

Users shall comply with all laws, regulations, and County policies and procedures prohibiting or limiting the disclosure of confidential information, including but not limited to County client personal information (e.g. medical records, financial information, and social security numbers) tax information (e.g. information of any person firm or business with respect to any transactions, real and personal property, income or business of the taxpayer) and County employee personal information (e.g., medical records, financial information, and social security numbers). Confidential information transmitted on County information systems shall be sent only to those recipients who are authorized to receive such confidential information. Users shall take all steps necessary to protect the privacy of confidential information maintained by the County from unauthorized access. These measures include, but are not limited to, enabling password protection on any fixed or mobile system, or otherwise locking and closing computer screens when leaving even for brief period, and logging off or terminating a system session when access is no longer needed or the user is leaving for the day.

Users shall follow all Federal, State, and County policies and guidelines defining data classification and protection requirements including County Security of Sensitive And Confidential Information and Breach Response Plan. These requirements include, but are not limited to, the following:

1. Information classified as Confidential or Sensitive shall only be stored on approved storage devices that use encryption.
2. Users shall not use non-County information systems or devices to send, forward, receive or store information classified as Confidential, Sensitive, or for Internal Use, unless approved by IT in writing.
3. Users shall not use non-County messaging utilities such as Hotmail, Yahoo Mail, AOL Mail, and Google Mail to send, forward, or receive information classified as Confidential, Sensitive or for Internal Use.

Information classified as Sensitive being sent outside of any County information system shall be
specifically labeled as such and shall have restricted distribution only to those recipients who are authorized to receive such Sensitive information. Information classified as Confidential or Sensitive transmitted to external networks shall be encrypted in accordance with IT encryption standards.

13.5 Incidental Personal Use

Personal use of any County information system is use that is not related to the purpose for which the County has granted the user authorized access. In general, incidental personal use of the County’s information systems, such as Internet access and email, is permitted, unless the agency in which the user works restricts all incidental personal use of information systems.

Personal use of information systems is prohibited when it:

1. Interferes with the user’s productivity or work performance, or with the productivity or work performance of other users;
2. Adversely affects the efficient operation of the information system or the County; or
3. Is illegal, or violates this Acceptable Use Policy, the County’s Standards of Conduct, or any other County policy or procedure.

Users must present their personal communications using County information systems in such a way as to make clear that these communications are personal, and not communications from their agency or the County or from the user in his or her capacity as a representative of the County.

Storage of personal email messages, voice messages, files, and documents on County information systems shall be kept to a minimum. Any such storage which IT determines interferes with the efficient operation of the County’s information systems is subject to removal by IT without the notice or consent of the user.

13.6 Prohibited Use

Certain activities are prohibited when using County information systems, applications, data and resources, whether on County–owned or personally–owned devices, except when County management has determined such activities are necessary for the performance of a user’s official duties. These prohibited activities include, but are not limited to, the following:

- Accessing, downloading, transmitting, printing, or storing information with sexually explicit content.
- Downloading or transmitting fraudulent, threatening, obscene, intimidating, defamatory, violent, harassing, or discriminatory messages or images.
- Accessing or downloading gambling sites.
- Pursuing personal profit or gain or engaging in outside employment or personal business, unauthorized fundraising or political activities.
- Engaging in any prohibited activity described in any other County policy, regulation or guidance related to the use of County information systems.
- Unauthorized downloading, printing, or transmitting of information protected by federal or state copyright laws.
- Misusing or misapplying County information system privileges.
- Using software in violation of County vendor licensing agreements.

13.7 Information System Security
Users shall respect the confidentiality and integrity of any County information system, be familiar with County information-system security policies and procedures, and report any security weaknesses or breaches in County information systems to IT.

Users shall respect security controls for County information systems and not attempt to or circumvent those controls.

Users shall not access or attempt to access any County information system without authorization from IT to do so.

Users shall refrain from activities that intentionally or inadvertently disrupt, impair, or undermine the performance of County information systems. These activities include, but are not limited to, the following:

- Intentionally causing physical or logical damage to a County owned information system or resource
- Downloading computer viruses or malware or otherwise introducing malicious code into a County information system
- Using Internet-based proxy servers or anonymizers, or any other tool, device or action that makes Internet activity untraceable, to bypass Web-filtering security mechanisms established on County information systems;
- Downloading, installing, or running security programs or utilities that reveal weaknesses in the security of a County information system, including but not limited to password cracking programs, network reconnaissance and discovery applications, key loggers, packet sniffers, network mapping tools, and port scanners, without prior approval from the CIO in writing; or
- Consuming excessive bandwidth through actions including but not limited to placing a program in an endless loop, printing excessive amounts of paper, and sending chain letters and unsolicited mass emails.

Files and other content downloaded from the Internet, including but not limited to non-standard shareware, free software, peer-to-peer software, and information-sharing software, is subject to prior approval from IT in writing. This approval may be conditioned upon IT checking the downloaded files or content for viruses, trojans, malware, or other potentially malicious content.

Users shall refrain from divulging to unauthorized persons any details regarding County information systems or architecture unless previously authorized.

The use of passwords to access County information systems and County-approved mobile communications devices is for the protection of the County, and not any user. Users shall take reasonable steps to prevent the disclosure of their usernames, passwords, security tokens, or other similar information to unauthorized users.

Users shall not use cloud or Internet-based hosting services to store or share County data unless specifically approved by the CIO in writing, and acquired through terms that include the requirement for compliance with IT security standards in an approved contract.

Users shall take all steps necessary to complete logoff or other termination procedures when finished using any County information system. At a minimum, users shall take such steps to logoff or terminate from a County Information system by enabling a password-protected screen saver with a short timeout period to ensure that workstations that were left unsecured will be protected any time including at the end of every workday.
Users of County-approved mobile communications devices shall ensure that precautions are taken to prevent theft or loss. Any user must immediately report to IT any loss or theft of any mobile communications device containing any information from a County information system.

Users shall not connect personally-owned, or other non-County owned, equipment or devices, including, but not limited to, USB or other storage or memory devices, iPads or iPods, PDAs, tablets, mobile devices or cameras, to the County network infrastructure in any manner without proper approval. These devices shall not be connected to County systems for purposes of charging power, transferring personal audio, video, or images as non-County owned electronic devices may introduce unnecessary risk to County systems and data.

Remote access to County information systems shall only be permissible through IT provided and supported remote access software applications, protocols, delivery mechanisms, and if necessary, IT provided and supported anti-virus software.

Users with remote access shall ensure that their equipment or mobile communication device remotely connected to a County information system is only connected to legitimately secure networks, such as a personally-owned home network under complete control of the user, or a validated provider network, and that their fixed device or mobile communications device maintains basic security controls (e.g., password protection) to prevent unauthorized access to all County information systems.

The method of storing information on a fixed or mobile communications device shall comply with IT information-system security requirements.

Users shall immediately report the loss of any fixed device or mobile communications device used to access County information systems to IT. In the event of a lost or stolen device, the County reserves the right to clear its data from the device by any available technical means.

13.8 Electronic Messaging Systems

All messages communicated on County email systems shall clearly identify the sender's name. Email or other electronic communications shall not be sent on County email systems which mask or attempt to mask the identity of the sender.

Users shall make reasonable efforts to validate the authenticity of emails received prior to opening any attachments or clicking on links.

The following activities are among those that are acceptable uses of County email systems:

- Communicating and exchanging information directly related to the mission, charter, or work tasks of the County.
- Communicating and exchanging information for professional development, to maintain currency of training or education, or to discuss issues related to the County business.
- Applying for or administering grants or contracts for County research or programs.
- Conducting advisory, standards, research, analysis, and professional society activities related to the County business.
- Announcing new laws, procedures, policies, rules, services, programs, information, or activities.
- Incidental personal use

Users of County email systems, social media, and similar systems, shall not give the impression in their communications to persons receiving such information that they are representing, giving opinions, or otherwise making statements on behalf of the County or any agency of the County, unless otherwise authorized to do so. Where appropriate, a disclaimer shall be included, unless it is clear from the
context that the email’s author or sender is not representing the County. An example of a disclaimer is: “The opinions expressed are my own, and not those of Lincoln County.”

