

**LINCOLN COUNTY
PERSONNEL POLICY MANUAL**

**EFFECTIVE
SEPTEMBER 1, 2005**

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ARTICLE I. ORGANIZATION OF PERSONNEL SYSTEM

- Section 1. Purpose
- Section 2. Coverage
- Section 3. Equal Employment Opportunity
- Section 4. Hiring Guidelines
- Section 5. Responsibilities of Officials and Employees

ARTICLE I. ORGANIZATION OF PERSONNEL SYSTEM

Section 1. Purpose

A. This Personnel Policy is established under the authority of North Carolina General Statute 153A, Article 5, and G. S. 126. The purpose of this Personnel Policy is to establish a personnel system that:

- Promotes a fair and effective means of employee recruitment and selection
- Develops and maintains an effective and responsible work force
- Promotes understanding, cooperation, equal treatment, and efficiency
- Provides the means for removal of unsatisfactory employees.

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.

B. An official copy of the Personnel Policy and rules shall be available in the offices of the County Manager and/or Personnel Director. The County Manager, corresponding appointing authority, and/or Personnel 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 Personnel Director prior to making a determination for action.

C. 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.

Section 2. Coverage

A. All employees of Lincoln County are subject to this Policy, except the following titled positions and/or employees who are "exempt" from the provisions of the Policy:

1. Elected Officials
2. County Manager and Assistant County Manager
3. County Attorney
4. Clerk to the Board
5. Consultants, volunteers, and contract employees

B. The following titled positions and/or employees are covered by all provisions of this Personnel Policy, but are exempt from certain provisions as identified below:

1. The Director of Elections is not subject to Articles IV., V., VIII., and IX.

2. Employees of the County Sheriff's Office and the Register of Deeds are not subject to Article VIII. and IX. Different requirements may apply in some instances as to positions in the offices of the Register of Deeds, Sheriff, and Board of Elections under N.C. General Statute 153A-103, N.C. General Statute 163 and other applicable law.
 3. Temporary employees are not subject to Articles VI. and VII.
 4. Employees subject to the jurisdiction of the North Carolina State Personnel Act are not subject to Article II.
 5. Employees of the North Carolina Cooperative Extension Service are not subject to Articles II., III., IV., VII., VIII., and IX.
- C. Chapter 126 of the General Statutes governs employees in the Department of Public Health and Department of Social Services. County agencies and employees are authorized to cooperate with and assist those entities to the extent reasonably necessary. It is recognized that by law (for example, N.C. General Statute Chapters 108A, 122C, and 130A) those entities for some purposes have governing bodies different from the Board of County Commissioners and/or a chief administrator different from the County Manager. In that event, the "County Manager" and "Board of Commissioners" shall be deemed to defer to their lawful counterpart in those entities, as provided by the North Carolina General Statutes.

Section 3. Equal Employment Opportunity

It is the policy of Lincoln County to ensure equal employment opportunity without discrimination or harassment on the basis of race, color, national origin, religion, sex, age, disability, authorization to work or citizenship status, marital status, or any other characteristic protected by law. Lincoln County prohibits and will not tolerate any such discrimination or harassment. This Policy of Equal Employment Opportunity applies to all policies and procedures relating to recruitment and hiring, compensation, benefits, termination and all other terms and conditions of employment.

The Personnel Department has overall responsibility for ensuring compliance with this Policy and for required reporting and monitoring practices as well. Questions from employees should be referred to the Personnel Department.

Section 4. 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.

Section 5. Responsibilities of Officials and Employee

- A. 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.

- B.** 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 General Statute 153A-82 of the State of North Carolina and Articles IV., V., VII., and VIII. of this Personnel Policy.

- C.** The Personnel 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 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 Personnel Director shall establish and maintain a roster of all persons employed in the County service containing at least; 1) the name of each employee and supervisor, 2) the position held and salary paid, 3) any change in position classification or employment status, and 4) other such data as may be deemed desirable or useful. The Personnel 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 Personnel Director shall furnish advice, technical guidance, and assistance regarding policies including devising and implementing procedures and records management practices. The Personnel 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.

- D.** The responsibilities of County employees are to:

1. Keep a neat, well-groomed appearance while on duty.
2. Be at work on time. In emergency situations, employees must immediately notify their supervisor if arriving late.
3. Conduct themselves in a business-like manner, avoiding loud behavior or discussing personal problems within hearing range of visitors.
4. Be responsible for their personal obligations and keep them private. Personal obligations are not to extend onto business premises or affect work time.
5. Utilize materials and equipment with care, caution, and economy and follow proper procedures when operating equipment and performing all duties.
6. Strive to perform job duties more effectively each day. Employees are expected to exhibit continuous learning about their work and how to improve it such as by asking questions and reading related materials. Ideas for suggested improvements are encouraged to be brought to the attention of the immediate supervisor.

7. Demonstrate a positive public relations image for Lincoln County such as being pleasant and helpful to visitors. Employees are service providers to the people and should project a professional, courteous, and helpful attitude to all visitors and callers at all times.
8. Perform ethically.
9. Resolve personal problems and conflicts by communicating with those with whom they have issues to discuss.

ARTICLE II. CLASSIFICATION PLAN

Section 1. Policy Statement

Section 2. Allocation of Positions

Section 3. Administration of Classification Plan

Section 4. Amendment and Procedures for Change

Section 5. Reclassification and Reallocation of Positions

ARTICLE II. CLASSIFICATION PLAN

Section 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.

Section 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.

Section 3. Administration of Classification Plan

- A. The County Manager 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.
- B. Department directors are responsible for providing written notification to the Personnel 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.

Section 4. Amendment and Procedures for Change

- A. 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 Personnel Director.
- B. The Personnel 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 Personnel Director shall forward a recommendation to the County Manager to: 1) revise the existing class specification, 2) reallocate the position to an appropriate class within the existing classification plan, or 3) recommend to the Board of County Commissioners to amend the position classification plan to establish a new class.

Section 5. Reclassification and Reallocation of Positions

A. 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 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 head. If the reclassification is at a higher level of responsibility, the employee will be eligible for a 1-step increase at the end of six (6) months.

B. 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.

ARTICLE III. THE PAY PLAN

- Section 1. Adoption
- Section 2. Administration
- Section 3. Maintenance
- Section 4. Hiring Rate/Starting Salary
- Section 5. Payment at a Listed Rate in the Salary Range
- Section 6. Pay Rates in Promotion, Demotion, Transfer, Reclassification/Reallocation
- Section 7. Regular Part Time Work
- Section 8. Overtime Policy
- Section 9. Call Back Compensation
- Section 10. Payroll Procedures
- Section 11. Effective Date of Salary Adjustments

ARTICLE III. THE PAY PLAN

Section 1. 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."

Section 2. Administration of the Pay Plan

The County Manager is 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:

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

Section 3. Maintenance

- A.** 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.
- B.** 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.

Section 4. Hiring Rate/Starting Salary

Resolution #2014-20: A Resolution Amending the Lincoln County Personnel Policy Regarding Hiring Rate/Starting Salary - Adopted by the Board of County Commissioners 9-08-2014.

- A.** 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 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 rate above the 5% of 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.

- B.** If a department director desires to hire a new employee above the 5% of 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.

Section 5. Payment at a Listed Rate in the Salary Range

- A.** Employees covered by the Salary Plan shall be paid at a rate within the salary range established for their classification and position.
- B.** 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.
- C.** Exception Above Maximum
If an employee's salary is at or above the maximum rate of the salary range for their position, they are 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.

Section 6. 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:

- A. Promotion** - Candidates for promotions will have already served and satisfactorily met all requirements of a six (6) months probationary period with the County, with exception of the Sheriff's Office, and be classified as a Regular Full-Time employee. 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 head 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 will be eligible for a 1-step salary increase at the end of six (6) months in the new classification.

- B. **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 any step in the lower salary grade so long as the reduced salary does not fall below the minimum salary of the new position's salary range.

- C. **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 head 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 a 1-step salary 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 head. 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 1-step salary increase at the end of six (6) months.

Any employee who has successfully completed a probationary period transferring to any other position will not serve another probationary period. 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 Article IX, as stated in the County Personnel Policy.

- D. **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 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 head. If the reclassification is at a higher level of responsibility, the employee will be eligible for a 1-step increase at the end of six (6) months.

- E. Reallocation** - 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.

Section 7. Regular Part Time Work

Compensation of any employee who is eligible for benefits that is hired for less than forty hours per week shall be computed on an hourly basis. These employees will receive the same holidays as the regular employees, but on a prorated basis.

Section 8. Overtime Policy

- A.** 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.

- B.** 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.
- C.** 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 Personnel Director will determine which employees are nonexempt and subject to overtime provisions of the FLSA.

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 should 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.
(Amended Subsection C.per Resolution 2009-26 - BOC approved 11-2-2009)

- D.** 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.
- E.** Employees working fluctuating workweek schedules have salaries that are considered to be compensation at straight time for all hours scheduled or required to work. Such employees are subject to Title 29 CFR Part 778.114 and overtime is calculated and paid at one-half the regular rate as prescribed.
- F.** 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.
- G.** 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.
- H.** 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.

- I. 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."**

Section 9. Call Back Compensation

- A.** If a County nonexempt employee is called back to work outside of normal working hours, he/she is guaranteed a minimum of two hours of paid work time. However, no more than two hours of guaranteed work time per 24 hours will be credited regardless of the number of times the employee is called back to work; unless the call back results in the employee working more than two hours of actual work time, then all time worked will be credited as hours worked.
- B.** An exception is made for certain departments that have employees serving in an on call status. Classification of positions such as nurses, social service employees, emergency medical service staff, and law enforcement are examples of positions that may receive variations of "on call" or "call back" compensation. As identified in Section 8, Overtime Policy, those classifications of positions which are "exempt" from the FLSA do not receive any additional compensation for being called back to work, but may receive informal leave at the discretion of their department director. It is the responsibility of each department to develop their call back policy based on individual department needs.

Section 10. Payroll Procedure

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 hired after February 1, 1999. It is the responsibility of the employee to properly complete and submit their time sheet to the department head.

Section 11. Effective Date of Salary Adjustments

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

ARTICLE IV. RECRUITMENT AND SELECTION

- Section 1. Recruitment
- Section 2. Position Vacancy Announcements
- Section 3. Application for Employment
- Section 4. Applicant Tracking
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- Section 8. Probationary Period of Employment
- Section 9. Promotion
- Section 10. Demotion
- Section 11. Transfer

ARTICLE IV. RECRUITMENT AND SELECTION

Does not apply to Sheriff's Office and Register of Deeds.

Section 1. Recruitment

The Personnel 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. Recruitment efforts shall be coordinated in a timely manner. The County Manager or the Personnel Director and the department director 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.

Section 2. Position Vacancy Announcements

The applicable department director, County Manager and/or Personnel Director shall review vacant positions to determine the need for staffing. Position vacancy announcements will be posted for a minimum of ten working days at: (1) the County Personnel Department and within each County department, (2) the local office of the Employment Security Commission, and 3) on the Lincoln County web page. 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.

Section 3. 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 is authorized to accept employment applications. In addition, all referrals must be made through the County Personnel Department. The County accepts applications for vacancies that are publicized. Applicants must complete a separate application for each vacancy. Copies are not accepted. Applications are logged according to job classification and are kept for one year.

Section 4. Applicant Tracking

The Personnel 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 Personnel Department shall maintain a separate file for EEO-4 information for Federal reporting requirements.

Section 5. Qualification Standards

- A. 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.
- B. 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.
- C. 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 Personnel 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.
- D. 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.

