



Human Resources Division

# County Personnel Rules & Regulations

Revisions adopted by County Council:

11/27/2018

**INCORPORATED COUNTY OF LOS ALAMOS  
PERSONNEL RULES AND REGULATIONS  
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COUNTY OF LOS ALAMOS

PERSONNEL RULES AND REGULATIONS

I. ADMINISTRATION

**Rule 100 County Manager:** The County Manager, through delegation to the Human Resources Manager, shall administer the Merit Personnel System as promulgated in Chapter 30 of the Code of the Incorporated County of Los Alamos, and the following rules and regulations. The Human Resources Manager shall:

*HISTORY: AMENDED 1/90; AMENDED 8/22/06*

**Rule 100.1 Recommendations:** Recommend to the County Council through the Personnel Board such new or revised Personnel Rules and Regulations as deemed desirable.

*HISTORY: APPROVED 8/5/65; AMENDED 12/16/75; AMENDED 5/14/79*

**Rule 100.2 Procedures, Development, and Maintenance:** As necessary, develop, maintain, and apply procedures for the recruitment, compensation, promotion, training, and disciplinary and related aspects of personnel management for all personnel under the County Manager's jurisdiction, subject to the provisions of Chapter 30 of the Code, County Administrative policies, and Personnel Rules and Regulations stated herein.

*HISTORY: AMENDED 8/22/06; AMENDED 9/10/13*

**Rule 100.3 Compensation Plan:** Maintain the classification and comprehensive compensation plan of the County.

**Rule 100.4 Procedures:** Issue procedural regulations as necessary for implementation of these rules and regulations.

*HISTORY: AMENDED 1/90*

**Rule 100.5 Contract Agreements:** Recommend contractual arrangements with any qualified person or agency for the performance of such technical services as may be desired in the establishment and operation of the personnel program.

**Rule 100.6 Official Records:** Maintain a record of official documents, reports, agreements, and other actions pertaining to County wide Human Resource matters as they pertain to these rules and regulations.

*HISTORY: AMENDED 9/10/13*

**Rule 100.7 Personnel Files:** Maintain files as required by law. Where specifically exempted by the New Mexico Inspection of Public Record Act §§14-2-1, et. seq., NMSA 1978, a statutory or regulatory exception, a rule adopted by the New Mexico Supreme Court, or a privilege protecting a record from disclosure that is grounded in the U.S. or the State constitution, the following shall be regarded as confidential, and exempted or redacted from public inspection:

Records and documentation pertaining to physical or mental illness, injury or examinations, sick leave and medical treatment of persons; records and documentation maintained for purposes of the Americans with Disabilities Act [42 U.S.C. Section 12010 et. seq.]; letters of reference concerning employment, licensing, or permits; records and documentation containing matters of opinion; documents concerning infractions and disciplinary actions; performance appraisals; opinions as to whether a person should be re-employed; college transcripts; military discharge; information on the race, color, religion, sex, age, national origin, sexual orientation or gender identity, disability, genetic information, veteran status or other protected class, and political affiliation; home address and personal telephone number unless related to public business; social security number; laboratory reports or test results or as otherwise provided by State or Federal law.

*HISTORY: APPROVED 1/90; AMENDED 9/10/13*

**Rule 100.8 Requests for Waivers:** Forward to the County Manager for consideration requests for waiver of any rule or regulation, and all supporting documentation, with a recommendation for or against such consideration. Waivers to these rules and regulations may not otherwise be granted except those identified in Chapter 30, Article III, Section 30-97.

*HISTORY: APPROVED 3/9/99; AMENDED 8/22/06; AMENDED 9/10/13*

**Rule 101 Delegate Responsibility:** The County Manager delegates to the Department Directors the responsibility of implementing these rules and regulations unless otherwise noted.