13.9 Internet and Intranet

Lincoln County web sites including the external facing public web sites and content, and, the County-wide Intranet site for internal county applications and services access and other collaboration tools, are for County business purposes. The County provides general access to the Internet from County networks and devices to include Social Media. Also, when an employee is issued a county mobile device, access to the Internet from that device is identified as a County device. By accessing the Internet from any County IT resource, county users are identified as connecting from Lincoln County. Content and use of all County Internet and Intranet sites shall comply with County IT security policies and standards, the County Personnel Policy Manual and Standards of Conduct, and acceptable use policies as well as any other applicable County policy to include agency specific compliant procedure, standard, or guideline. This includes use and actions on an external website from Lincoln County networks and devices.

Web filtering technologies are implemented that governs policy and access to the Internet from Lincoln County network(s) and devices to protect the County’s technology systems and data from exposures to malicious code, excessive bandwidth uses, and also to block content and internet sites deemed to present in its use significant risk, inappropriate or illegal. County users shall not try to circumvent the implemented web filters or otherwise tunnel through authorized sites to gain access to unauthorized sites. Internet sites which are blocked but are later determined to be necessary to conduct business on behalf of Lincoln County can be submitted to IT for review and consideration.

Users shall not download any application, service or inappropriate data from the Internet site to County Internet or Intranet sites without authorization by IT. Users shall not use the Internet to purchase, obtain, or offer products or information for County purchases outside of County Purchasing rules and procedures or without prior approval.

13.10 County Social Media

The County uses specific social media platforms to deliver public information, communications engagement, perform customer service, and conduct transactions, and communicate official business with constituents, stakeholders, partners, the media and the public in general. Agencies may work with the IT office to establish an official Lincoln County Social Media presence which requires an authorized user/administrator and/or moderator. The County also allows employees general access to Social Media.

The IT Security Policy requirements apply to the use of Social Media platforms and capabilities. Informational content and services distributed and published through the County’s official social media outlets shall be governed by the Internet and Email Policy, Social Media Policy and Guidelines, and any other applicable County policy, procedure, standard, or guideline.

Access to non-County approved social media platforms, and diversion in implementation and use of authorized Social Media can be granted through the executive exceptions process through the IT Office.

13.11 Personal Social Media
This Policy shall not seek to regulate users establishing and using personal social media accounts and other similar communications (e.g., personal Internet sites; blogs) for personal purposes outside of the workplace and using non-County equipment, resources, and information systems.

Personal social media use, as well as the use of other similar communications tools hosted externally or internally on County hosted resources such as, but not limited to, forums and blogs, shall include no statements or depictions stating or implying that the user represents the County, is making an official statement of County policy, or is making a statement or depiction with the County's permission, whether implied or expressed, unless the user has received documented permission from the appropriate County authorities to communicate on the County's behalf in the non-County venues.

Users are encouraged to include in personal electronic communications discussing or relating to County business a disclaimer along the following lines:

“The views I express are my own and do not reflect the official view or position of Lincoln County.”

In accessing personal social media from the County IT environment, users shall follow the County standards of content. Users may not download or copy content from their personal social media accounts to Lincoln County systems without permission.

13.12 County Mobile Communication Devices

Mobile communication devices approved by IT to access County information systems shall only use County-approved remote access applications or methods, and shall be compliant with established IT technical standards within the Prohibited Use Policy.

Upon separation from the County, or for any other reason deemed necessary by IT to protect the County, any user's access to any County information system and all County mobile communications devices shall be terminated, and the user shall immediately return to IT all County-owned mobile communications devices issued to him or her.

13.13 Personal Mobile Communication Device

Personally-owned mobile communication devices shall not be connected to County information systems, nor be used to store County information, unless approved by IT in writing, and only when that use is consistent with the remote access technologies provided and intended by IT including the Mobile Devices Acceptable Use and Removable Media Acceptable Use policies. A user must sign a Mobile Device Agreement to be authorized to use his or her personally-owned mobile communications device(s) to access any County information system.

13.14 Remote Access

Remote access to County information systems shall only be permissible through IT provided and supported remote access hardware, software or services.

Remote access shall be provided after a determination has been made that access is required to perform assigned duties, or the user is defined as “essential” personnel by the County.

Remote access shall be requested using the Mobile Devices Acceptable Use in cooperation with the Removable Media Acceptable Use agreements.
Lincoln County at its option, may change, delete, suspend or discontinue parts or the policy in its entirety, at any time without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.
14.0 Travel Policy

14.1 Travel Expense and Reimbursement

County employees and officials traveling away from the County on official business will be reimbursed for mileage, lodging, meals, parking fees, tolls, registration fees, and other expenses as established by the Board of County Commissioners. Any department directors or employees of a department seeking out of state travel must first obtain approval from the County Manager before said out of state travel will be permitted. A request is to be submitted in writing to the County Manager stating the number of employees traveling and the estimated cost of the trip, and if a County vehicle will be used for the travel.

Employees and officials traveling on a reimbursable basis for the County will keep an accurate record of their expenses. Reimbursement will not be paid without a written travel claim signed by the employee and approved by the department director. Receipts for the cost of hotels, meals, and related travel expenses must be attached to the written claim, unless per diem is claimed.

14.2 Out of County Travel

14.2.1 Requests and Authorization
The requesting party will submit the Form T-100 to their Supervisor. The requesting party must provide a reasonable estimate of the cost of travel. The authorizing party will review the request to determine the necessity for travel and to ensure sufficient funds remain in the departmental travel account to cover anticipated travel costs.

14.2.2 Advances

Following approval, the authorizing party shall submit the request for a travel advance to the Finance Department on Form T-100 no later than ten days prior to travel.

Advances will not be authorized for amounts less than the sum of a full day meal per diem. Travel advances will be issued by the Finance Department no sooner than three (3) working business days prior to the travel date, except in situations where an earlier issuance will result in cost savings to the County (the reservation of airline tickets, for example), or otherwise approved by the County Finance Director.

Travel advances must be reconciled by the requesting party, approved by the authorizing party, and submitted to the Finance Department for settlement no later than ten working days following the date of return. To reconcile travel advances, the requesting party must complete the original Form T-100. In the event the authorized cost of travel exceeds the amount of the advance, the County will issue reimbursement to the requesting party. If the authorized cost of travel is less than the amount of the advance, the requesting party shall reimburse the difference to the County when they submit the completed Form T-100. If travel advances are not reconciled within ten working days following the completion of travel, the amount of the travel advance may be deducted from the employee’s pay.

14.3 In-County Travel

Employees will be reimbursed for the use of their personal vehicles on County business within Lincoln County at the prevailing mileage reimbursement rate. Documentation of the purpose of travel and actual miles traveled, supported by odometer readings, must be provided on Form T-100. Employees
who receive an Administrative Auto Allowance are not eligible for additional in-county mileage reimbursement. Requesting parties are not eligible to receive reimbursement for lodging or meal expenses incurred while traveling in Lincoln County.

14.4 Out-of-State Travel

The County Manager is the authorizing party for all out of state travel.
15.0 Use of County Vehicles

15.1 Purpose

Any employee operating a County owned or leased vehicle or a privately owned vehicle (POV) on official County business, must possess a valid driver’s license for the vehicle type from the State of North Carolina, must use or wear any necessary devices or equipment (such as eyeglasses, contact lenses, or hearing aids) to meet any restrictions in such driver’s license and must carry liability insurance of at least the minimum amounts required by North Carolina law. If the employee is operating a POV on official County business, the employee must maintain insurance of at least the minimum amounts prescribed by law. The employee must report immediately to his/her supervisor any accident or collision regardless of the estimated amount of damage and regardless of the vehicle, county owned or POV. The employee must report immediately and relinquish driving privileges if the employee has lost insurance or lost their license, become restricted, had license revoked or suspended, or otherwise become uninsurable.

Use of a County owned vehicle is neither a right nor a privilege, but a trust conferred to facilitate the necessary performance of duties. County owned vehicles shall be assigned and used only in the performance of official duties and not for any personal use, except as provided by directives from the County Manager. Employees who are placed on any disciplinary or administrative suspension or leave for any period of time shall immediately return all county vehicles in their possession to their work site or other location directed by the County Manager.

The transport of unauthorized individuals not employed by the County in County owned or leased vehicles, is prohibited unless specifically approved by the department director or the County Manager. Except in instances of hazardous weather conditions or when employees reside in the same residence, County owned vehicles are not to be used to transport other employees to or from their places of work without specific justification and approval. However, nothing in this rule shall be construed to limit the use of County owned vehicles in County sponsored car pools when authorized.