Section 6. Selection

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

- D.** 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.

Section 7. Appointments

Prior to employment, the Personnel 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.

Section 8. Probationary Period of Employment

- A.** An employee appointed to a regular full time position shall serve a probationary period of six months. The department director, with approval of the Personnel Director, may extend the probationary period of an employee up to an additional six (6) months. Sworn law enforcement officers will serve a twelve-month probationary period.
- B.** Upon the approval of the department director, Personnel 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 Article VIII. An employee who has been promoted or had their position reclassified may not be required to serve a new probationary period.
- C.** 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 a one step pay increase in their salary range if recommended and approved by the supervisor, the department director, and the County Manager.
- D.** The County Manager shall follow the above procedures in evaluating department directors before completion of their probationary period.

Section 9. Promotion

Candidates for promotion will have already served and satisfactorily met all requirements of a six (6) months probationary period with the County and be classified as a Regular Full-Time employee. 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 head 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 will be eligible for a 1-step salary increase at the end of six (6) months in the new classification. This does not apply to offices of elected officials.

Section 10. Demotion

An employee whose work is unsatisfactory may be demoted to a position in a lower salary range provided the employee shows promise of becoming a satisfactory employee in another position. The employee shall be provided with written notice citing the recommended effective date of the demotion, the reasons for the demotion, and the appeal rights as outlined in Article VIII. of this Policy. A voluntary demotion, which may be requested by an employee, is not a disciplinary action and is made without reference to the procedures in Articles VIII. and IX. of this Policy.

Section 11. 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 head 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 a 1-step salary 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 head. The request shall be subject to approval from the County Manager. The employee's current salary grade shall be reviewed and adjusted at the discretion of the County Manager. Transfers to lower grades will not be eligible for a 1-step salary increase at the end of (6) months.

Any employee who has successfully completed a probationary period transferring to any other position will not serve another probationary period.

Any employee, who has successfully completed the six (6) months probationary period and is classified as a Regular Full-Time employee, may appeal an unrequested transfer in accordance with the grievance procedure in Article IX. as stated in the County Personnel Policy.

ARTICLE V. CONDITIONS OF EMPLOYMENT

- Section 1. Workweek
- Section 2. Gifts and Favors
- Section 3. Conflict of Interest Policy
- Section 4. Outside Employment
- Section 5. Confidentiality of Information
- Section 6. Political Activity Restricted
- Section 7. Employee Harassment
- Section 8. Workplace Violence
- Section 9. Nepotism – Limitation on Employment of Relatives
- Section 10. Travel Expense and Reimbursement
- Section 11. Use of County Vehicles
- Section 12. Smoking and Tobacco Use
- Section 13. Drug-Free Workplace
- Section 14. Applicant Drug Screening – Urinalysis
- Section 15. Internet and E-mail Use Policy
- Section 16. Solicitations, Distributions, and Use of Bulletin Boards
- Section 17. Influenza/Pandemic Events Policy
- Section 18. Return To Work Program
- Section 19. Pre-employment Criminal Background Check

ARTICLE V. CONDITIONS OF EMPLOYMENT

Does not apply to Sheriff's Office and Register of Deeds.

Section 1. Workweek

The standard FLSA workweek for Lincoln County employees, except law enforcement, emergency medical services, and fire protection personnel, shall be from 12:01A.M. 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 A.M. and ending on Friday, 5:00 P.M. 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.

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 10:00 a.m. on the Monday of payroll.

Section 2. Gifts and Favors

- A. All officers and employees of Lincoln County shall comply with N.C. General Statute 133-32 relating to regulation of gifts and favors.
- B. Questions concerning the applicability of this regulation may be addressed to the County Manager or his/her designee, whose decision shall be final.

Section 3. Conflict of Interest Policy

- A. It shall be the policy of Lincoln 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 Lincoln 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.
- B. 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.

Section 4. Outside Employment

(Section 4 amended per Resolution 2014-20, approved 9-08-2014.)

- A.** 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.
- B.** 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.

Section 5. Confidentiality of Information

Employees should 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.

Section 6. Political Activity Restricted

- A.** 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.
- B.** 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.

- C. Employees subject to the Hatch Act may not be candidates for elected office in a partisan election.
- D. Any violation of this section may subject the employee to dismissal or other disciplinary action.

Section 7. Employee Harassment (Hostile Work Environment)
(Section 7. Amended per Resolution 2010-45 8-16-2010)

- A. 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:
 - 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.
 - 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 employees performance evaluations, work assignments, or advancement) upon the employee's acquiescence to sexually harassing behavior in the workplace.
- B. 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 discreetly, 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.

- C.** 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.
- D.** Any employee who believes they may have been the object or subject of unlawful harassment may pursue four alternative complaint procedures. If a complaint concerns allegations of unlawful harassment, by Federal law it must be filed within 180 days of the date of the alleged incident in order to be pursued. The following alternatives shall apply:
1. **First Step.** Whenever possible the first action of the employee should be to tell the person who is offending him/her that the behavior is offensive and should 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 should go to Step 2.
 2. **Second Step.** The employee should 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.

3. **Second Step Alternative.** If the complaint of harassment is against the immediate supervisor, the employee should 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 should follow Number 4.
 4. At any point in the process, the employee may 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.
- E.** If an allegation of harassment is against the County Manager, or an elected official, the complaint should 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.
- F.** False reports of unlawful harassment shall be subject to disciplinary action.
- G.** 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 heads and supervisors shall also be responsible for insuring that all employees under their direction are familiar with this Policy.
- H.** 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.

- I. 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 Section 160A-168 of the General Statutes of North Carolina.

Section 8. Workplace Violence

- A. 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.
- B. 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.
- C. 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 Personnel Director.
- D. 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, and 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 Article VIII. of this Policy. Acts of violence, as defined herein, may be grounds for disciplinary action, up to and including dismissal.

- E.** 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.
- F.** Every effort will be made to protect the safety and anonymity of anyone who expresses concerns about a threat or act of violence.

Section 9. Nepotism - Limitation on Employment of Relatives

- A.** 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.
- B.** 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 Chapter 153A-103 (I) of the North Carolina General Statutes.
- C.** 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 Subsection A. before the adoption of this Policy.

Section 10. Travel Expense and Reimbursement

- A.** 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 out of state travel for department heads or employees of a department must first obtain approval from the County Manager before out of state travel will be permitted. Request is to be submitted in writing to the County Manager on the number of employees traveling and the estimated cost of the trip, and if a County vehicle will be used for the travel.
- B.** 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.

Section 11. Use of County Vehicles

- A.** 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.
- B.** 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. *(Amended per Resolution 2009-24 8-03-2009)*
- C.** The transport of unauthorized individuals in County owned or leased vehicles, which are not employed by the County, 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.
- D.** 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 head should forward the authorization form to the Personnel Director. Employee must notify immediately their supervisor and Personnel upon receiving a driving citation. Failure to do so may result in disciplinary action.
- E.** 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. (*Amended per Resolution 2009-24 approved 8-03-2009.*)

- F. 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. (*Amended per Resolution 2009-25 approved 8-17-2009.*)

Section 12. Smoking and Tobacco Use

- A. 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.
- B. 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.
- C. 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.

Section 13. Drug And Alcohol Testing Policy
(*Section 13 Amended 1-24-2011*) and (*Amended 11-21-2011*)

Commercial Drivers License (CDL) / Safety Sensitive and Non-Safety-Sensitive Employee Testing Program – SECTION I

A. 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.

B. 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 that 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 Drivers License. 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 remunerated for service in excess of actual expense.

C. Definitions

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

- 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 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, 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, It 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 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 measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

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

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

Negative Dilute: A drug test result which is negative for the five drug/drug metabolites but has 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 s 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 Drivers 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.

D. Education And Training

- (1) 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.
- (2) 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.
- (3) Information on the signs, symptoms, health effects, and consequences of alcohol misuse is presented in Attachment B of this policy.

E. Prohibited Substances

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

- Marijuana 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.
- b. 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 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.

- i. 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.
- ii. 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.

F. Prohibited Conduct

- (1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.
- (2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an

on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline.

- (3) 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
- (4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.
- (5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- (6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- (7) 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.
- (8) 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.
- (9) 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.
- (10) Failure to notify the County shall result in disciplinary action.

G. 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 Q.10 of this policy.

H. Testing Requirements

- (1) 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 Section K, L, M, and N of this policy, and return to duty/follow-up.

- (2) 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.
- (3) 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.
- (4) 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 Q.3 of this policy.

I. Drug Testing Procedures

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

- (3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance 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 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.
- (4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- (5) Any covered employee who questions the results of a required drug test 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.
- (6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled. If the split specimen is not available to analyze the MRO will direct Lincoln County to retest the employee under direct observation.
- (7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary 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.

(8) Observed collections:

- a. Consistent with 49 CFR part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:
 - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to 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.

J. Alcohol Testing Procedures

(1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). 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.

- (2) 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 Q.4-5 of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section Q.9 of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- (3) 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.
- (4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. Pre-Employment Testing

- (1) All applicants 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*.
- (2) 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.

- (3) 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 Q.4-5 and 9 herein.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) Applicants are required (even if ultimately not hired) to provide their consent to TLC Transportation 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 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 TLC Transportation Lincoln County proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

L. Reasonable Suspicion Testing
(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 should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present.

The employee shall be placed on administrative leave pending disciplinary action described in Section Q.4-5 and 9 of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section Q.3 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 Q.9 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 L through N of this policy or the associated consequences as specified in Section Q.9.

M. 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.

- i. 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.

N. Random Testing -

(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.

O. 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. 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.

P. 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 should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

Q. 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, 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.
 - ii. The employee shall be 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
 - b) 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:
- 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 P 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) The second instance of a verified positive drug or alcohol (≥ 0.04 BAC) test result including a sample submitted under the random, reasonable suspicion, return-to-duty, or follow-up drug/alcohol test provisions herein shall result in termination from Lincoln County employment.

- (6) A verified positive post-accident, or reasonable suspicion drug and/or alcohol (≥ 0.04) test shall result in termination.
- (7) 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 Q.9 of this policy.
- (8) 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.
- (9) 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 P 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 Q.4-5 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 Q.4-5 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.

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

R. Grievance and Appeal

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

S. Proper Application Of The Policy

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.

T. Information Disclosure

- (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*.

Attachment A

CDL / SAFETY-SENSITIVE EMPLOYEE POSITIONS

<u>Job Title</u>	<u>Testing Authority</u>
Heavy Equipment Operator	FTA
Sanitation Equipment Operator	FTA
Van Driver	FTA
Transportation Manager	FTA
Transportation Dispatcher	FTA
Scale House Recycling Attendant	FTA
Utility Maintenance Crew Leader	FTA
Utility Maintenance Supervisor	FTA
Solid Waste Supervisor	FTA
Heavy Equipment Mechanic	FTA
Utility Maintenance Worker	FTA
Sr. Heavy Equipment Operator	FTA

**SECTION II TLC (TRANSPORTATION LINCOLN COUNTY)
DRUG AND ALCOHOL TESTING POLICY****A. Purpose**

- (1) TLC (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, TLC (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.
- (2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
- (3) Any provisions set forth in this policy that are included under the sole authority of *TLC (Transportation Lincoln County)* and **are not** provided under the authority of the above named Federal regulations are underlined.

B. Applicability

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties *TLC (Transportation Lincoln County) employees that do not perform safety-sensitive functions are also covered under this policy under the sole authority of TLC (Transportation 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 transit employee who is required to hold a Commercial Drivers License. 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 remunerated for service in excess of actual expense.