*HISTORY: APPROVED 9/10/13*

**Rule 102 Official Repository for Los Alamos County Personnel Rules and Regulations:** Copies of Los Alamos County Personnel Rules and Regulations ("Rules"), currently adopted by the Los Alamos County Council, shall be kept in the office of the Human Resources Manager and shall be available to employees and the public during working hours as well as on the County internet and intranet sites.

Approved minutes of County Council motions adopting and/or amending those Rules shall be recorded in the office of the Los Alamos County Clerk.

*HISTORY: APPROVED 11/13/90; AMENDED 8/22/06; AMENDED 9/10/13*

## **II. CLASSIFICATION PLAN**

**Rule 200 Competitive Service Job Class Groups:** All positions in the competitive service shall be grouped into job classes and each class shall include those positions sufficiently similar as to character, difficulty, and responsibility so that:

- (a) the same level of education, experience, knowledge, ability, and other qualifications may be required of incumbents;
- (b) comparable tests of fitness may be required of incumbents;

- (c) the same range of compensation will apply with equity under substantially the same employment conditions.

*HISTORY: AMENDED 2/27/90; APPROVED 11/13/90; AMENDED 9/10/13*

**Rule 201 Job Descriptions:** The County Manager shall maintain and publish a complete set of descriptions for all job classes in the competitive service. Such descriptions shall include title, position summary, essential duties, minimum qualifications, knowledge, skills and abilities and working conditions. Such descriptions shall be reviewed not less than once every four (4) years to maintain their accuracy. The establishment of new or revised job descriptions, or the abolishment of existing job descriptions, shall be recommended or action taken as deemed necessary by the County Manager.

*HISTORY: AMENDED 3/4/96; AMENDED 9/10/13*

**Rule 202 Job Description Classification Studies:** The County Manager may authorize the Human Resources Division to conduct job description classification studies of individual job descriptions whenever he/she deems it necessary, or as requested by the Council, or Department Directors.

*HISTORY: AMENDED 9/10/13*

**Rule 203 Pay Grade Assignment:** In determining the pay grade to which any position shall be allocated, the descriptions of each class and family shall be considered in alignment with existing similar County positions.

*HISTORY: AMENDED 3/4/96; AMENDED 9/10/13*

**Rule 204 Duty Change Procedures:** Department Directors shall request approval from the County Manager, in writing, for significant change of duties, responsibilities, or work assignments for positions/individuals under their direction. Whenever a new position is established, Department Directors shall submit, in writing, a comprehensive job description describing in detail the duties of such position. The County Manager shall thereupon investigate the actual or suggested duties and shall, if deemed appropriate, recommend a job description

and pay grade for the position, either by including in an appropriate class or by creation of a new class.

*HISTORY: AMENDED 9/10/13*

**Rule 205 Reclassification Procedures:** Employees or supervisors who consider a position/individual improperly classified shall submit a request for classification for review through the chain of command to the Department Director. The Department Director shall, through the Human Resources Manager, transmit a recommendation concerning a request to the County Manager, who shall take or recommend the necessary action. The employee shall be advised of the decision.

*HISTORY: AMENDED 1/90; AMENDED 9/10/13*

**Rule 206 Position Allocation Procedures:** Upon the reassignment of a position from one class to another of the same, a lower, or a higher class, the method of filling the position shall be determined in accordance with the rules regarding transfers, demotions, or promotions, as may be appropriate. (See Rule 300 and 500 series)

A change that is a change in job title only or in the recognition of a gradual change in duties shall not require further action to enable the employee to continue in the position.

*HISTORY: AMENDED 2/13/95; AMENDED 3/4/96; AMENDED 9/10/13*

### **III. COMPENSATION PLAN**

**Rule 300 Definition:** The Compensation Plan includes the basic salary schedule adopted by the County Council and subsequent amendments thereto, together with the assignment of classes to ranges or rates in the plan as approved by the County Council.