All employees who are in a safety sensitive position that are authorized and approved to operate County owned or leased vehicles will be required to complete a driving check request form authorizing the County to conduct a driving background check when the employee’s annual review is conducted. Employees must maintain a good driving record as long as they are employed. The department director shall forward the authorization form to the Human Resources Director. Employee must notify immediately their supervisor and Personnel upon receiving a driving citation. Failure to do so may result in disciplinary action.

Employees who are placed on any disciplinary or administrative suspension or leave for a period of time longer than three work days shall immediately return to their immediate supervisor all other County owned property in their possession, including, but not limited to, communications equipment, tools, computers, firearms, and other items of personal property assigned to them for the performance of their duties.

No County employee who resides outside Lincoln County, whether on a temporary or permanent basis, may use any county-owned vehicle to commute to or from his assigned workplace in Lincoln County. Such an employee must leave any assigned vehicle at his assigned workplace at the end of any work shift and commute using other means of transportation. The County Manager may make an exception to this rule for valid business reasons.
15.2 Personal Use

Pursuant to N.C.G.S. §14-247, “It shall be unlawful for any officer, agent, or employee of the State of North Carolina, or of any county or of any institution or agency of the State, to use for any private purpose whatsoever any motor vehicle of any type or description whatsoever belonging to the State, or to any county, or to any institution or agency of the State.”

15.3 Commercial Driver’s License (CDL)

Employees who are required to obtain a CDL as part of their job will be allowed the opportunity to test for the CDL twice. Employees who are unable to obtain the CDL on their second test shall be considered unable to perform their essential job duties and shall be subject to discharge. Such persons will be eligible for re-hire for subsequent job openings only after they have obtained a CDL.

15.4 Smoking and Tobacco Use

Smoking is prohibited in County buildings. It shall be unlawful for any person to smoke in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed, or controlled by the County.

Smoking and/or use of tobacco products are prohibited in all owned or leased County vehicles. An exception to the policy is, if the vehicle is assigned to one individual and occupied by one individual.

Consumption of or use of other tobacco products is prohibited in County buildings. It shall be unlawful for any person to chew, dip, or otherwise use or consume any tobacco product in any building, facility, or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed, or controlled by the County.
16.0 Grievances and Complaints

16.1 General Provisions

At Lincoln County, there are five distinct types of grievances, each of which follows a different procedure for investigation and resolution. They consist of: a) Sexual/Workplace Harassment; b) Discrimination; c) Adverse Action; d) conditions of employment regarding employee health and safety, privacy of employee records and the Americans with Disabilities Act; e) generalized complaints about work conditions.

16.2 Employee Harassment (Hostile Work Environment)

Unsolicited and unwelcome speech or conduct based upon race, sex, creed, religion, national origin, military leave, age, color, or disabling condition as defined by N.C.G.S. §168A-3 that creates a Hostile Work Environment or circumstances involving Quid Pro Quo harassment. The County has a zero-tolerance policy against any form of unlawful harassment and is strongly and actively committed to developing and maintaining a harmonious working environment for the employees and the public. For this reason, physical or verbal harassment of employees, or the public, due to age, race, color, sex, religion, sexual orientation, marital status, national origin, or disability will not be tolerated. Harassment may take the form of physical or verbal conduct that may lead to intimidation, aggression, hostility, or unequal treatment. These unwelcome activities create a hostile and abusive work environment and are inconsistent with the County's Personnel Principles and Policies. Prohibited employment practices include:

16.2.1 Unlawful Harassment

Harassment, is verbal, physical, visual or written conduct that denigrates or shows hostility or aversion toward an individual due to their age, gender, sexual orientation, race, color, religion, national origin, marital status, disability, or political affiliation with the purpose or effect of creating an intimidating, hostile, or offensive work environment or interfering with an individual's work performance or otherwise adversely affects an individual's employment opportunities. Harassing conduct includes, but is not limited to epithets, slurs, negative stereotyping, or threatening, intimidating, or hostile acts. Written or graphic material, including but not limited to, photographs, electronic images, screen savers, drawings, cartoons, e-mail messages and attachments, and body art (tattoos) that if offensive, denigrates or indicates hostility or aversion toward an individual or group is prohibited.

16.2.2 Sexual Harassment

Specifically, Lincoln County prohibits sexual harassment of its employees by other employees or outside parties. Sexual harassment affects morale, motivation, and job performance, and is inappropriate, offensive, and illegal, and will not be tolerated. Sexual harassment includes unwelcome verbal behavior such as comments, suggestions, jokes or derogatory remarks based upon sex. It also includes physical behavior such as inappropriate or offensive touching, or visual harassment such as posting sexually suggestive or derogatory pictures, cartoons or drawings, even at one's work station, unwanted sexual advances, pressure for sexual favors and/or basing employment decisions (such as an employee's performance evaluations, work assignments, or advancement) upon the employee's acquiescence to sexually harassing behavior in the workplace.

Any employee who is aware of any instances of unlawful harassment must report the alleged act immediately to their supervisor. If the employee is uncomfortable in discussing the matter with their supervisor, or if the supervisor is not available, the employee must report the alleged act immediately to
the supervisor's manager and/or to the Human Resources Director in the Human Resources Department. Supervisors and managers who receive a sexual harassment complaint are to contact the Human Resources Director immediately. All complaints will be investigated promptly, impartially and discretely, and upon completion of the investigation the appropriate parties will be notified immediately of the findings. Any employee/manager who has been found to have unlawfully harassed an employee will be subject to appropriate corrective action, up to and including termination. No employee will suffer retaliation for reporting in good faith instances of unlawful harassment including sexual harassment.

Claims of harassment may arise out of a consensual or romantic relationship between employees. As such, the County discourages such relationships between coworkers. Moreover, if coworkers are in a direct or indirect supervisory-subordinate relationship, a romantic involvement can undermine the Supervisor's credibility and create impressions of unfairness or favoritism among other employees. While any such relationship may be voluntary and consensual, one of the parties may later claim that certain actions were unwelcome, particularly if the relationship should later end. The County expects a manager or supervisor will not establish or maintain a romantic relationship with an employee that is in their sphere of supervisory responsibility, either directly or indirectly through other supervisory personnel. An employee who wishes to establish or pursue a romantic relationship with another employee and also have a supervisory or subordinate relationship must inform their department director. Upon such notification, the County will attempt to reassign one of the employees to mitigate a potential conflict of interest. Employees are expected to act responsibly and maintain a professional working environment free of discrimination allowing each employee to perform to their maximum potential. Lincoln County encourages employees to bring forth questions they may have regarding this type of discrimination to the Human Resources Director.

Any employee who believes they may have been the object or subject of unlawful harassment may pursue the below complaint procedures. If a complaint alleging unlawful harassment, must be filed within 180 days of the date of the alleged incident in order to be pursued. The following alternatives shall apply:

First Step: Whenever possible the first action of the employee shall be to tell the person who is offending him/her that the behavior is offensive and shall stop. (Since offensive behavior often is not intended as harassment, informing the individual that their behavior is offensive, and instructing them to stop, often resolves the problem). If the offensive behavior does not stop, the employee shall go to Step 2.

Second Step: The employee shall notify their immediate supervisor of the situation. The immediate supervisor must immediately report the matter to the Human Resources Director and in consultation with the Human Resources Director investigate the matter and take corrective action. Supervisors and Department Directors who receive a sexual harassment complaint are to contact the Human Resources Director immediately. The Human Resources Director in consultation with the County Manager may retain an outside third party, consultant or attorney, to conduct the investigation to avoid allegations of bias.

Second Step Alternative: If the complaint of harassment is against the immediate supervisor, the employee shall report the situation to their Department Director and the Human Resources Director. The Department Director must immediately contact the Human Resources Director to discuss appropriate action to investigate the allegation. The Human Resources Director is responsible for conducting an investigation of the matter. The Human Resources Director in consultation with the County Manager may retain an outside third party, consultant or attorney, to conduct the investigation to avoid allegations of bias. Pending the findings of the investigation, the Human Resources Director shall recommend corrective action and/or action to the County Manager and Department Director.
If the allegation is against the Department Director, the employee shall report the situation to the Human Resources Director who shall assume immediate responsibility for investigating the situation and recommending appropriate corrective action to the County Manager.