C. Definitions

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

- (1) An individual dies;
- (2) An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- (3) 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, 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. It 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 transferees that will not perform a safety-sensitive function but falls under the policy of the company's own authority.

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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.

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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 measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

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

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

Negative Dilute: A drug test result, which is negative for the five drug/drug metabolites but has 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
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service. The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- (2) Maintaining a revenue service vehicle or equipment used in revenue service.
- (3) Controlling the movement of a revenue service vehicle and
- (4) 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, 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

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

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.

D. Education And Training

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

E. Prohibited Substances

Prohibited substances addressed by this policy include the following.

- (1) 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,

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amphetamines, opiates, phencyclidine (PCP), ecstasy, 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, 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, opiates, and phencyclidine as described in Section H of this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- (2) 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 TLC (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.
- (3) 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 TLC (Transportation Lincoln County) authority, an alcohol test can be performed any time a covered employee is on duty.

F. Prohibited Conduct

- (1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR PART 40, as amended.
- (2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time

that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline.

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

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- (4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.
- (5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- (6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- (7) TLC (Transportation 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.
- (8) Consistent with the Drug-free Workplace Act of 1988, all TLC Transportation 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.

H. Drug Statute Conviction

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the TLC (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 Q.10 of this policy.

I. Testing Requirements

- (1) 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 Section K, L, M, and N of this policy, and return to duty/follow-up.
- (2) All covered employees who have tested positive for drugs or alcohol will be 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.

- (3) 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 TLC (Transportation Lincoln County authority, an alcohol test can be performed any time a covered employee is on duty.

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- (4) All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with TLC (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 Q.3 of this policy.

J. Drug Testing Procedures

- (1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- (2) The drugs that will be tested for include 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 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.
- (3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance 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 TLC (Transportation 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.

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

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- (5) 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. TLC (Transportation Lincoln County) will ensure that the cost for the split specimen are covered in order for a timely analysis of the sample, however TLC (Transportation Lincoln County) will seek reimbursement for the split sample test from the employee.
- (6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled. If the split specimen is not available to analyze the MRO will direct Lincoln County to retest the employee under direct observation.
- (7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary 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.
- (8) Observed collections

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:

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

- b. The MRO reports to TLC (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;
- c. 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)).
- d. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- e. The temperature on the original specimen was out of range;

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- f. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
- g. All follow-up-tests; or
- h. All return-to-duty tests

K. Alcohol Testing Procedures

- (1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). 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.
- (2) 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 Q.4-5 of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section Q.9 of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- (3) The Transit Department affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing

procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

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

L. Pre-Employment Testing

- (1) All applicants for covered transit positions shall undergo urine drug testing and breath V-43 alcohol testing prior to performance of a safety-sensitive function.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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 Q.4-5 and 9 herein.
- (6) If a pre-employment/pre-transfer test is canceled, TLC (Transportation Lincoln County) will require the applicant to take and pass another pre-employment drug test.
- (7) 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.
- (8) 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.

- (9) 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 TLC Transportation Lincoln County proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

M. Reasonable Suspicion Testing

- (1) All TLC (Transportation Lincoln County) covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion

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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 TLC (Transportation 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) TLC (Transportation Lincoln County) shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section Q.4-5 and 9 of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section Q.3 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 TLC (Transportation 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. TLC (Transportation Lincoln County) shall place the employee on administrative leave in

accordance with the provisions set forth under Section Q.9 of this policy. Testing in this circumstance would be performed under the direct authority of the TLC (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 L through N of this policy or the associated consequences as specified in Section Q.9.

N. 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

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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) In addition, a post-accident test will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage, unless the operator's performance can be completely discounted as a contributing factor to the accident.
 - a) 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.
 - b) 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 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.
 - c) 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.
 - d) 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.

- e) 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.
- f) In the rare event that TLC (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), TLC (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.

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O. Random Testing

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

P. 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. 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.

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Q. 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 should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

R. 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 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.
- (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.
 - a) After receiving notice of a verified positive drug test result, a confirmed alcohol test result, or a test refusal, the **TLC (Transportation Lincoln County)** Drug and Alcohol Program Manager will contact the employee's supervisor to have the employee cease performing any safety-sensitive function.
 - b) The employee shall be 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.

- c) 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:
- i. 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.
 - ii. A covered employee who leaves the scene of an accident without a legitimate explanation prior to submission to drug/alcohol tests.
 - iii. A covered employee who provides false information in connection with a drug test.
 - iv. 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.
 - v. A verbal or written declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test within the specified time frame.
 - vi. A covered employee whose urine sample has been verified by the MRO as substitute or adulterated.
 - vii. 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
 - viii. A covered employee fails to remain at the testing site until the testing process is complete;
 - ix. A covered employee fails to provide a urine specimen for any drug test required by Part 40 or DOT agency regulations;
 - aa) A covered employee fails to permit the observation or monitoring of a specimen collection
 - bb) A covered employee fails or declines to take a second test the employer or collector has directed you to take;
 - cc) 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
 - dd) 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).
 - ee) Failure to sign Step 2 of the Alcohol Testing form
 - ff) 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.

- gg) Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
 - hh) 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:
- a) Mandatory referral to 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 **TLC (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

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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 P 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 **TLC (Transportation Lincoln County)** employment.
- (5) The second instance of a verified positive drug or alcohol (≥ 0.04 BAC) test result including a sample submitted under the random, reasonable suspicion, return-to-duty, or follow-up drug/alcohol test provisions herein shall result in termination from TLC (Transportation Lincoln County) employment.
- (6) A verified positive post-accident, or reasonable suspicion drug and/or alcohol (≥ 0.04) test shall result in termination
- (7) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder of the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to 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 Q.9 of this policy.
- (8) 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 administrative 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.

- (9) 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 **TLC (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; 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 P 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 Q.4-5 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 Q.4-5 of this policy.
 - f) A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with **TLC (Transportation Lincoln County)**.
 - g) A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- (10) 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.

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S. Grievance and Appeal

The consequences specified by 49 CFR Part 40.149 © for a positive test or test refusal is not subject to arbitration.

T. Proper Application Of The Policy

[GRANTEE/TRANSIT SYSTEM NAME] 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.

U. Information Disclosure

- (V) Drug/alcohol testing records shall be maintained by the **TLC (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.
- (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.
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- (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 **TLC (Transportation 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*.

Attachment A

Job Title	Job Duties	Testing Authority
1. Driver	Drives Van/Bus	FTA / DOT
2. Transportation. Manager	Manages Transportation	FTA / DOT
3. Transportation Dispatcher	Supervises calls for TLC	FTA / DOT
4. Transportation Supervisor	Supervises Dispatch and Drivers	FTA / DOT

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Section 14. Applicant Drug Screening – Urinalysis

Does not apply to Sheriff’s Office.

- A. As a public employer, Lincoln County is entrusted with the health and safety of its citizens and employees. In keeping with this obligation and as part of the conditions of employment, all applicants are required to submit to a urinalysis drug screening procedure as a means of detecting the presence of illegal drugs.
- B. Drug screening results shall be held in the strictest confidence. Applicants tested shall be provided with a copy of the test results, if requested. Lincoln County shall contract with a testing laboratory that utilizes strict chain of custody procedures in the testing of specimens.
- C. Drug screen testing shall be limited to the top applicant for each position and be considered part of the employment selection process.
- D. As a condition of employment, applicants for employment with Lincoln County must sign the Candidate/Employee Consent for Drug and Alcohol Screening Test form. Applicants refusing to sign the Candidate/Employee Consent for Drug and Alcohol Screening Test form shall not be considered for employment.
- E. A confirmed positive test result, indicating the presence of illegal drugs, shall result in a rejection of the applicant for employment and shall bar the applicant from applying for employment with Lincoln County for a period of one calendar year from the date of the test result.

- F. The applicant drug testing through urinalysis policy shall be posted and prominently displayed in the Personnel office where applications are obtained and processed.
- G. Refer to the Lincoln County Substance Abuse Policy for complete information on testing, available help, and all rules and regulations regarding substance abuse.

Section 15. Internet and E-mail Use Policy

Does not apply to Sheriff's Office.

A. Access

Employees desiring Internet access must first obtain approval of their department heads and must obtain specific permission from their department heads for news group, list server or chat access. Department heads must keep a register of all their Internet users. When an employee with an Internet account leaves County employment, the department head must notify the Management Information Systems (MIS) Office immediately.

B. Acceptable Use

County employees:

1. Are prohibited from using the County's Internet connections for private gain or profit.
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2. May not violate the privacy of others and must be sensitive to the fact that Internet news group postings, certain e-mail messages, Web sites and various other communications on the Internet are public.
 3. Are prohibited from using obscene, racist, and political in nature or sexist language or images.
 4. May not interfere with or disrupt any County network or Internet users, services, programs or equipment. Disruptions include but are not limited to propagation of computer worms, viruses or other debilitating programs, bulk e-mails, emails with unauthorized attachments, and using the County network to make unauthorized entry to any other machine accessible via the network or Internet.
 5. Must use the Internet in accordance with all applicable laws and regulations. This includes compliance with copyright and license laws covering programs, data and written material accessed, obtained or provided to others via the Internet. Software may not be loaded onto any Lincoln County computer system, through any of the above methods, without the prior written approval of the MIS office. This includes shareware, freeware, personal software or Internet distributed programs.
 6. Must comply with all State and Federal laws and County policies and ordinances with regard to conflict of interest, solicitation, or violation of other worker's religious or political freedom.

7. May not transmit threatening, obscene, religious, politically oriented or harassing materials, nor engage in any form of sexual harassment. This rule applies to forwarding as well as originating such offensive material.
8. May not electronically transmit any confidential Lincoln County information without the prior approval of the County Manager.

C. Security, viruses and downloading

1. County employees shall not share with others their assigned Internet passwords, access codes or other authentication devices. They must not be written down and stored, posted anywhere, programmed into a macro or stored on the computer system. All Internet passwords, access codes or other authentication devices must be changed regularly.
2. Employees shall ensure that whenever a technology resource assigned to them is not being used, it will be secured to avoid use by unauthorized personnel. Employees shall log off all County systems prior to departing for the day.
3. Except as provided elsewhere in this policy, the examination, modification, copying, or deletion of files and/or data belonging to other employees without their consent is prohibited.

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4. Employees' PCs that are not enabled to accept files via the Internet (e.g., via FTP, email attachments or news groups) are individually and directly responsible for checking them for viruses using the latest version of a reliable virus-checking program. Departments shall report all virus outbreaks to MIS immediately.
5. Deliberate attempts to degrade or disrupt system performance will be viewed as criminal activity under applicable state and federal law.

D. Internet E-mail

1. The use of e-mail passwords does not imply privacy or confidentiality. Electronic mail (both internal and via the Internet) is considered to be a public record and may be subject to public disclosure or inspection from County officials in accordance with Public Records Law. Routine backup of electronic mail will occur as part of the system maintenance performed by MIS.
2. When sending or forwarding e-mail, either internally or externally, all employees shall identify themselves clearly and accurately. Anonymous or pseudonymous posting is expressly forbidden.
3. Electronic messages should not be intercepted or tampered with by individual users, nor should messages be encrypted or encoded.

E. Web Pages

No County employee may create or contract for a Web site for any county department or agency without the approval of MIS Director. Significant changes to the content of web pages must receive approval from MIS before the information is published on the Internet.