**Rule 301 Provisions:** The Compensation Plan is intended to provide fair compensation for all classes in relation to the pay for other classes, general rates of pay for similar employment in the public and private sector, cost of living data, financial condition of the County, and other factors. To this end, the Human Resources Manager shall at a minimum once every four (4) years make comparative studies of all the factors affecting the level of salaries and recommend such changes as may be justified. Such adjustments shall

be made by increasing or decreasing the salary ranges provided in the basic salary schedule as approved by the County Council. The rate of pay of employees may be adjusted in conformance with the adjustment of the salary range for that class as approved by the County Council.

*HISTORY: AMENDED 12/18/89; AMENDED 9/10/13*

**Rule 302 Department of Public Utilities and Elected Officials:** Pay recommendations for the Department of Public Utilities employees and Elected Officials shall be in accordance with the Los Alamos County Compensation Plan and other guidelines established by the Council for the County as a whole.

*HISTORY: APPROVED 8/5/65; AMENDED 10/15/84; AMENDED 12/18/89; AMENDED 9/10/13*

**Rule 303 Salary Ranges:** Salary ranges are intended to furnish administrative flexibility in recognizing job content differences among positions allocated to the same class, in providing employee incentive for growth and improved performance, and in rewarding employees for meritorious service.

In administering the compensation plan, the Human Resources Manager shall conduct salary surveys at least once every four (4) years. The Department of Public Utilities shall make available to the Human Resources Division information from surveys for the Department of Public Utilities managerial employees. The Human Resources Manager shall report the findings of these surveys to the County Manager. After consultation with the Personnel Board, the County Manager shall use this survey information in making compensation plan recommendations to the County Council.

*HISTORY: APPROVED 8/5/65; AMENDED 10/15/84; AMENDED 5/16/94; AMENDED 9/10/13*

**Rule 304 Creditable Service Calculations:** Service requirements for all purposes specified in these rules shall be based on creditable service, which means continuous employment in the County service in a regular appointment without a break in service as defined in the Glossary. In calculating such service:

- (a) Leave of absence with pay, leave of absence without pay of thirty (30) days or less, or

unpaid leave of absence approved under the Family and Medical Leave Policy, shall not interrupt continuous service and are completely creditable;

- (b) Absences of leave without pay in excess of thirty (30) days shall not be counted toward creditable service except as provided under the Family and Medical Leave Policy;
- (c) The service date for an employee whose employment classification status is changed from temporary to regular, in the same position and without a break in service, shall be the beginning date of the most recent temporary appointment. When such employment actions occur, the service from the most recent temporary appointment becomes creditable;
- (d) This credit will cover breaks in employment caused by military duty in the Armed Forces of the United States;
- (e) Creditable service shall be used in the calculation of sick and annual leave accruals and for stability pay eligibility.

*HISTORY: AMENDED 1/90; AMENDED 9/4/90; AMENDED 4/91; AMENDED 5/16/94; AMENDED 8/18/97; AMENDED 9/11/07; AMENDED 9/10/13*

**Rule 305 Salary Changes:** Salary changes may be granted upon recommendation of the Department Director and approval of the County Manager, or the Utilities Manager in the case of Department of Public Utilities employees, as authorized in the compensation plan adopted by the County Council and within the adopted annual budget.

*HISTORY: APPROVED 8/5/65; AMENDED 10/15/84; AMENDED 4/12/05; AMENDED 9/10/13*

**Rule 306 Established Salary Rate:** The salary rate established for a position shall be the total remuneration for the employee for the regular hours of work, not including reimbursement for official travel. Except as otherwise provided in these rules, employees shall not receive pay from the County in addition to the salary authorized under the compensation plan for services rendered either in the discharge of their ordinary duties or any additional duties that may be imposed upon them or that they may undertake or volunteer to perform.

**Rule 306.1 Gratuities:** No reward, gift, or other form of remuneration in addition to regular compensation shall be received from any source other than the County by an individual employee for performance of his/her duties. If a reward, gift, or other form of remuneration is made to any employee, it shall be credited to a designated employee fund. This rule does not include awards given to employees under a County-sponsored employee incentive award program or other special incentive programs established by the Council.