If an allegation of harassment is against the County Manager, or an elected official, the complaint shall be filed with the Chairman of the Board of County Commissioners. The Chairman of the Board will personally investigate the complaint or designate a representative to conduct the investigation and advise the employee and Board of County Commissioners of the outcome of the investigation.

False reports of unlawful harassment shall be subject to disciplinary action.

This Unlawful Harassment Policy applies to all officials and employees of the Lincoln County. Including, but not limited to; full and part-time employees, elected officials, permanent and temporary employees, employees covered or exempted from personnel rules or regulations, and employees working under contract for the County. This Policy will be distributed to all employees of the County. Every employee will be required to acknowledge his or her receipt of this policy in writing. A copy of that acknowledgment shall be kept in the permanent personnel file. department directors and supervisors shall also be responsible for insuring that all employees under their direction are familiar with this Policy.

Employees are obligated to report instances of unlawful harassment, even if they are not the victim. Failure to report such experienced or observed behavior will result in disciplinary action. Employees must also cooperate in every investigation of unlawful harassment, including, but not limited to; coming forward with evidence, whether favorable or unfavorable to a person accused of harassment, and fully and truthfully answering questions during the course of an investigation. Withholding information or assertions of “I don’t want to get involved" or similar statements will not be tolerated and will result in disciplinary actions.

All employees shall maintain confidentiality regarding an allegation and/or investigation of unlawful harassment and shall not discuss the allegation or details of the investigation with other employees or other persons. Unlawful harassment allegations and investigations are confidential personnel matters and information about such shall not be shared with anyone other than those conducting the investigation. All records placed in the personnel file are protected by the guidelines established in N.C.G.S. §160A-168.

16.3 Workplace Violence

It is the intent of Lincoln County Government to provide a workplace for County employees that is free from violence as outlined in the Federal Occupational Safety and Health Act of 1970 that requires employers to provide employees with a safe and healthy work environment. Workplace violence includes, but is not limited to, intimidation, threats, physical attack, domestic violence or property damage, and includes acts of violence committed by County employees, clients, customers, relatives, acquaintances, or strangers against County employees in the workplace.

To promote a healthy and violence free workplace, the County will establish preventative security measures, alternative work schedules, hold perpetrators of violence accountable, and provide supportive assistance including the Employee Assistance Program, law enforcement, and applicable policies and procedures. Management is expected to offer support to victims of workplace violence, including domestic violence, which would include encouraging the use of the Employee Assistance Program. Management may also, at their discretion, grant leave time to a victim of workplace violence for medical, court, or counseling appointments related to trauma and/or victimization.
All employees are encouraged to be alert to the possibility of violence on the part of employees, former employees, customers, and strangers. Employees shall place safety as their highest concern, and shall report all acts of violence and/or threats of violence. All reports of violence will be treated with confidentiality with information released only on a need-to-know basis. Management shall be sensitive and responsive to employees’ fear of reprisal for reporting acts of violence. All acts of violence and/or threats of violence shall be reported to the County Manager and/or Human Resources Director.

It is a violation of this Policy to:

1) engage in workplace violence
2) use, possess, or threaten to use, an unauthorized weapon during a time covered by this Policy
3) misuse authority vested to any employee of Lincoln County in such a way that it violates this Policy.

When a threat has been reported, or management determines that a potential for violence exists, management may require an employee to undergo an assessment by the Employee Assistance Program to determine the risk of danger. Any violation of this Policy shall be considered unacceptable personal conduct as provided in Section 17. of this Policy. Acts of violence, as defined herein, may be grounds for disciplinary action, up to and including dismissal.

This Policy applies to all Lincoln County employees. It includes personal conduct of an employee while functioning in the course and scope of employment as well as off-duty violent conduct that has a potential adverse impact on a County employee’s ability to perform the assigned duties and responsibilities of their position. An act of off-duty violent conduct may also be grounds for disciplinary action, up to and including dismissal. This Policy prohibits retaliation against any employee who, in good faith, reports a violation of this Policy.

Every effort will be made to protect the safety and anonymity of anyone who expresses concerns about a threat or act of violence.

It is the policy of Lincoln County that County employees may not engage in conduct that falls under the definition of Sexual or Workplace Harassment. No personnel decisions shall be made on the basis of sex, age, race, color, religion, national origin, military leave, or disabling condition as defined in G.S.168A-3.

All employees are guaranteed the right to work in an environment free from Sexual or Workplace Harassment and Retaliation, and this section constitutes the Lincoln County sexual and workplace harassment prevention plan.

It is expected that employees of Lincoln County will act responsibly to maintain a professional working environment, free of Discrimination, allowing each employee to perform to his or her maximum potential. Lincoln County encourages any employee to bring questions he or she may have regarding any type of harassment to the Human Resources Director. Disciplinary actions for conduct determined to constitute Harassment will be implemented on a case by case basis on the facts of each complaint. Internal interference, coercion, restraint or reprisal against any person complaining of alleged Sexual or Workplace Harassment is strictly prohibited.

16.4 Discrimination

It is the policy of Lincoln County that County employees may not engage in conduct that falls under the definition of Discrimination. No personnel decisions shall be made on the basis of sex, age, race, color, creed, religion, national origin, military leave, political affiliation or disabling condition as defined in N.C.G.S.§ 168A-3.
All employees are guaranteed the right to work in an environment free from Discrimination.

It is expected that County employees will act responsibly to maintain a professional working environment, free of discrimination, allowing each employee to perform to his or her maximum potential. Lincoln County encourages any employee to bring questions he or she may have regarding any type of harassment to the Human Relations Director. Disciplinary actions for conduct determined to constitute harassment will be implemented on a case by case basis on the facts of each complaint. Internal interference, coercion, restraint or reprisal against any person complaining of alleged Discrimination is strictly prohibited.

16.4.1 Employee Procedures

Any employee who is aware of instances of Discrimination shall report the alleged act immediately to their immediate supervisor or department director. If the employee is uncomfortable discussing the matter with their management team, the employee shall report the alleged act immediately to the Human Resources Director, or if the Human Resources Director is named in the complaint, to the County Manager.
Lincoln County at its option, may change, delete, suspend or discontinue parts or the policy in its entirety, at any time without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.
17.0 SEPARATION, DISCIPLINARY ACTION, REINSTATEMENT

17.1 Types of Separation

All separations of employees from positions in the service of Lincoln County shall be designated as either voluntary or involuntary. Employees may be voluntarily separated by resignation, retirement, or failing to report to work for three consecutive days. Employees may be involuntarily separated by reduction in force, dismissal, unavailability for work when leave is exhausted, death or when the employee no longer meets the minimum requirements of the position or due to a disability is unable to perform all the essential functions of the position with reasonable accommodation. The degree and type of separation shall be based on the sound and considered judgment of management in accordance with the provisions of this Section. When just cause exists, the only disciplinary actions are oral warning, written warning, disciplinary suspension with pay, disciplinary suspension without pay, demotion, and dismissal.

17.1.1 Resignation

Employees may resign either in "Good Standing" or "Not in Good Standing."

Resignation in "Good Standing" occurs when an employee submits a letter of resignation to their supervisor a minimum of ten (10) working days prior to the effective date of resignation. Such notice shall be provided to the immediate supervisor (or in the case of department directors, to the County Manager, or appropriate appointing authority, and the appropriate governing body, if applicable). Employees who resign in "Good Standing" may be considered for future employment with the County.

Resignation “Not in Good Standing occurs when:

- An employee fails to submit a letter of resignation at least ten (10) working days prior to the effective date of resignation.
- An employee fails to report to work the next working day following a leave of absence without pay.
- An employee is absent from work three working days without authorized leave (separation pursuant to this policy shall not occur until the employing agency has undertaken reasonable efforts to locate the employee and determine when or if the employee is intending to return to work),
- An employee resigns to avoid announced disciplinary action.
- An employee who resigns "Not in Good Standing" is normally ineligible for future employment with the County.

17.1.2 Retirement

When an employee meets the conditions set forth under the provisions of any retirement plan adopted by the Board of County Commissioners for County employees, they may elect to retire and receive all benefits earned under the applicable retirement plan.
17.1.3 Reduction in Force

A reduction-in-force is the involuntary separation of an employee due to lack of work or funds, or elimination of the employee's position due to reorganization.