Section 16. Solicitations, Distributions, and Use of Bulletin Boards

- A.** 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.
- B.** Persons not employed by Lincoln County may not solicit Lincoln County employees for any purposes on County premises without authorization of the department head.
- C.** 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 head 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.

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Section 17. Influenza/Pandemic Events Policy

(Resolution #2009 – 30 to add new policy - Section 17.)

A. Purpose of Policy

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

1. Minimize exposure and absenteeism in the event that an influenza/pandemic event causes a threat to employees and/or their families.
2. Provide management with direction on how to address situations when an employee has the flu or flu-like symptoms.

B. Declaration of Influenza/Pandemic 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.

C. Expectations of All Employees

1. All employees should be encouraged to get flu shots. If available, the County will provide flu shots to employees and they will be able to receive the flu shots during working hours. If the shots are not available to the County, employees should be encouraged to see a physician to get a flu shot.
2. Employees should use hand sanitizer or soap and warm water to clean hands to help minimize cross contamination.

D. Employees Who Become Sick

1. All employees should be encouraged to stay at home, and seek medical care if necessary, if they are experiencing any flu like symptoms.
2. If an employee comes to work and appears to have flu like symptoms, the supervisor should tell the employee that, unless they agree to go home, we will need to take their temperature (each Department should have a supply of thermometers).
 - a. The supervisor should monitor the employee while they take their own temperature.
 - b. If the employee's temperature is 100.3 or above they should be sent home immediately.
 - c. Employees who are sent home with flu like symptoms or those who have called in sick due to flu, must not return to work unless they are free of fever for 24 hours without antipyretic (Tylenol, aspirin, etc).
3. If the employee's temperature is greater than 100.3 and the employee believes they do not have the flu, they should still be sent home. The employee may bring a note from their personal doctor stating they do not have the flu and are not contagious to other employees or clients.
4. As soon as the Supervisor/Director becomes aware that an employee has developed flu-like symptoms, they should limit anyone from using the employee's workspace until after the area has been disinfected.
5. The Supervisor should contact housekeeping or appropriate staff responsible for their work site to clean the surface with a commercial product that is both a detergent and disinfectant.

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6. Leave for Sick Employees
 - a. If an employee is absent from work or sent home from work with flu-like symptoms, the employee must use sick leave.
 - b. If an employee is absent from work due to the care of an immediate family member with flu-like symptoms, the employee must use sick leave.
 - c. If an employee does not have sick leave time, the employee must use annual leave, holiday leave, or any accrued compensatory time.
 - d. If an employee does not have sick leave, annual leave, holiday leave, or accrued compensatory time, Lincoln County may approve an advance of sick leave up to a maximum of 40 hours.
 - e. Sick leave will be advanced for the sickness of an employee only for flu or flu-like symptoms.
7. Request for Advance of Sick Leave
 - a. The employee must request and receive approval for the advance of sick leave from their supervisor.
 - b. 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 symptoms.
8. Advance sick leave will be repaid as follows:

- a. 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.
 - b. Employees requesting advanced sick leave will be required to sign a written statement to repay the advanced sick leave.
 - c. If an employee leaves employment, all advanced sick leave time must be reimbursed to the County.
9. Family Medical Leave Act (FMLA)
- a. If medical notes are received or if the employee has been hospitalized due to influenza, 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.

NOTE: Employees experiencing problems should 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. The EAP is provided by McLaughlin Young and can be reached at 1-800-633-3353. For more information, please contact the Human Resources Offices.

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E. Work Place Preparedness Prior to the Influenza /Pandemic Event

1. All Department Directors should prepare and maintain a list of essential and non-essential positions. Back up plans should 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.
2. Information on proper hand washing, flu prevention, and flu symptoms should be disseminated to employees via staff bulletin boards, newsletters etc.
3. All County Departments should have waterless antibacterial hand cleanser available in the offices.
4. Departments should inventory essential operating supplies to be sure there will be enough available should vendors not be able to supply items during a influenza/pandemic event.
5. All County Departments should 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.

F. Work Place Actions During a Influenza/ Pandemic Event

1. Department Directors must notify the County Manager if they are experiencing significant staff shortages.

2. 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.
3. Unless all Lincoln County operations are officially suspended, certain essential functions will still have to be maintained and all Lincoln County staff that are not infected must report to work, or serve from a remote location, unless otherwise instructed. The County Manager may reassign staff as required in emergency situations.
4. The County Manager may designate essential employees to comprise the Influenza/Pandemic 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.
5. Lincoln County's overtime for non-exempt and informal leave for exempt employees (Lincoln County Personnel Policy, Article III. Section 8, - 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.

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REQUEST FOR ADVANCE SICK LEAVE

The advancement of sick leave can only be requested for an employee that has flu or flu-like symptoms. The maximum amount of advanced sick leave is 40 hours.

Employee Name: _____

Department: _____

Sick Leave Hours Requested: _____

Department Director Approval: _____

County Manager Approval: _____

REPAYMENT OF ADVANCED SICK LEAVE

I hereby authorize and request the County to deduct from any sick leave, annual leave, holiday, or compensatory time which I accrue, until the advanced sick leave time, which has been advanced to me, has been repaid to the County.

If my employment with the County should terminate before all of the advanced sick leave has been reimbursed, I agree to pay in full any remaining unpaid balance.

Employee's Signature

Date

Section 18. Return To Work Program

A. Policy

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 comport 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 should 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 should it be construed as a guarantee of employment for any specific period of time.

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B. 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.

C. 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 should see from the program:

1. 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.

2. Lincoln County Benefits

- Our interest and concern for employees are reinforced;
- Workers' compensation costs are reduced;

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- 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;

D. How The Return To Work Program Will Work

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 administrator will 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.

E. 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 capabilities.

- 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.).

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- 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.

F. Procedures and Responsibilities in the Event of an Injury

1. Employee Responsibilities

When Injury Occurs

- a. An employee who is injured at work must immediately report the incident to their Department Director/Supervisor.
- b. 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 should be obtained.

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- c. The injured employee is responsible for following medical instructions on and off the job.
- d. 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 should make a written report to Lincoln County Human Resources Department within thirty (30) days of the injury.
- e. 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.

- f. 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.

When Returning to Work

- a. 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.
 - b. 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.
 - c. Maintain regular communication with Department Director/Supervisor.
 - d. Advise Workers Compensation Coordinator when Physician authorizes return to full /regular duties.
2. Department Director/Supervisor Responsibilities

When Injury Occurs

- a. Obtains immediate medical attention for the injured employee.
- b. Report incident to Lincoln County Workers Compensation Coordinator within 24 hours but no later than the close of business the next working day.
- c. Complete an incident investigation report within 72 hours after the injury.
- d. Provide employee with Lincoln County Return to Work information packet.
- e. 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.

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- f. The Department Director/Supervisor reviews information received from the doctor and in conjunction with Workers Compensation Coordinator determines if appropriate work is available.
- g. The Department Director/Supervisor must complete the Job Task Analysis/Job Risk Assessment Form and forward to the Workers' Compensation Coordinator.

When an Employee is Unable to Return to Work

- a. 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.

- b. The Department Director/Supervisor must maintain weekly communications with employee.

When Employee Returns to Work

- a. 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.
- b. Following an injured employee's return to work, the Department Director/Supervisor monitors the injured employee's progress to assure that restrictions are carefully followed and assist to resolve any difficulties.
- c. Maintain regular communication with employee.

3. Workers Compensation Coordinator

When Injury Occurs

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

When Employee Returns to Work

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

- d. Forward the Return to Work/Transitional Duty Physician's Medical Form to the treating physician.
- e. 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.
- f. 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.
- g. Coordinate communications and the exchange of information among the treating doctor, the Department Director/Supervisor and workers' compensation administrator.
- h. Coordinate benefit payments.
- i. Provide the employee a copy of the Transitional Duty Completion/Closure form at the conclusion of the Transitional Duty assignment.
- j. Coordinate monthly open claims status meetings with Assistant County Manager, Human Resources Director, Department Director/Supervisor, and claims administrator as appropriate.

Section 19. Pre-employment Criminal Background Check

(Section 19. added per Resolution 2014-20, approved 9-08-2014.)

- A. 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

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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.

- B. 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.

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ARTICLE VI. HOLIDAYS AND LEAVE

- Section 1. Holidays and Leave
- Section 2. Work on Holidays and Other Types of Paid Leave
- Section 3. Holidays – When Work Required
- Section 4. Annual Leave
- Section 5. Transfer of Annual Leave
- Section 6. Annual Leave Accumulation

- Section 7. Annual Leave Usage
- Section 8. Annual Leave Pay at Separation
- Section 9. Sick Leave
- Section 10. Voluntary Shared Leave
- Section 11. Educational Involvement Leave
- Section 12. Court Appearances
- Section 13. Conference Attendance
- Section 14. Employee Training
- Section 15. Leave Without Pay
- Section 16. Retention and Continuation of Benefits
- Section 17. Absence from Duty
- Section 18. Military Leave
- Section 19. Notification of Leave of Absence
- Section 20. Severe Weather and Emergency Conditions
- Section 21. Family Medical Leave Act of 1993

ARTICLE VI. HOLIDAYS AND LEAVE

Section 1. Holidays Observed

A. The Board of Commissioners adopted to follow 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:

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

B. 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). When a holiday falls on a Saturday or Sunday, the Board of County Commissioners will determine which day will be observed as a holiday. Employees must be in pay status the day before and the day after a holiday to be eligible for payment of that holiday.

C. Regular employees in the Sheriff's Office, Jail, Communications Center, Solid Waste, Emergency Medical 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.

Section 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.

Section 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 head. Employees will be allowed to carry over two (2 or 3) holidays at the end of each year (the carry over of three (3) holidays would be when employees are given three (3) days at Christmas). Holidays above two or three (2 or 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.

Section 4. Annual Leave

A. 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.

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

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Section 5. Transfer of Annual Leave

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

Section 6. Annual Leave Accumulation

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

REGULAR EMPLOYEES		
Years of Service	Hours Earned Per Pay Period	Hours Earned Per Year
Less than 2 years	3.25	84.50
2 but less than 5 years	3.75	97.50
5 but less than 10 years	4.75	123.50
10 but less than 15 years	5.50	143.00
15 but less than 20 years	6.50	169.00
20 years or more	7.50	195.00

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.

- B.** Regular part-time employee's annual leave:

1. A regular part-time employee in a regular part-time budgeted position shall earn annual leave on a pro rata basis if they work one-half or more of the scheduled workdays in a payroll period.
2. The leave shall be computed as a percentage of total amounts earned by a full-time employee.

- C.** 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.

Section 7. Annual Leave Usage

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

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employee's supervisor. Annual leave should 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.

Section 8. Annual Leave Pay 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.

Section 9. Sick Leave

- A. The regulations regarding sick leave shall apply to all departments except, Federal, State, and County employees of the North Carolina Cooperative Extension Service.
- B. 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 - Members of the employee's family including wife, husband, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, grandson, granddaughter, stepmother, stepfather, stepbrother, stepsister, persons living together in a close personal relationship or anyone living in the household of the employee.

- C. 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.
- D. Bereavement leave will be deducted from accumulated sick leave up to three working days, for a death in the employee's immediate family. Should additional time be needed to settle affairs of the family, it should 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 fifteen (15) minutes.
- E. 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. Regular Part-time employees shall accrue sick leave in accordance with a prorated formula of regular full-time employees. Sick leave may be accumulated without any maximum limit while the employee is in continuous service with Lincoln County and in pay status.