If a reduction in force occurs, the following procedures shall apply:

The Human Resources Director and the director of the department with the reduction in-force shall determine the positions affected by a reduction-in-force and shall list those County employees serving in the same class who are listed as temporary or probationary employees on the date of the proposed reduction-in-force. Furthermore, the Human Resources Director shall add to the list of affected positions any position(s) within the same class that is not being filled, or is being advertised but that would be affected by the reduction in force.

No regular employee, subject to the authority or control of the County Manager, shall be separated from Lincoln County while there are vacant positions in the same class as the employee, or while there are temporary or probationary employees serving in the same class. However, if an employee who is affected by reduction-in-force refuses to transfer to a position held by the temporary or probationary employee, they may be separated.

The Human Resources Director and the department director with the reduction in-force, shall make a final determination of the position(s) affected by giving due consideration to the employees on the basis of: 1) organization needs after the reduction, 2) review of employee(s) performance, and 3) seniority of the employee(s).

The Human Resources Director, and the department director with the reduction in-force, shall document and advise the County Manager as to those employees who shall be separated due to a reduction-in-force.

The County Manager may consider the entire County work force, subject to his or her authority or control, when making a decision about a reduction-in-force rather than focusing only on the departments affected.

Employees subject to a reduction-in-force will have priority consideration for any position that is then available as long as they meet minimum qualification criteria.

Employees subject to a reduction in force will be paid one pay period beyond the date of separation.

17.2 Inability to Meet the Minimum Job Requirements

An employee may be separated when the employee no longer meets the minimum qualifications of the position, does not maintain required certifications or licenses, or cannot perform the essential functions of the position due to a physical or mental impairment with reasonable accommodation. The employee, or the County, may initiate action. If the inability is due to a disability or health condition, and all leave, including FMLA leave as provided in the Human Resources Policy, has been exhausted, the County, at its expense may seek an independent medical examination, IME, of the employee, by a physician of its choice. Before an employee is separated for disability, the County shall make an attempt at reasonable accommodation for the employee including identifying an alternative position in which the employee is qualified. Under no circumstances will the County
agree to a light or modified duty where the performance of essential functions is excused or waived for an indefinite period or a period exceeding six months.

17.3 Discipline and Dismissal

17.3.1 General Provisions
It is the intent of Lincoln County to provide employees and management with a fair, clear and useful tool for correcting and improving performance problems, as well as for providing a process to assist management in handling instances of unacceptable personal conduct. However, the following procedures are designed so as not to restrict operating personnel and, in no way, guarantee an employee a right to continued employment. Any employee, regardless of occupation, position, or profession, may be warned, demoted, suspended or dismissed by the appointing authority. The degree and type of action taken shall be based upon the sound and considered judgment of the appointing authority. As soon as performance and/or conduct problems occur, supervisors are encouraged to counsel or give verbal warning to employees. When one or more verbal warning fails to resolve the problem, or in cases where warnings are deemed to be insufficient, supervisors shall proceed with the appropriate disciplinary measures.

The disciplinary procedure for employees of the departments of Public Health and Social Services are determined by the provisions of the State Human Resources Act and are different from the process described in this section. Employees in those departments who need information about their department’s disciplinary procedure may access that information on the website for the Office of State Human Resources. They may check with their respective department director or a Human Resources staff member if they need further assistance locating this information.

Disciplinary action can be a result of one or a combination of the following:

17.3.1.1 Unacceptable personal conduct.

The following causes related to failure in personal conduct are representative of, but not limited to, those considered to be adequate grounds for disciplinary action, up to and including dismissal:

Unacceptable Personal Conduct constitutes, but is not limited to, the following:

1. Conduct for which no reasonable person should expect to receive prior warning.
2. Job related conduct that constitutes a violation of State or Federal law.
3. Conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the service of the County.
4. The willful violation of known or written work rules.
5. Conduct unbecoming an employee that is detrimental to the agency’s service.
6. The abuse of client(s), patient(s), student(s), or a person(s) over whom the employee has charge or to whom the employee has a responsibility, including the custody of an animal owned by or in the custody of the County.
7. Falsification of an employment application or other employment document that is related to the position requirements, falsification of other County records or reports, including but not limited to, time entry reports, leave reports or requests, and/or injury reports.
8. Failure to obtain or maintain any license, registration, or certification required by a relevant law, rule, or provision when the duties of the position require such license, registration, or certification.
9. Absence from work after all authorized leave credits and benefits have been exhausted, or
10. Insubordination, which is the willful failure or refusal to carry out a reasonable order from an authorized supervisor. Insubordination is considered unacceptable personal conduct for which any level of discipline, including dismissal may be imposed without prior warning.

17.3.1.2 Discipline/Dismissal Action for Unacceptable Personal Conduct

In order to avoid undue disruption of work and/or to protect the safety of persons or property in the associated work area, an employee may be suspended without notice for causes related to unacceptable personal conduct. When a department director, with the assistance of the Human Resources Director suspends an employee without notice, the employee is required to leave the County premises at once and is prohibited from re-entering County premises until after a pre-disciplinary meeting is held. The department director shall immediately notify the Human Resources Director of such action. In addition, the department director shall prepare a written summary defining the circumstances and facts leading to the immediate suspension. The Human Resources Director shall attempt to send one copy to the affected employee by hand delivery, one by certified mail, and one copy shall be filed in the employee's personnel file. An employee who has successfully completed the probationary period and is dismissed on a first offense shall be offered the opportunity to appeal in accordance with the grievance procedure prescribed in Section 18 of this policy.

17.3.1.3 Unsatisfactory Job Performance

Unsatisfactory job performance occurs when an employee's performance is unsatisfactory over a period of time and no improvement occurs after specific notice has been given to the employee concerning the performance deficiency and how to improve performance to satisfactory levels. Such employee actions are subject to progressive disciplinary actions as described below. This type of employee action must adhere to the following steps and cannot result in first offense discipline or dismissal. However, this system of progressive discipline does not apply to probationary or temporary employees. In addition, it is not required, nor necessary, that successive disciplinary actions be for the same type of unsatisfactory performance.

If disciplinary action is required, the supervisor may issue an oral or written warning to the employee outlining the disciplinary issue and strategies for improving or discontinuing the action or behavior. The supervisor has discretion in issuing an oral or written warning on a first offense of unsatisfactory performance, but this policy forbids more than two oral warnings for a single type of unsatisfactory performance.

If the supervisor issues an oral warning(s) and it does not result in improved performance and/or behavior, a written warning must be issued specifying the employee's performance deficiencies and the steps necessary to achieve satisfactory performance. The supervisor shall also provide a written statement that further action may result in a specific action, including dismissal. Again, the supervisor does not have to issue any oral warnings and may go directly to the written warning on a first offense. The employee shall be asked to sign a confirmation of receipt of the written warning. If the employee refuses to sign, it shall be so noted by the supervisor and attested to by a witness (preferably another supervisor) that a written warning was provided to the employee and the employee refused to sign it.

If performance does not improve after a written warning, the department director must issue a final written warning. The final written warning serves notice to the employee that corrective
action must be taken immediately to avoid further disciplinary action and specifies that failure to make the required performance improvements may result in dismissal. The supervisor and the department director shall record the dates of their discussions with the employee, the performance deficiencies discussed, and the corrective actions recommended and file the information in the employee's personnel file.

If performance does not improve after a final written warning, the employee may be suspended without pay for a period of up to fourteen (14) calendar days, or the department director may recommend to the Human Resources Director, or corresponding appointing authority, that the employee be dismissed. Dismissal shall be recommended by the department director with the final approval of the Human Resources Director.

Grossly inefficient job performance, defined as instances in which the employee fails to satisfactorily perform job requirements as specified in the relevant job description, work plans or as directed by the management of the work unit or agency when that failure results in:

**17.3.1.4 Grossly Inefficient Job Performance**

Occurs when the employee fails to satisfactorily perform the requirements of the job as specified in the job description, work plan, or as directed by the management of the work unit or agency, and failure results in one or both of the following:

1. The creation of the potential for death or serious harm to a client(s), employee(s), members(s) of the public, or to a person(s) over whom the employee has responsibility.