- F.** Notification of the desire to take sick leave should 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.
- G.** For each occasion in which an employee uses three 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.
- H.** 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.
- I.** 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 covered by the provisions of the North Carolina Worker's Compensation Act. An exception is when the injury causes disability of seven days or less for which there is no compensation under the Worker's Compensation Act.
- J.** 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.
- K.** 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 Personnel 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.

Sick leave accrued but unused during previous employment with Lincoln County will be reinstated effective immediately upon re-employment.
- L.** Upon separation of employment from Lincoln County, no employee will receive payment for unused accumulated sick leave. Upon retirement, unused accumulated sick leave shall be reported to North Carolina Local Government Employee's Retirement system as a credit for retirement credits.

Section 10. Voluntary Shared Leave

- A.** 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.

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Only regular status full-time or regular part-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.

- B.** 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.
- C.** 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.
- D.** 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.
- E.** Any regular full time or regular part 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 head, or family member may also make application acting on the employee's behalf.
- F.** All leave donations must be made to a designated employee that has been approved by the Personnel Director or the County Manager. Leave may not be donated to a pool or bank.
- G.** 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.
- H.** The donating employee may not receive compensation in any form for the donation of leave. Acceptance of remuneration for donated leave may result in dismissal.
- I.** 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.
- J.** All donated leave must be used in four (4) or eight (8) hour units. Holidays falling during the period of the use of donated leave will be paid as full time for regular full time employees, or prorated for regular part 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.

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Section 11. Educational Involvement Leave

- A.** Lincoln County recognizes the important of excellence in education and commits its support through the participation of County employees in the educational process. County employees are encouraged to participate in the educational system by attending parent-teacher conferences thereby becoming involved in the education and development of their children and when appropriate to volunteer in the schools.
- B.** In order to support County employees and to foster educational involvement, regular full time employees may schedule conferences with their child or grandchild's teacher, or other school support activities during work time. This policy applies to public schools, certified preschool, or an accredited private school. The County's donated time is limited to a maximum of four (4) hours during a calendar year (Employees will not be allowed to use educational leave in less than one (1) hour increments).
- C.** Educational time away from work is a privilege rather than an entitlement. Its use requires the advance approval of the department head or his or her designee. Validation of attendance at school activities may be required if deemed necessary. 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. Employees are eligible for this benefit at the end of their probationary period.

Section 12. Court Appearances

- A. Jury Duty** - 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.
- B. 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.
- C.** Employees who are dismissed from court duties early in the day, or who report late to court in the morning, should report to work as soon as possible, within reason.
- D.** 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.
- E.** 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.

Section 13. 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 head 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.

Section 14. 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, BA, BS, Masters Degree or PHD or for personal enrichment even if it applies to the employee's field of work.**

Section 15. Leave Without Pay

- A. 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 Personnel Director. Leave without pay requested by a department director shall be submitted to the County Manager for approval.
- B. 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.
- C. 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 -** Members of the employee's family including wife, husband, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, grandson, granddaughter, stepmother, stepfather, stepbrother, stepsister, persons living together in a close personal relationship or anyone living in the household of the employee) subject to the following conditions:
 - 1. This leave cannot exceed six months, including up to 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.

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- D.** 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 LWOP will be approved.
- E.** **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 head shall forward the request to the Personnel 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.
- F.** If an employee decides not to return to work from an approved leave without pay, they should notify their supervisor immediately. The supervisor shall report this decision to the department director and the Personnel 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.
- G.** Employees on leave without pay shall not earn leave of any kind.
- H.** Final approval of all leaves without pay must come from the County Manager.

Section 16. 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.

Section 17. Absence From Duty

Does not apply to the Sheriff's Office.

- A.** 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.
- B.** 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.

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Section 18. Military Leave

Regular full-time employees who are members of the National Guard or Armed Forces Reserve shall be allowed ten (10) working days of leave per calendar year with full pay, for military training. If such military duty is required beyond the ten-day period, the employee may use annual leave or be placed in a leave without pay status. While on military leave with pay or without pay, the employee will continue to earn and/or accrue leave and other benefits as if they remained with the County during this period. Employees who are reservists have all job rights specified in the Veterans Readjustment Assistance Act. An employee who has been called to duty in the United States military shall automatically be granted an indefinite leave of absence, without pay, for the duration of such active service. Each employee must be reinstated without loss of privileges or seniority, provided the employee reports for duty with the County within 90 days following discharge from service.

Section 19. Notification of Leave of Absence

The department director or designated appointing authority, shall submit written notification to the Personnel Office of all leaves of absence, with or without pay.

Section 20. Severe Weather and Emergency Conditions

(Section 20. Amended per Resolution 2011-53 on 10-17-2011)

A. 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.

B. Announcements and Notifications

1. When conditions warrant, the County Manager will determine and announce all decisions to close, delay, or cancel activities of the County.
2. 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,

telephone tree or other automated notification system.

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

C. Reporting For Work

1. All employees are expected to make the necessary advanced preparations to report each scheduled workday.
2. All employees are responsible for ensuring they can be reached via valid contact information at all times.
3. For purposes of severe weather or other emergency events, County Operations are deemed "Essential" or "Non Essential."
 - Essential County Operations are designated as, but not limited to: Sheriff's Office and Jail, Emergency Communications, Transportation, Emergency Management, Fire Marshal, Emergency Sheltering, Public Works, Water and Wastewater Field Operations, Maintenance and Grounds, and Planning and Inspections.
 - Essential employees are expected to report for work on their regular schedule in spite of any closing, delay, or cancellation.
 - Non-Essential County Operations are County provided services that are not generally needed at the time of a severe weather or other emergency event and include, but are not limited to; Information Technology, Libraries, Human Resources, Elections, Register of Deed, and Tax Department.
 - 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.
4. Employees who do not report to work during periods of severe weather when County departments and agencies are operating under a normal work schedule, must 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.
5. 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 supervisor.

6. If an employee desires to leave work early due to inclement weather conditions, approval must first be obtained from the supervisor prior to leaving the assigned workstation. The employee must account for the absence by using accrued annual or holiday leave to equal

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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.

D. Compensation

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

1. 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.
2. 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.
3. 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.

Section 21. Family, Medical, and Military Leave

(Section 21. Amended per Resolution 2010-53 approved 10-18-2010)

In accordance with the Federal Family and Medical Leave Act of 1993 and as amended also by the National Defense Authorizations Act of 2008, NDAA, Lincoln County provides unpaid leave (an authorized absence) from work for the circumstances listed below as specified and further defined

in the FMLA and 29 CFR Part 825. The FMLA also provides certain benefit protections and job restoration for eligible employees on FMLA leave. The FMLA leave and protections are granted provided the eligible employee meets the notification and certification requirements of the FMLA, 29 CFR Part 825 and the notice and reporting requirements of Lincoln County.

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It is the policy of Lincoln County not to discriminate or retaliate against an employee for using FMLA leave or interfere with an employee's exercise of any right under the FMLA.

A. Eligible employees may qualify for FMLA leave for the following circumstances:

- 1) **Birth of a Child:** For the birth of a child and to care for the newborn child.
- 2) **Adoption or Foster Care Placement:** For placement with the employee of a child for adoption or foster care.
- 3) **Family Member's Serious Health Condition:** To care for the employee's son or daughter (under age 18), spouse, or parent with a serious health condition.
- 4) **Employee's Serious Health Condition:** When the employee is unable to perform any one of the essential functions of the job due to a serious health condition.
- 5) **Military Deployment to a Foreign Country:** When the spouse, son, daughter, (includes adult children) or parent is a member of the Armed Forces, including the National Guard or Reserves, and is in or called to active duty (or has been notified of an impending call or order to active duty) for deployment to a foreign country.
- 6) **Military Care Giver:** To care for the employee's spouse, son, daughter, (includes adult children), parent, or next of kin, who is a covered service member with a serious injury or illness sustained (or existed before the member's active duty and was aggravated by service) *in the line of duty while on active duty*. A "covered service member" is a member of the Armed Forces including members of the National Guard and Reserves, or a veteran. In the case of a veteran, the qualifying service must be within five years preceding the date on which the veteran undergoes medical treatment, recuperation, or therapy for a serious injury or illness requiring the FMLA leave.

B. FMLA Leave Entitlement

Eligible employees may qualify for up to twelve weeks of unpaid leave (authorized absence from work) in a 12-month period for circumstances #1 through #5 above. The 12-month period is a rolling 12-month period looking back from the date the FMLA leave is to begin. The available leave will be reduced by any FMLA leave used during the 12 months immediately preceding the new FMLA leave.

Leave for birth of a child, adoption, or foster care placement must be taken within 12 months of the birth or placement.

With military caregiver leave, circumstance #6, eligible employees may qualify for up to 26 weeks of leave in any single 12-month period. The single 12-month period begins at the point leave begins and is not a rolling 12 months. The maximum leave for all types of FMLA leave cannot exceed 26 weeks in the 12-month period.

C. Eligible Employees

An eligible employee is one who has been employed by Lincoln County for at least 12 months, without a break of seven years or more, and has worked at least 1,250 hours

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(hours worked - not counting paid or unpaid leave hours) during the 12-month period immediately preceding the start of qualifying FMLA leave. The 12 months of employment need not be consecutive. Employment prior to a break in service of seven years or more does not count. An employee who is not working, not active, on leave without pay, or other non paid-non work status, for example, on lay off, is not an eligible employee. (See exception for employees returning from military service subject to USERRA.) While the FMLA provides job protection, it does not protect the employee from a lay off. If a reduction-in-force occurs, and the employee absent on FMLA leave is included in the lay off or the employee's position or occupational group is included in the reduction-in force, the FMLA leave and protections terminate upon the lay off.

D. FMLA Leave is a Legal Requirement

Unlike other types of leave provided by Lincoln County, FMLA leave and its benefit and job protections are a requirement of the law. Employees do not have the right to refuse FMLA leave or decline the FMLA leave designation for absences lawfully obtained for a qualifying FMLA purpose. Generally, any leave taken under the policies of Lincoln County, including workers' compensation leave for a work related injury or illness, which also qualifies as FMLA leave, will be counted toward the employee's FMLA entitlement. Lincoln County may retroactively designate any leave taken within the last 12 months as FMLA leave toward the employee's FMLA entitlement, if Lincoln County learns after the fact that such leave qualified as FMLA leave.

E. Definitions

1. Child is defined for circumstance #2 and #3 as a biological, adopted, or foster child, a stepchild, a legal ward or child for whom the employee is "in loco parentis, who is under eighteen (18) years of age, or if eighteen (18) years of age or older is incapable of self-care because of mental or physical disability. The "parent" of the child includes an employee who is a biological parent, stepparent, or family member, or domestic partner, who are standing in loco parentis with day-to-day responsibilities to care for or financially support a child. Son or daughter as provided for in the military deployment leave, circumstance #5, and military caregiver leave, circumstance #6, includes children of any age including adult children over 18.
2. With regard to caring for a parent, "parent" is defined as the biological parent of an employee, or an individual who stood "in loco parentis" to an employee when the employee was a son or daughter. The term does not include parents in law.