2. The loss of or damage to agency property or funds that result in a serious impact on the organization and/or work unit.

In order to avoid undue disruption of work and/or to protect the safety of persons or property in the associated work area, an employee may be suspended without notice for grossly inefficient job performance. When a department director suspends an employee without notice, the employee is required to leave the County premises at once and is prohibited from re-entering County premises until after a pre-disciplinary meeting is held. The department director shall immediately notify the Human Resources Director of such action. In addition, the department director shall prepare a written summary defining the circumstances and facts leading to the immediate suspension. The Human Resources Director shall attempt to send one copy to the affected employee by hand delivery, one by certified mail, and one copy shall be filed in the employee's Human Resources file. An employee who has successfully completed the probationary period and is dismissed on a first offense shall be offered the opportunity to appeal in accordance with the grievance procedure prescribed in Section 18. of this Policy.

In the case of alcohol or other substance abuse, the employee may be required to participate in a rehabilitation program, at their own expense, as a condition of continued employment.

**17.3.1.5 Inactive Disciplinary Action**

Any disciplinary action is deemed inactive for the purpose of the section in the event that:
(a) The department director notes in the employee's personnel file that the reason for the disciplinary action has been resolved or corrected: or

(b) Eighteen (18) months have passed since the warning or disciplinary action, the employee does not have another active warning or disciplinary action which occurred within the last eighteen (18) months and the agency has not, prior to the expiration of the eighteen-month period, issued the employee written notice, including reasons, of the extension of the period. In no case shall formal disciplinary actions be removed from the employee's personnel file once the action becomes inactive.

17.4 Types of Disciplinary Actions

17.4.1 Disciplinary and Administrative Suspension

The department director, in consultation with the Human Resources Director, must determine whether a disciplinary or administrative suspension is appropriate, based on all relevant facts and circumstances surrounding the situation or incident. All employees, hourly, salaried, exempt and nonexempt, may be suspended for one or more whole days without pay for matters of inappropriate conduct or violations of work-safety or other rule. An employee may not take vacation, sick, holiday or compensatory leave while on suspension without pay.

(a) Disciplinary Suspension without pay.
(i) A suspension without pay for a pre-determined period of time may be used as the appropriate

(ii) disciplinary measure to correct work performance or personal conduct deficiencies. A disciplinary suspension normally accompanies a written warning meeting the standards set below.

(iii) In some cases, it may be determined that the removal from the workplace of an employee would be in the best interest of the employer and/or the employee. Possible reasons include, but are not limited to, to avoid disruption of work, to protect the safety of persons or property, or for other serious reasons.

(iii) Such a suspension may also be used to provide time to investigate, establish facts, and reach a decision concerning an employee’s status.

(b) Administrative Suspension with pay. The department director, in consultation with the Human Resources Director or designee, may suspend an employee with pay for a period not to exceed fifteen (15) working days (unless an extension is granted by the County Manager), during the investigation of that employee on any presumed violations of established internal policies and/or procedures if the following conditions exist:

(i) Available evidence is not substantial enough to suspend without pay;

(ii) The employee’s presence in his/her usual work environment causes undue disruption of work or poses a threat to persons or property for reasons not attributable to any actions by that employee;

(iii) A suspension with pay shall not be used for the purpose of delaying an administrative decision or an employee’s work status pending the resolution of a civil or criminal court matter involving the employee.
Consideration for disciplinary suspension without pay of a regular employee is as follows:

a) A pre-disciplinary suspension meeting is required following applicable procedures from the guidelines for conducting a pre-dismissal meeting. Advance oral or written notice of the meeting is required.

b) For employees subject to the overtime provisions of the Fair Labor Standards Act, the suspension must be for at least one full workday with a maximum time of two weeks.

c) For employees who are exempt from the overtime provisions of the Fair Labor Standards Act, the suspension must be for at least one workweek with a maximum time of two weeks.

The employee is to be furnished a written statement setting forth the specific reasons for the suspension and notification of the employees' right to appeal. Attach a copy of the grievance procedure.

17.4.2 Written Warning

When a supervisor determines that disciplinary action is appropriate for unsatisfactory job performance, a written warning is normally the first type of disciplinary action that an employee will receive. Written warnings for grossly inefficient job performance or unacceptable personal conduct may be issued at the election of the Supervisor.

(a) For a written warning to be official, a Supervisor must:

(i) provide the employee with a written warning that meets the requirements of “b” below; and
(ii) forward a copy to the Human Resources Director to be placed in the personnel file.

(b) A written warning must contain the following:

(i) clearly inform the employee that it is an official written warning;
(ii) clearly inform the employee of the specific issues that are the basis for the warning;
(iii) state the specific improvements, if applicable, that must be made to address these specific issues;
(iv) state the time frame allowed for making the required improvements/corrections;
(v) correction is required for grossly inefficient job performance or unacceptable personal conduct;
(vi) clearly inform the employee of the consequences of failing to make the required improvements/corrections.

17.4.3 Disciplinary Demotion

A demotion to a lower position classification may be used as the appropriate disciplinary measure to correct work performance or personal conduct deficiencies. Employees demoted for disciplinary or performance-based reasons shall expect to have their pay reduced, with the amount of reduction contingent on the severity of the offense or deficiency and to be determined by the department director and approved by the Human Resources Director. A proposed demotion which necessitates the reclassification of a position to an existing classification must be approved by the Human Resources Director and County Manager. The reclassification of a position to a classification not in the position classification plan must be approved by the Human Resources Director, the County Manager, and the Board of County Commissioners.
Disciplinary demotion of an employee shall be applicable as follows.

- After the receipt of at least one prior written disciplinary action.
- For any instance of unacceptable personal conduct.
- For any instance of grossly inefficient job performance.

Essential considerations for an employee disciplinary demotion are as follows:

- A pre-demotion meeting is required following applicable procedures from the guidelines for conducting a pre-disciplinary conference. An advance oral or written notice of the meeting is required. The employee must be furnished a written statement setting forth the specific reasons for the demotion including the following:
  - How, and to what extent, the demotion will affect the employee's salary and pay grade. It is recommended that, if appropriate, a revised job description outlining the employee's revised duties and responsibilities be attached. Issue to the employee a copy of the appeal procedure.

17.4.4 Dismissal

An employee who continuously fails to achieve the performance levels established and communicated by the respective supervisor(s), faces the possibility of dismissal as the appropriate disciplinary action to be taken by the appointing authority. Dismissal for performance deficiencies will normally be preceded by oral coaching and counseling and at least one or more written warning, or, in the case of a serious infraction, may result from one incident. An employee may be dismissed on the basis of inefficient job performance, unacceptable personal conduct, or failure to maintain required credentials without any prior disciplinary action. However, nothing in this Section precludes management from using other disciplinary actions prior to proceeding to dismissal.

17.4.5 Disciplinary Authority

It is important to note that Lincoln County department directors have varying authority related to disciplinary action (see below). Department directors that are not appointed by the County Manager have the authority to suspend, demote, or dismiss employees. However, they typically consult with the Human Resources Director and/or County Manager on disciplinary actions. These department directors are the, NC Cooperative Extension Director, Public Health Director, Register of Deeds, Sheriff, and Social Services Director. All other department directors are required to consult with the Human Resources Director prior to taking action to suspend, demote or dismiss an employee.

17.4.6 Pre-dismissal Conference

All dismissals must be preceded by a pre-dismissal meeting conducted by the department director and Human Resources Director or the corresponding appointing authority. If the employee to be dismissed is a department director, the County Manager will conduct the pre-dismissal meeting.

Dismissal of a regular employee for unsatisfactory job performance, grossly inefficient job performance, and/or unacceptable personal conduct requires a pre-dismissal conference prior to the employee's permanent dismissal, if dismissal is the final decision.

A pre-dismissal conference must precede dismissal of regular employees for unsatisfactory job performance, grossly inefficient job performance, or unacceptable personal conduct. The meeting
shall include the employee, the Human Resources Director, department director (or corresponding appointing official with jurisdiction over the employee), or County Manager if the employee is a department director. The department director and/or supervisors who prepared any and all written warnings and who have knowledge of the employee’s performance or conduct leading up to the proposed disciplinary action shall attend the pre-dismissal conference.

The Human Resources Director shall provide a written notice to the employee of the pre-dismissal conference. The notice to the employee shall include the following:

- Inform the employee there shall be a pre-dismissal conference and include the time, date, and location of the conference.
- Provide a summary of the offense and the issues for which the dismissal is being conducted.
- Indicate that the organization is considering the action, but that the conference is to aid in reaching a final decision.
- Inform the employee that he/she shall be given an opportunity to respond to the evidence at the conference.
- Inform the employee that an attorney, family member, co-worker, or other representation is not permitted at the conference.

The meeting shall be conducted by the department director and the Human Resources Director, or corresponding appointing authority in instances in which the Human Resources Director may be the employee in question, or when the Human Resources Director is the supervisor of an employee in question. It is necessary that during the conference the following procedures shall occur:

- All evidence and related information regarding the performance and or conduct be reviewed orally.
- Management may request the presence of a second representative and, if necessary, security personnel.
- No attorney is allowed in the pre-dismissal conference.
- The specific reasons with back-up documentation, shall be presented to support the proposed action, and shall include all written warnings,
- Insure the employee at the onset of the meeting that no final decision has been made.
- Solicit information from the employee, which shall allow them to present their side or perspective of the issue(s).
- The employee does not have the option of presenting witnesses.
- Terminate the meeting for the purpose of evaluating and weighing all information/evidence presented.

A meeting with all appropriate management, staff, and legal resources follows the pre-dismissal conference to evaluate all information obtained in order to render a final decision on the appropriate course of action. If the decision is to dismiss the employee, the decision shall be made by the appointing authority, and must be communicated to the employee in writing within three working days following the pre-dismissal conference and the employee must be provided a copy of the appeals procedure.

17.4.7 Separation Procedure

Prior to separation, an employee separating from employment with the County may have an exit interview with the Human Resources Director and the employee’s department director. Any County property in the employee’s possession shall be returned to the County prior to separation. If the
separation is involuntary, the employee shall be informed of their right to appeal. Employees shall return any and all county owned equipment, i.e. ID badge, keys, access cards, uniforms, cell phones, computer equipment, county procurement cards, etc.

17.4.8 Employee Appeal

An employee desiring an appeal of a reprimand, demotion, suspension, or dismissal may present the matter using the grievance procedure prescribed in Section 18.0 of this Policy.

17.4.9 Reinstatement

An employee who resigns in good standing, or who is separated due to a reduction in force, may be reinstated with the approval of the department director, the County Manager, or in the case of competitive service employees, in accordance with Personnel Policies for Local Government employees subject to the State Personnel Act.

An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service, or with a reserve component of the Armed Forces will be granted reinstatement rights provided under Federal law.

An employee who is reinstated shall be credited with previous service time and previously accrued unused sick leave subject to adequate documentation at the sole discretion of the County Manager.

Transfer of Eligible Service Time- A new employee coming directly from a North Carolina State, City or county governmental agency may receive credit for years of service at that Agency for purposes of determining the vacation accrual rate and total years of service for Lincoln County. To be eligible for the credit, the governmental agency or the North Carolina retirement system shall certify the number of years the employee had attained at the time of separation and/or the service date used for accrual rate purpose. The County Manager shall determine eligibility and approval for all requests.
18.0 Grievance and Appeal Procedures

18.1 Purpose

The purpose of the grievance procedure is to provide an adequate and fair means for hearing matters of concern to County employees. This procedure exists to insure employees the opportunity to be heard without fear of reprisal or retaliation, and to be heard fairly and promptly. Grievances which are not received within the time allowed as prescribed in this section or which are not filed with the Human Resources Director as prescribed in this section shall be dismissed. In this Section, the term “days” refers to calendar days.

18.2 Coverage

This grievance procedure applies to all departments and all regular employees of Lincoln County. A grievance is defined as any claim or complaint of an event or condition that affects the circumstances under which an employee works. A grievance could be allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions. A grievance may only pertain to allegations of involuntary demotion, suspension, reduction-in-force, dismissal, discriminatory practices, and/or hostile work environment, including sexual discrimination. Voluntary demotion or Investigative Suspension cannot be grieved in accordance with the remedies and issues utilized in the process described in this Policy.

18.3 Policy

Every regular employee shall have the right to present a grievance in accordance with these procedures, free from interference, coercion, restraint, discrimination, penalty, or reprisal. No attorney, family member, co-worker, or other representation will be allowed.

18.4 Procedure

Step One - An employee must file a grievance, in writing, with the department director within ten (10) days of the date of when the adverse action occurred. A copy of the grievance will be sent to the Human Resource Director by the department director. The grievance shall contain the following:

- The decision, action, or policy with which the employee disagrees.
- The basis of the action perceived as wrong or unfair.
- The employee's proposed resolution.

The department director shall meet with the employee within five (5) working days of receipt of the grievance and attempt to resolve the grievance informally. If informal resolution efforts fail, the immediate supervisor shall issue a verbal decision on the grievance not later than five (5) working days following the meeting. A memo must be sent to the Human Resources Director explaining the supervisor’s decision and the employee’s reaction. If the grievance alleges unlawful harassment, the Human Resources Director is to be notified immediately.

Step Two - If the employee is dissatisfied with the response at Step One, the employee must forward the written grievance to the County Manager and Human Resources Director within five (5) working days of receipt of the Step One decision. The employee may request a meeting with the County Manager and Human Resources Director. The County Manager and Human Resources Director shall meet with the employee within fifteen (15) working days from the receipt of the
grievance from the employee. If the County Manager is unavailable for any part of this time, the meeting will be within ten (10) days of his return. At the Manager’s or employee’s request, the immediate supervisor and/or department director may attend the meeting.

Step Three - The County Manager, upon consultation with legal counsel as appropriate, shall issue a written decision within ten (10) working days of the meeting with the employee.

18.5 Final Decision on a Grievance

The County Manager's decision is final.

18.6 Discrimination Appeal Procedure

The following individuals who may have reason to believe that employment, promotion, training, or transfer was denied them, or that demotion, layoff, or termination of employment was forced upon them due to age, race, sex, color, national origin, marital status, religion, creed, political affiliation, or disability (except where specific requirements constitute a bona fide occupational qualification necessary to proper and efficient administration), or any action prohibited under federal regulations 31 CFR 55.55(D) of the Rehabilitation Act of 1973, as amended, shall have the right to appeal directly to the County Manager using the grievance procedure outlined in Section 4 of this Section, if so desired:

- Any applicant for employment with Lincoln County.
- A current County employee.

An employee or applicant must appeal an alleged act of discrimination within thirty (30) days of the alleged action.
19.0 Personnel Records

19.1 Maintenance

The County Manager and/or the Human Resources Director shall maintain personnel records as are necessary for proper administration. Only information that is necessary and relevant to accomplishing legitimate personnel administration objectives shall be maintained in employee personnel records. All medical records and other records indicating medical conditions, including workers’ compensation records, health care provider certifications, and correspondence from health care providers shall be maintained in separate secured files.

19.2 Public Information

The following information with respect to each County employee is a matter of public record:

- Name.
- Age.
- Date of original employment or appointment to the county service.
- The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the county has the written contract or a record of the oral contract in its possession.
- Current position.
- Title.
- Current salary.
- Date and amount of each increase or decrease in salary with that county.
- Date and type of each promotion, demotion, transfer, suspension, separation or other change in position classification with that county.
- Date and general description of the reasons for each promotion with that county.
- Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the county. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the county setting forth the specific acts or omissions that are the basis of the dismissal.
- The office to which the employee is currently assigned.

19.3 Access

As authorized by N.C.G.S. §153A-98, any person may have access to information listed in Section 2 of this Section and may include inspection, examination, or copying of such information subject only to such rules and regulations as are necessary for the safekeeping of public records as the Board of County Commissioners may adopt. Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief. Access to the records shall be restricted to normal business hours. Under no circumstances is any information relating to an employee’s medical status to be placed in the employee’s personnel file. All medical information shall be maintained separately and confidentially as required by the ADA/FMLA, and all applicable laws.

19.4 Confidentiality

All information contained in a County employee's personnel file, other than the information listed in Section 2 of this Section, shall be maintained as confidential in accordance with the requirement of N.C.G.S. §153A-98 and shall be open to public inspection only in the following instances:
• The employee or his duly authorized agent may examine all portions of the employee's personnel file, except (1) letters of reference solicited before employment, and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.