3. Spouse is defined as husband or wife as defined by the state, including common law marriage if recognized by the state.
4. Serious health condition means an illness, injury, impairment, or physical or mental condition, including those resulting from a workplace illness or injury subject to workers' compensation, which involves:

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- a. Inpatient care (an overnight stay in a hospital, hospice, or residential medical care facility) including any period of incapacity or subsequent treatment in connection with such inpatient care. Does not include outpatient status.
 - b. Continuing treatment by a health care provider due to incapacity of **more than three** consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition that:
 - 1) Requires in-person treatment by a health care provider at least once within seven days of the first day of incapacity; and,
 - 2) Requires either; a regimen of continuing treatment initiated by the health care provider during the first treatment (or) a second in-person visit to the health care provider for treatment within 30 days of the first day of incapacity.
 - c. Any period of incapacity due to pregnancy, or prenatal care; or
 - d. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition that requires visits for treatment by a health care provider at least twice a year.
 - e. A period of incapacity which is permanent or long due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of a health care provider but need not be receiving active treatment by a health care provider.
 - f. A period of incapacity includes any leave of absence or time when an employee cannot perform an essential function of the job and includes non workdays.
5. Health care provider, HCP, is a doctor of medicine or osteopathy who is authorized and licensed to practice medicine or surgery by the state. This also includes clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse-midwives, clinical social workers, physician assistants (who are authorized and practicing within state law), and Christian Science Practitioners.
 6. "Military Deployment to a Foreign Country" leave, (circumstance #5), is a non-medical leave (an authorized absence) that is available to an employee directly

related to the covered family member, who is a member of the Armed Forces, including the National Guard or Reserves, who either is on active duty or has been notified of an impending call or order to active military duty for deployment to a foreign country under Section 101(a)(13)(B) of title 10, United States Code. Covered active duty for deployment is defined in Title 10 of the United States Code and is generally noted in the service member's orders. .

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Military deployment leave, not to exceed 12 weeks in a 12-month period, is available for eligible employees for seven general categories:

- a. Short-notice deployment where the notice is seven days or less prior to the date of deployment. The employee is eligible for immediate leave up to the date of deployment (maximum seven days).
- b. Military events and related activities. The employee may take leave to attend any related official ceremonies, programs, informational sessions, briefings sponsored or provided by the military, military services organizations or Red Cross related to the event.
- c. Childcare and School Activities. The employee can take leave to arrange for childcare or attend to other needs with the child's school enrollment due to the qualifying event.
- d. Financial and legal arrangements. Leave can be taken to take care of financial, banking, or other legal arrangements, including powers of attorney, making of or updating wills, etc. or other related legal matters arising out of the qualifying event. For a period of 90 days following the termination of the covered service member's active duty status, leave can also be taken to represent the covered member for the purpose of obtaining, arranging, or appealing service connected benefits.
- e. Counseling. Leave is available to attend counseling provided by someone other than a health care provider for the employee, child, or covered family member as defined below, including a child over 18 who is incapable of self-care because of a mental or physical disability, provided that the need arises from the active duty or call to active duty.
- f. Rest and recuperation. Up to five days of leave is available to the employee for each incidence of R & R granted the covered service member.
- g. Post-deployment activities. Leave can be taken to attend arrival ceremonies, briefings, events, other official ceremonies or programs sponsored by the military for a period of 90 days following termination of active duty status. Leave is also available to address issues that arise from the death of the covered military member while on active duty status.
- h. Additional activities. Leave can be taken to address other events related to and arising from the military member's active duty or call to active *provided* both the employee and Lincoln County agree that such leave qualifies as an exigency and agree to the timing and duration of the leave.

Leave for military deployment to a foreign country is subject to the 12-week FMLA maximum in the rolling 12-month period including leave used by the employee for circumstances #1 through #4. For example, if the employee has used leave for another qualifying FMLA purpose, such as for childbirth, a serious health condition, etc., in the previous 12 months, the remaining entitlement is reduced by the FMLA leave previously used.

7. Covered family member, (circumstance #5), means the employee's spouse, son,

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daughter or parent. Son or daughter means the biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis, who is on active duty or call to active duty and who is of any age. "Next-of-kin" is defined as the closest blood relative of the injured or recovering service member when no other family member is available to care for the service member.

8. A covered service member with a serious injury or illness, (circumstance #6), is a current member of the armed forces, including the National Guard or Reserves, who has a serious injury or illness incurred *in the line of duty* on active duty (or existed before the member's active duty and was aggravated by service) for which he or she is undergoing medical treatment, recuperation, or therapy, or in outpatient status, or on the temporary disability-retired list. A covered service member includes a veteran who was a member of the Armed Services, including the National Guard or Reserves, who was serving within five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy. A serious injury or illness is one that renders the covered service member medically unfit to perform the duties of his or her office, grade rank or rating. The FMLA Aserious health condition@ definition does not apply to this leave category.
9. Parent of a covered service member, (circumstances #5 and #6), is a covered service member's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member but does not include parents in law.
10. The single 12-month period, (circumstance #6), begins on the first day the eligible employee takes leave to care for a covered service member and ends 12 months after that date. If the employee does not use all 26-weeks of leave, the remaining leave is forfeited for that qualifying event. Such leave is available on a per-covered-service member, per-injury basis such that the employee may be entitled to more than one period of 26 workweeks of leave. If such leave overlaps with other caregiver leave or other FMLA leave, the employee is limited to no more than 26 workweeks of leave in each single 12-month period. The single 12-month period for military caregiver leave is independent of the rolling 12-months of leave that determines entitlement for FMLA leave under circumstances #1 through #5. The maximum FMLA leave for all qualifying purposes cannot exceed 26 weeks in the single 12-month period.

F. Recording and Accounting of FMLA Leave

FMLA leave will be accounted for and recorded in the same increments as other leave provided by Lincoln County, provided the increments are no more than one hour.

G. Employee Right to Reinstatement

On return from FMLA leave, provided the employee has not exceeded the FMLA entitlement, the employee will be returned to the same position the employee held at the

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commencement of leave or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment. If the employee is no longer qualified for the position because he or she was unable to attend training or meet certain qualifications due to the FMLA leave, the employee will be given a reasonable opportunity to fulfill these conditions or attend training upon returning to work. Benefits will be provided in the same manner and level, without a waiting or qualification period, as provided at the commencement of leave and subject to any changes in benefit levels that took place during the leave affecting the entire work force or benefit group. Employees returning from FMLA will not be required to re qualify for benefits they received at the commencement of the FMLA. Vacation, sick leave or similar leave and benefits, including retirement contributions, do not accrue during unpaid FMLA leave.

If the employee is able to return to work before the scheduled date for return as documented in the leave request and certification, the employee must notify Lincoln County as soon as practical, preferably one week in advance, but no less than two business days (Saturday and Sunday are not business days), to request reinstatement. Lincoln County will attempt to accommodate requests for early reinstatement.

If the employee does not return to work following FMLA leave for a reason not related to the circumstance qualifying the employee for FMLA, the employee must reimburse Lincoln County for the cost of benefits furnished by Lincoln County during the FMLA leave.

An employee on or returning from FMLA leave has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave.

A key employee may be denied job reinstatement, if such denial is necessary to prevent substantial and grievous economic injury to the operations of Lincoln County. A key employee is a salaried FMLA-eligible employee among the highest paid 10 percent of all employees determined by the total year-to-date earnings, including incentives and all bonuses, premium pay, and weeks of paid leave divided by the weeks in the year-to-date. The employee will be notified of their key employee status upon notice of the need for FMLA leave.

H. Return to Work Fitness for Duty Certification

An employee who is on FMLA leave due to their own serious health condition that made the employee unable to perform the employee's job, must provide a fitness-for-duty certification from their health care provider that they are able to safely perform, without undue risk of injury to themselves or others, all the essential functions of their position before they will be reinstated. The cost of the certification is borne by the employee. Job restoration will be delayed until the employee provides a complete and sufficient certification that the employee can safely perform the essential duties. Lincoln County will provide the employee with a copy of their job description or list of the essential duties for

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the health care provider to consider in their evaluation. A simple statement such as may return to work, may return to duties, cleared for work, or similar non specific statement is not sufficient. The return to work certification must state at a minimum the employee can safely perform all the essential duties of their position.

I. Military Leave Under USERRA

Employees may also qualify for military leave under the Uniformed Services Employment and Reemployment Rights Act, USERRA, as explained elsewhere in Lincoln County's policies. (See also the USERRA poster.) Such leave does not count as FMLA leave. The USERRA requires that qualified service members concluding their tours of duty and are employed by Lincoln County receive all benefits of employment that they would have obtained if they had remained employed except benefits of short-term compensation, such as accrued paid vacation and similar benefits. Thus, in determining eligibility for FMLA leave for an employee who has returned from military service and who qualifies for the USERRA protections, the time served performing the military service counts as employment for the FMLA 12-month employment eligibility requirement. Also, in determining if the employee has worked 1250 hours in the last twelve months, an employee returning from his or her National Guard or Reserve military obligation will be credited with the hours of service that would have been performed if the employee had remained at work using the employee's pre-service work schedule.

J. Intermittent Leave or Reduced Schedule FMLA Leave

Generally, FMLA leave is taken in blocks of time, for the duration of the event in whole workweeks. Leave for a serious health condition may be taken intermittently or on a reduced leave schedule when that type of scheduling is medically necessary for the employee's own serious health condition or to care for the employee's spouse, child or parent due to a serious health condition. The health care provider must confirm with sufficient objective medical information that there is a medical necessity for intermittent or reduced schedule leave.

Intermittent and reduced schedule leave is also available for qualifying exigencies, circumstance #5, and to care for an injured or ill covered service member, circumstance #6.

If an employee requests intermittent leave or leave on a reduced schedule, Lincoln County may require that the employee transfer to a temporary alternative position for which the employee is qualified and that better accommodates the intermittent or reduced schedule. The temporary position will have pay and benefits equivalent to the employee's regular position.

Intermittent or reduced schedule leave for the birth of child or placement of a child for adoption or foster care, circumstances #1 and #2, is not a benefit under the FMLA and granted solely at the option of Lincoln County.

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K. If Husband and Wife Both Work for Lincoln County

If the employee and spouse both work for Lincoln County, the total leave entitlement for birth of a child, placement of a child for adoption or foster care, or to care for a parent with a serious health condition is 12 total weeks combined in the 12-month period. For example, for the birth of a child, one employee may take eight weeks and the spouse takes four weeks, but the total for both the husband and wife cannot exceed 12 weeks. All such leave counts toward the maximum 12-week entitlement for all FMLA leave. Also, with military caregiver leave, circumstance #6, the employee and spouse are limited to a combined total of 26 weeks of leave in a single 12 month period.

L. An FMLA Leave Week

An FMLA leave week is the regular workweek as scheduled and worked by the employee. For example, if an eligible employee is scheduled for and works 32 hours a week, an FMLA week is the employee's 32 hour week. Likewise, an employee who regularly works 50 hours per week, the FMLA week is a 50-hour week. For example, if a full time employee, (40-hours) is taking reduced schedule leave and working half-time, 20 hours per week, the employee has 24 weeks of FMLA entitlement. If a paid or unpaid holiday occurs during a week the employee is on FMLA leave for the entire week, the time off continues count as one FMLA week and the employee is not entitled to additional leave or holiday pay.

M. Paid Leave, Compensatory Time Off, and Unpaid Leave

When taking FMLA leave, the employee must first use any accumulated FLSA compensatory time off, then unused accrued sick leave, accrued vacation leave, personal time off leave, for qualifying FMLA leave. The FMLA will run concurrently with the use of paid leave and compensatory time off. If and when the paid accrued leave is exhausted, the remainder of FMLA leave will be without pay. If the employee is absent due to a workplace injury and is on workers' compensation leave, the FMLA leave will run concurrently. The granting and use of any accrued paid benefit leave simultaneously with workers' compensation leave will be according to Lincoln County's current policies and practices. If the employee is using paid leave or compensatory time off for FMLA leave,

deductions for benefits will continue. If the FMLA leave is without pay, the employee will be responsible for reimbursing Lincoln County monthly for the individual's portion of the benefit on the same basis as when employed in pay status.

N. Employee Notice Requirements

When the need for FMLA leave, if foreseeable, the employee must provide at least 30 days notice. When the employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must notify as soon as practicable their supervisor or other appropriate management member as established elsewhere in these policies. As soon as practicable means the same or next business day. When the need for FMLA leave is not foreseeable, the employee must comply with Lincoln County's notice and procedures for requesting leave.

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For foreseeable leave, the employee must provide sufficient information for Lincoln County to be aware that the circumstance may qualify as FMLA leave, and the anticipated timing and duration of the leave. For unforeseeable leave, the employee must provide sufficient information for Lincoln County to reasonably determine whether the FMLA will apply to the leave request. When seeking leave for the first time for a FMLA-qualifying reason, the employee need not expressly assert or reference his/her rights under the FMLA but must provide specific details of the circumstance. Employees seeking leave due to a qualifying reason for which Lincoln County has previously granted FMLA leave to the employee must specifically reference either the qualifying reason for leave or the need for FMLA.

Calling in sick without providing more information will not be considered sufficient notice to comply with Lincoln County's absence policies nor will it meet the requirements to qualify for FMLA leave. Calling in leaving a message with another employee, or otherwise not following the call in procedures established by policy will result in disciplinary action including denying leave resulting in unauthorized absences.

O. Supervisor Responsibility

When employees inform their supervisors of the need to be absent from work, the supervisor must inquire as to the reason for the absence in order to determine if the absence may qualify for FMLA. The HIPAA, ADA and other privacy rules do not apply to direct communication between the employer and the employee about the employee's condition or need for FMLA leave. However, the supervisor must not discuss or disclose such information to others except to report the absence to the Human Resource Department. If the employee is requesting the need to be absent due to a health reason, the supervisor must question the employee and obtain enough information to determine if the condition may be a serious health condition. The supervisor must then immediately, same day, report to the Human Resource Department the potential FMLA event. Supervisors who fail to immediately report potential FMLA events will be subject to disciplinary action.

P. Employer Notice Requirements and Procedures

The Notice to Employees of Rights Under FMLA (WH Publication 1420) is incorporated as part of this policy by express reference and is posted in conspicuous places on Lincoln County designated bulletin boards with other required work place rights and protection posters. In addition, a copy of this policy and WH Publication 1420 will be given to all employees upon employment.

If the supervisor first learns of a potential FMLA need/absence, the supervisor will immediately report the matter to the Human Resource Department.

Eligibility Notice (WH-381): When an employee requests FMLA leave or when Lincoln County learns that leave qualifies as FMLA leave, Human Resource Department will, within five business days, provide the employee with notice WH-381 notifying the employee of their eligibility status. If the employee is eligible, Part B of WH-381 will be

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completed indicating the employee's responsibilities regarding certification, benefits, reporting and other related matters. If certification is requested, the employee has 15 days to return the form with complete and sufficient information. The Human Resources Department will include the appropriate certification form for the leave type requested as explained below.

Certification of Health Care Provider (WH-380E) and Certification of Health Care Provider (WH-380F): If certification is required, Lincoln County will include with the Eligibility Notice, form WH-380E if the leave is due to the employee's own serious health condition, or form WH-380F if the leave is needed to care for a family member as identified in these policies with a serious health condition. The employee must return the certification within the time limit specified complete, sufficient and legible. The certification is considered incomplete if one or more of the applicable entries have not been completed. The certification is considered insufficient if the information provided is vague, ambiguous, non-responsive or illegible. Lincoln County will notify the employee of the deficiencies and the employee will have seven days to provide a complete and sufficient certification. If the employee fails to provide a complete and sufficient certification, FMLA leave will be denied and the employee will be subject to disciplinary action for failure to follow instructions and policy.

The Director of Human Resources or designee of Lincoln County may contact the health care provider, provide a copy of the certification and request verification of the information. If the health care provider fails to respond, FMLA leave may be denied. The Director of Human Resources or designee may also contact the health care provider to obtain clarification or explanation of information on the certification. The employee may need to provide a medical information release to the provider so that the provider can discuss the certification, condition, and limitations with the Lincoln County. While the employee is not required to provide a medical release, the failure of the provider to verify and/or clarify information on the certification may result in denial of the FMLA leave and the designation of the leave as unauthorized resulting in disciplinary action.

Certification of Qualifying Exigency for Military Family Leave (WH-384): The Human Resource Department will include this form with form WH-381 when the employee requests or Lincoln County learns the leave or absence may qualify as leave for a qualifying exigency, circumstance #5. The form must be returned within 15 days, complete and sufficient.

Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave (WH-385): The Human Resource Department will include this form with form WH-381 when the employee requests or Lincoln County learns the leave or absence may qualify as leave to care for a covered service member, circumstance #6. The form must be returned within 15 days, complete and sufficient.

Designation Notice to Employee of FMLA Leave (Form WH-382): Within five business days of receiving sufficient information to make a determination regarding the

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leave, such as the receiving one of the certification forms, the Human Resource Department will notify the employee of the leave designation and the additional requirements of the employee with form WH-382.

Q. Further Information and Complaints

Employees who need additional information about the availability of FMLA leave should contact the Human Resource Department. Employees who believe they have been denied the opportunity to use FMLA leave or otherwise wish to file a complaint regarding their rights under the FMLA should report immediately the matter to the Human Resource Department.

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ARTICLE VII. STATUTORY AND VOLUNTARY BENEFITS

- Section 1. Social Security
- Section 2. Unemployment Compensation
- Section 3. Workers' Compensation
- Section 4. Retirement Benefits
- Section 5. Law Enforcement Supplemental Retirement Income Plan, 401(k)
- Section 6. Law Enforcement Officers Special Separation Allowance
- Section 7. Supplemental Retirement Income Plan, 401(k)
- Section 8. Deferred Compensation Plan, 457(b)
- Section 9. Group Health Insurance
- Section 10. Health Insurance Coverage After Employment Termination
- Section 11. Health Insurance Coverage at Retirement
- Section 12. Employee Assistance Program
- Section 13. Dental Insurance

Section 14. Vision Care Benefits

Section 15. Credit Union

Section 16. Flexible Spending Account Plan

ARTICLE VII. STATUTORY AND VOLUNTARY BENEFITS

Statutory Benefits

Section 1. 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.

Section 2. Unemployment Compensation

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.

Section 3. Workers' Compensation

- A.** 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.
- B.** 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 days is required before Workers' Compensation benefits begin as authorized under the Workers' Compensation Act. If the disability exceeds 21 days, Workers' Compensation benefits will be provided for the first seven days (N.C. GS. 97-28). If an employee is unable to work after a seven-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.
- C.** 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- GS 97-22; N. C. GS 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.
- D.** 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

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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.

- E.** 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.
- F.** 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.
- G.** 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.

Section 4. Retirement Benefits

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 Personnel 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 Personnel Office.

Section 5. Law Enforcement Supplemental Retirement Income Plan, 401(k)

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

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County to contribute, on a monthly basis, an amount equal to 5% of each law enforcement officer's salary. All amounts contributed are vested immediately.

Section 6. Law Enforcement Officers Special Separation Allowance***Resolution #2014-20: A Resolution Amending the Lincoln County Personnel Policy Regarding Special Separation Allowance - Approved 9-08-2014.***

Law enforcement officers must meet the eligible requirements as defined in NCGS 143-166.41 to receive a Special Separation Allowance:

§ 143-166.41. Special separation allowance.

- (a) Notwithstanding any other provision of law, every sworn law-enforcement officer as defined by G.S. 135-1(11c) or G.S. 143-166.30(a)(4) employed by a State department, agency, or institution prior to August 1, 2011, and who qualifies under this section shall receive, beginning in the month in which he retires on a basic service retirement under the provisions of G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to him for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance the officer shall:
- (1) Have (i) completed 30 or more years of creditable service or, (ii) have attained 55 years of age and completed five or more years of creditable service; and
 - (2) Not have attained 62 years of age; and
 - (3) Have completed at least five years of continuous service as a law enforcement officer as herein defined immediately preceding a service retirement. Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.
- (a1) Notwithstanding any other provision of law, every sworn law-enforcement officer as defined by G.S. 135-1(11c) or G.S. 143-166.30(a)(4) employed by a State department, agency, or institution on or after August 1, 2011, and who qualifies under this section shall receive, beginning in the month in which the member retires on a basic service retirement under the provisions of G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to him for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the officer shall:
- (1) Have (i) completed 30 or more years of creditable service or (ii) attained 55 years of age and completed 10 or more years of creditable service; and
 - (2) Not have attained 62 years of age; and
 - (3) Have completed at least 10 years of continuous service as a law enforcement officer as herein defined immediately preceding a service retirement. Any break

in the continuous service required by this subsection because of disability

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retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.

- (b) As used in this section, "creditable service" means the service for which credit is allowed under the retirement system of which the officer is a member, provided that at least fifty percent (50%) of the service is as a law enforcement officer as herein defined.
- (c) Payment to a retired officer under the provisions of this section shall cease at the first of:
 - (1) The death of the officer;
 - (2) The last day of the month in which the officer attains 62 years of age; or
 - (3) The first day of reemployment by any State department, agency, or institution, except that this subdivision does not apply to an officer returning to State employment in a position exempt from the North Carolina Human Resources Act in an agency other than the agency from which that officer retired.

Voluntary Benefits

Section 7. Supplemental Retirement Income Plan, 401(k)

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.

Section 8. Deferred Compensation Plan – 457(b)

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.

Section 9. Group Health Insurance

Regular part-time and 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.

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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.

Section 10. 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 should check with the Personnel Office for details concerning length of coverage, cost, and other criteria regarding this benefit.

ARTICLE VII. STATUTORY AND VOLUNTARY BENEFITS

Section 11. Health Insurance 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:

Resolution #2013-20: A Resolution Amending the Lincoln County Personnel Policy Regarding Medical Insurance - approved April 15, 2013.

Resolution #2016-19: A Resolution Amending the Lincoln County Personnel Policy Regarding Medical Insurance – approved December 5, 2016.

I. 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 or part-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.

II. 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.

- III. **Employees who are hired** on or after July 1, 2013, are **not** eligible for the medical insurance coverage benefits outlined in Subsections I and II above.
- IV. **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.
- V. **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 (see Article VII, Section 11.B.7).

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

- VI. 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 (see Article VII, Section 9). 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.

Section 12. Employee Assistance Program

Lincoln County Personnel Policy

Effective September 1, 2005

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. Lincoln County will pay for the first three sessions. For more information contact the Personnel Department.

Section 13. Dental Insurance

Regular 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 Personnel Department.

Section 14. Vision Care Benefits

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

Section 15. 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.

Section 16. Flexible Spending Account Plan
(Resolution #2008-21 To Add Section 16. 11-03-2008)

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.

New employees would become eligible to participate in the Flexible Spending Account Plan once they have completed their probationary period with the County. The Flexible Spending Account Plan year is January 1 through December 31 with an annual "open enrollment" period. The IRS established limits for the medical and dependent care is \$5,000 each annually.