• A licensed physician designated in writing by the employee may examine the employee's medical record.

• A County employee having supervisory authority over another employee may examine all material in the employee's personnel file.

• By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.

• An official of any agency of the State or Federal government, or any political subdivision of the state, may inspect any portion of a personnel file when such information is deemed by the corresponding appointing authority or County Manager to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability.

• Each individual requesting access to confidential information shall be required to submit satisfactory proof of identity. A record shall be made of each disclosure and placed in the employee's file (except of disclosures to the employee and the supervisor).

19.5 Objecting to Material in File - Employee Remedies

An employee who objects to material in their personnel file may place in the file a statement relating to the material the employee considers being inaccurate or misleading.

19.6 Legal Penalty for Permitting Access to Personnel Records

N.C.G.S. §153A-98 provides that any public official or employee who knowingly and willfully permits any person to have access to confidential information in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed $500.00.

19.7 Destruction of Records

No public official may destroy, sell, loan, or otherwise dispose of any public records, except in accordance with N.C.G.S. §121-5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates, or destroys it will be guilty of a misdemeanor and upon conviction will be fined not less than $10.00 nor more than $500.00 as provided in N.C.G.S. §132-3.

19.8 Employee Medical Records

Pursuant to HIPAA, employees may designate a third party, such as a family member or licensed physician, to examine the employee's medical record. Such authorization is often needed to review medical records involving issues arising out of Workers Compensation Claims, the Americans With Disabilities Act, or Family Medical Leave issues.
19.9 Collection and Use of Social Security Numbers

Section 2A of Chapter 75 of the North Carolina General Statutes prohibits government agencies from collecting a Social Security Number (SSN) from an individual unless the collection of the SSN is authorized by law or is imperative for the performance of the agency’s duties.

Lincoln County collects SSN’s for the following purposes: (1) enrolling employees in employer-sponsored and voluntary benefits; (2) payroll related documents; (3) required state and federal documents; (4) North Carolina Industrial Commission forms (Workers Compensation); (5) accounts payable for the issuance of 1099’s; (6) collection of unpaid bills including debt set-off; (7) emergency services billing and related State reports; (8) eligibility for Veterans benefits; (8) employment-related drug testing; (9) Medicaid/Medicare eligibility; (10) vital records recorded in the office of the Register of Deeds.
Lincoln County at its option, may change, delete, suspend or discontinue parts or the policy in its entirety, at any time without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.
20.0 Implementation of Personnel Policies

20.1 Conflicting Policies and Resolution Repealed

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

20.2 Severance

If any provision of this Policy or any rules, regulations, or order there under or the application of such provision to any person or circumstance is held invalid, the remainder of this Policy and the application of such remaining provisions of this Policy of such rules, regulations or orders to persons or circumstances other than those held invalid, shall not be affected thereby. This Policy adopted and effective by the Board of County Commissioners, Lincoln County, State of North Carolina, this 1st day of September, 2005.

This Policy is adopted and effective by the Board of County Commissioners, Lincoln County, State of North Carolina, this 19th day of July, 2021.
Lincoln County at its option, may change, delete, suspend or discontinue parts or the policy in its entirety, at any time without prior notice. In the event of a policy change, employees will be notified. Any such action shall apply to existing as well as to future employees.
DEFINITION OF TERMS
(Listed alphabetically)

Accommodation- An accommodation is a modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to perform the essential functions of the job and/or enjoy an equal employment opportunity. Depending on circumstances, examples of accommodations may include but not be limited to: acquiring or modifying equipment or devices; modifying training materials; making facilities readily accessible; modifying work schedules; and re-assignment to a vacant position.

Adverse Action - A punitive disciplinary action taken against an employee such as an involuntary demotion, reduction in pay, transfer, suspension without pay, reduction in force, or dismissal.

Anniversary Date - An employee's original date of uninterrupted employment with the County in a permanent, budgeted position.

Applicant – One who applies for a vacant position and by completing and submitting an application for employment regardless of current employment status (e.g. a current County employee becomes an applicant when an application for another position is submitted).

Appointing Authority - Any County board or official with the legal authority to make employment and termination decisions.

Board of Commissioners - The local government unit charged with the legislative affairs of the County.

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


Cost-of-Living Increase - An adjustment in employee salaries that may be authorized by the Board of County Commissioners, normally effective July 1 of each year.

County Manager – The County Manager is the highest level of supervision and highest administrative official of County government and is appointed by the Board of Commissioners.

Demotion - The reassignment of an employee to a position or classification with a lower salary range/grade.

Discrimination- Prejudicial conduct by an individual against another person because of sex, age, race, color, creed, religion, national origin, disability, military leave or political affiliation.

FLSA (Fair Labor Standards Act) – The Federal Fair Labor Standards Act, which addresses exempt and nonexempt status of employees and rules of compensatory time, and/or overtime for extra hours worked by nonexempt employees.
**Full-Time Permanent Status:** The appointment of a full-time employee who has successfully completed their probationary period. As the term implies, a permanent appointment is of indefinite duration, depending upon: termination for just cause, funding for the position, or a Reduction in Force. A permanent employee is one who has completed probation and been granted permanent status.

**General County Employee** - A County employee not subject to the State Personnel Act.

**Grade** – The numerical value assigned to a pay range.

**Grievance** - Any matter of concern or dissatisfaction expressed by an employee, allegedly arising from working conditions.

**Harassment** - Any unwelcome comment or treatment made because of race, sex, creed, religion, national origin, age, color, or disability that creates a hostile work environment or circumstance. This term includes sexual harassment.

**Hiring Rate** - The salary paid an employee when first hired into County service, normally the first step of the salary range.

**Hostile Work Environment** - Conduct resulting from Workplace Harassment or Discrimination that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. Absent Workplace Harassment or Discrimination, mere disputes between two co-workers or a superior and subordinate does not constitute a Hostile Work Environment.

**Immediate Family** - Immediate family is considered a County employee’s spouse, mother, father, guardian, child, sister, brother, grandparent, grandchild, and all combinations of half, step, in-law and adopted relationships.

**Maximum Salary Rate:** The maximum salary of a position authorized by the Pay Plan for an employee within an assigned salary grade.

**Part-Time Retirement Status:** The appointment of an employee to a position which, on a continuing schedule, requires the employee to work less than thirty hours per week or 1,508 hours per year. PTR contributes into the retirement system with no other county benefits or service time occurred.

**Part-time Status:** The appointment of an employee to a position which, on a continuing schedule, requires the employee to work less than twenty hours per week or 988 hours per year with no county benefits.

**Pay Plan** - A schedule of pay ranges arranged by sequential rates including the minimum, intermediate and maximum steps for each class assigned to a salary range.


**Permanent Status** – An employee who shall attain permanent status when the employee has worked the required probationary period.

**Position** - A collection of duties and responsibilities requiring the full or part time employment of one person.

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

Probationary Status - An individual hired for an established budgeted position who has not completed the specified probationary period.

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

Reallocation - Reassigning the salary grade for all positions within a particular job classification from one grade to another grade, either higher or lower.

Reclassification – A change in a position from one class to another based on changes in the complexity and responsibility of and the skill required to perform the essential functions of the position.

Reduction in Force – The abolishment of or reduction of all or some portion of a position based on needs of the organization, work load, and availability of funding.

Regular Full Time Employee - An employee hired for an established budgeted position who has satisfactorily completed a probationary period, and has been approved for permanent status by their department director and/or County Manager, with a regular work schedule of forty (40) hours or more per week, and is designated by the Board of Commissioners as full-time.

Retaliation- A negative action taken against an employee because the employee filed a harassment or discrimination complaint.

Salary Grade – All positions that is sufficiently comparable to warrant one range of pay rates.

Salary Plan - The salary range assigned to each salary grade.

Salary Plan Revision - The uniform raising or lowering of the salary ranges within the salary plan

Salary Range - The salary assigned to each grade of the salary plan, including trainee, minimum, and maximum annual salaries.

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

Serious Health Condition (FMLA) – an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider.

Temporary Employee - An individual appointed to serve in a part time, non-budgeted, time-limited position without benefits in which funds are budgeted as a whole but positions are not individually budgeted. Not to be confused with regular part time.

Trainee - An employee who does not meet minimum education or experience requirements for a position but can within a specified period meet the minimum requirements.

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