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ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, REINSTATEMENT

- Section 1. Types of Separation
- Section 2. Resignation
- Section 3. Retirement
- Section 4. Reduction in Force
- Section 5. Inability to Meet the Minimum Job Requirements
- Section 6. Discipline and Dismissal
- Section 7. Pre-dismissal Conference
- Section 8. Separation Procedure
- Section 9. Disciplinary Demotion
- Section 10. Employee Appeal
- Section 11. Reinstatement

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ARTICLE VIII. SEPARATION, DISCIPLINARY ACTION, REINSTATEMENT**Section 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 Article. When just cause exists, the only disciplinary actions are oral warning, written warning, disciplinary suspension with pay, disciplinary suspension without pay, demotion, and dismissal.

Section 2. Resignation

- A. Employees may resign either in "Good Standing" or "Not in Good Standing."
- B. 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.
- C. Resignation "Not in Good Standing" occurs when:
 - 1. An employee fails to submit a letter of resignation at least ten (10) working days prior to the effective date of resignation.
 - 2. An employee fails to report to work the next working day following a leave of absence without pay.
 - 6. An employee is absent from work three working days without authorized leave (separation pursuant to this policy should 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), or

4. 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.

Section 3. 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.

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Section 4. Reduction in Force

- A. 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.
- B. If a reduction in force occurs, the following procedures shall apply:
 1. The Personnel 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 Personnel 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.
 2. 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.
 3. The Personnel 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).
 4. The Personnel 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.
 5. 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.
- C.

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.

- D.** Employees subject to a reduction in force will be paid one pay period beyond the date of separation.

Section 5. 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 Personnel Policy, has been exhausted, the County, at its expense may seek an independent medical examination, IME, of the employee, by a

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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.

Section 6. Discipline and Dismissal

- A.** All incidents involving infractions of this Personnel Policy are to be reported by the department director by the close of the next workday to the Personnel Director or County Manager. All County employees are subject to disciplinary actions, including dismissal, as further provided herein. For purposes of this Policy, the County has determined two types of actions that may result in disciplinary and/or dismissal action on an employee: 1) unacceptable personal conduct, and 2) unsatisfactory job performance. However, nothing herein, waives the employment at will status of employees not subject to the State Personnel Act and such employees may resign at anytime. Employees not subject to the State Personnel Act, the County Manager in consultation with legal counsel, may elect to forgo certain steps, in whole or in part, in this Policy when circumstances warrant such action.
- B.** 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 cards, time sheets, 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.
- C.** 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

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Personnel 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 Personnel 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 Personnel 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 Article IX. of this Policy.

- D.** 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.
1. 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.
 2. 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 should 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.

3. 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

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deficiencies discussed, and the corrective actions recommended and file the information in the employee's personnel file.

4. 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 Personnel Director, or corresponding appointing authority, that the employee be dismissed. Dismissal shall be recommended by the department director with the final approval of the Personnel Director.
- E.** 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 Personnel 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 Personnel 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 Article IX. of this Policy.

- F.** All disciplinary warnings issued to an employee become inactive after eighteen months, unless extended in writing or a second warning occurs during the eighteen-month period. Inactive warnings will remain in the employee's personnel file.

All dismissals must be preceded by a pre-dismissal meeting conducted by the department director and Personnel 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.

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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.

- G.** Disciplinary Suspension Without Pay - Disciplinary suspension without pay of a regular employee shall be applicable as follows.

1. For unsatisfactory job performance after the receipt of at least one prior written disciplinary action.
2. For any instance of unacceptable personal conduct.
3. For any instance of grossly inefficient job performance.

- H.** Consideration for disciplinary suspension without pay of a regular employee is as follows:

1. 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.
2. 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.
3. 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.

4. 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.

Section 7. Pre-dismissal Conference

- A.** 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.
- B.** A pre-dismissal conference must precede dismissal of regular employees for unsatisfactory job performance, grossly inefficient job performance, or unacceptable personal conduct. The meeting should include the employee, the Personnel 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 should attend the pre-dismissal conference.

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- C.** The Personnel Director shall provide a written notice to the employee of the pre-dismissal conference. The notice to the employee should include the following:
 1. Inform the employee there shall be a pre-dismissal conference and include the time, date, and location of the conference.
 2. Provide a summary of the evidence and the issues for which the dismissal is being conducted.
 3. Indicate that the organization is considering the action, but that the conference is to aid in reaching a final decision.
 4. Inform the employee that he/she shall be given an opportunity to respond to the evidence at the conference.
 5. Inform the employee that an attorney, family member, co-worker, or other representation is not permitted at the conference.
- D.** The meeting shall be conducted by the department director and the Personnel Director, or corresponding appointing authority in instances in which the Personnel Director may be the employee in question, or when the Personnel Director is the supervisor of an employee in question. It is necessary that during the conference the following procedures should occur:
 1. All evidence and related information regarding the performance and or conduct be reviewed orally.
 2. Management may request the presence of a second representative and, if necessary, security personnel.
 3. No attorney is allowed in the pre-dismissal conference.
 4. The specific reasons with back-up documentation, shall be presented to support the proposed action, and should include all written warnings,

5. Insure the employee at the onset of the meeting that no final decision has been made.
6. Solicit information from the employee, which shall allow them to present their side or perspective of the issue(s).
7. The employee does not have the option of presenting witnesses.
8. Terminate the meeting for the purpose of evaluating and weighing all information/evidence presented.

- E.** 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.

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Section 8. Separation Procedure

Prior to separation, an employee separating from employment with the County may have an exit interview with the Personnel 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.

Section 9. Disciplinary Demotion

A Disciplinary demotion of an employee shall be applicable as follows.

1. After the receipt of at least one prior written disciplinary action.
2. For any instance of unacceptable personal conduct.
3. For any instance of grossly inefficient job performance.

B. Essential considerations for an employee disciplinary demotion are as follows:

1. 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.
2. The employee must be furnished a written statement setting forth the specific reasons for the demotion including the following:
 - a. How, and to what extent, the demotion will affect the employee's salary and pay grade.
 - b. It is recommended that, if appropriate, a revised job description outlining the employee's revised duties and responsibilities be attached.
 - c. Issue to the employee a copy of the appeal procedure.

Section 10. Employee Appeal

An employee desiring an appeal of a reprimand, demotion, suspension, or dismissal may present the matter using the grievance procedure prescribed in Article IX. of this Policy.

Section 11. Reinstatement

- A. 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.
- B. 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.
- C. 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

ARTICLE IX. GRIEVANCE AND APPEAL PROCEDURE

- Section 1. Purpose
- Section 2. Coverage
- Section 3. Policy
- Section 4. Procedure
- Section 5. Final Decision on a Grievance
- Section 6. Discrimination Appeal Procedure

ARTICLE IX. GRIEVANCE AND APPEAL PROCEDURE

Section 1. Purpose

The grievance procedure provides an adequate and fair means for hearing and resolving matters of employment conditions of County employees who have earned regular employee status. In any discipline or dismissal procedure, the burden of proof rests with the employee to prove the action taken was not justified. The grievance and appeal procedure does not waive the “employment at will” status of employees not subject to the State Personnel Act.

Section 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.

Section 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.

Section 4. Procedure

A. Step One - An employee must file a grievance, in writing, with the immediate supervisor within ten (10) days of the date of when the adverse action occurred. A copy of the grievance will be sent to the Personnel Director. The grievance should contain the following:

1. The decision, action, or policy with which the employee disagrees.
2. The basis of the action perceived as wrong or unfair.
3. The employee's proposed resolution.

The immediate supervisor shall meet with the employee within five 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 working days following the meeting. A memo must be sent to the Personnel Director explaining the supervisor's decision and the employee's reaction. If the grievance alleges unlawful harassment, the Personnel Director is to be notified immediately.

B. Step Two - If the employee is dissatisfied with the response at Step One, the employee may file the grievance in writing to the department director, within five working days of receipt of the immediate supervisor's decision. The grievance shall state all the information in step one above. The department director shall meet with the employee

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within ten working days of receipt of the Step Two grievance, shall review the decision at Step One, and make a determination on the grievance. The employee may request his immediate supervisor to attend the meeting. Within ten (10) working days of the meeting with the employee, the department director shall consult with the Personnel Director and as appropriate legal counsel to discuss the matter. They shall jointly prepare a written decision to be mailed or given to the employee within ten (10) working days of the meeting with the employee. The Personnel Director shall receive a copy.

- C. Step Three** - If the employee is dissatisfied with the response at Step Two, the employee must forward the written grievance to the County Manager and Personnel Director within five working days of receipt of the Step Two decision. The employee may request a meeting with the County Manager and Personnel Director. The County Manager and Personnel 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 or employee's request, the immediate supervisor and/or department director may attend the meeting.
- D. Step Four** -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.

Section 5. Final Decision on a Grievance

The County Manager's decision is final.

Section 6. Discrimination Appeal Procedure

- A.** 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 Article, if so desired:
1. Any applicant for employment with Lincoln County.
 2. A current County employee.
- B.** An employee or applicant must appeal an alleged act of discrimination within thirty (30) days of the alleged action.

ARTICLE X. PERSONNEL RECORDS

Section 1. Maintenance

Section 2. Public Information

Section 3. Access

Section 4. Confidentiality

Section 5. Objecting to Material in File – Employee Remedies

ARTICLE X. PERSONNEL RECORDS

Section 1. Maintenance

The County Manager and/or the Personnel 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.

Section 2. Public Information

Resolution #2014-20: A Resolution Amending the Lincoln County Personnel Policy Regarding Public Information - Approved 9-08-2014.

The following information with respect to each County employee is a matter of public record:

1. Name.
2. Age.
3. Date of original employment or appointment to the county service.
4. 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
5. Current position.
6. Title.
7. Current salary.
8. Date and amount of each increase or decrease in salary with that county.
9. Date and type of each promotion, demotion, transfer, suspension, separation or other change in position classification with that county.
10. Date and general description of the reasons for each promotion with that county.
11. 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.
12. The office to which the employee is currently assigned.

Section 3. Access

As authorized by North Carolina General Statute 153A-98, any person may have access to information listed in Section 2 of this article 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.

Section 4. Confidentiality

All information contained in a County employee's personnel file, other than the information listed in Section 2 of this Article, shall be maintained as confidential in accordance with the requirement of North Carolina GS 153A-98 and shall be open to public inspection only in the following instances:

- A. 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.
- B. A licensed physician designated in writing by the employee may examine the employee's medical record.
- C. A County employee having supervisory authority over another employee may examine all material in the employee's personnel file.
- D. By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- E. 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.
- F. 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).

Section 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.

ARTICLE XI. IMPLEMENTATION OF PERSONNEL POLICY

Section 1. Implementation of Personnel Policy

Section 2. Severance

ARTICLE XI. IMPLEMENTATION OF PERSONNEL POLICY

Section 1. Conflicting Policies and Resolution Repealed

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

Section 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.

**DEFINITION OF TERMS
(Listed alphabetically)**

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.

Competitive Service Employee - An employee of the departments of: 1) Social Services, 2) Public Health, 3) Mental Health, Developmental Disabilities, and Substance Abuse Services, or 4) the Office of Emergency Management receiving federal grant-in-aid funds and subject to the State Personnel Act.

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.

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.

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.

Immediate Family - Members of the employee's family including wife, husband, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, grandson, granddaughter, stepmother, stepfather, stepbrother, stepsister, persons living together in a close personal relationship or anyone living in the household of the employee.

Maximum Salary Rate - The maximum salary of a position authorized by the Pay Plan for an employee within an assigned salary grade.

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.

Performance Evaluation System - An annual review of an employee's performance.

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 Employee - 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.

Regular Part Time Employee - An employee hired for an established budgeted position, paid on an hourly basis, with a regular work schedule of less than forty (40) hours or more per week, and is designated by the Board of Commissioners as part-time with an assigned position number.

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.