*HISTORY: AMENDED 1/90*

**Rule 307 Appointment Above Salary Mid-Point:** Appointment above mid-point of the salary range may be made under the following conditions:

- (a) The candidate far exceeds the minimum requirements for education, certification, and/or experience; and
- (b) The County Manager or the Utilities Manager determines that it is necessary and in the best interest of the County.

*HISTORY: APPROVED 8/5/65; AMENDED 8/23/71; AMENDED 9/22/90; AMENDED 12/19/06*

**Rule 307.1 Non-Competitive Service Appointments:** Appointment of employees in "Non-Competitive Service" may be within a given salary range as approved by the County Council.

*HISTORY: AMENDED 9/10/13*

**Rule 308 Position Pay Rate:** When an employee is promoted, demoted, or transferred, the rate of pay in the new position shall be established in accordance with the following:

**Rule 308.1 Promotion:** Promotional increases are awarded in line with the County Salary Plan and generally range from 1% to 5%. Salary increases of greater than 5%, unless the increase is to the minimum of the new pay grade, shall be documented by the Department Director and forwarded to the Human Resources Manager for approval. Final approval is required by the Utilities Manager for Department of Public Utilities employees or by the County Manager for all other employees.

*HISTORY: AMENDED 12/18/89; AMENDED 9/17/90; AMENDED 9/22/90; AMENDED 5/16/94; AMENDED 4/10/95; AMENDED 7/31/01; AMENDED 8/22/06; AMENDED 9/10/13*

**Rule 308.2 Temporary Promotion:** Temporary assignments that require higher level responsibilities for a period of thirty (30) days or greater may entitle the employee to a temporary salary increase of five percent (5%) or to the minimum of the grade rate of the position, whichever is greater. The salary of an employee whose current salary has been adjusted because of a temporary promotion will revert back to the employee's original salary upon termination of the temporary assignment and before any subsequent personnel action involving a salary rate change.

*HISTORY: AMENDED 11/13/90; AMENDED 5/16/94; AMENDED 9/10/13*

**Rule 308.3 Demotion:** A demoted employee will incur a salary decrease if:

- (a) An assessment of the work reveals that the duties and responsibilities to be performed by the employee do not support the salary level, in which case the salary shall be reduced to an amount commensurate with the work and with salaries of employees in similar positions; or
- (b) The salary of the employee exceeds the maximum pay of the new grade to which the employee has been demoted, in which case the salary shall be reduced so as not to exceed the maximum pay of the new grade; or

- (c) The employee is demoted as a result of performance (See Rule 502); or
- (d) The employee fails to complete successfully the promotional probationary period (see Rule 410.2).

*HISTORY: AMENDED 9/10/13*

**Rule 308.4 Salary Maintenance:** The County Manager or the Utilities Manager (for Department of Public Utilities employees) is authorized to maintain the demoted employee's salary if:

- (a) The demotion is a result of organizational needs; and
- (b) Performance by the employee meets expectations, or better, as indicated on latest performance appraisal.

*HISTORY: AMENDED 5/16/94; AMENDED 9/10/13*

**Rule 308.5 Salary Increase:** There shall be no base salary increase as a result of a demotion.

**Rule 308.6 Transfer:** An employee who is transferred from one job title to another job title at the same pay range may continue to be paid at the same rate.

*HISTORY: AMENDED 5/16/94*

**Rule 308.7 Lateral Transfer:** Lateral transfers are employee transfers to positions at the same grade and would not normally include a change in salary.

*HISTORY: APPROVED 8/26/86; AMENDED 5/91*

**Rule 309 Re-employment:** If a full-time or part-time regular employee who has completed his/her probationary period:

- (a) Separates from the County service in good standing,
- (b) Is subsequently re-employed as a full-time or part-time regular employee within eighteen (18) months from the date of his/her separation, and

- (c) Is hired into a vacant full-time or part-time regular position that has been advertised,

The separation shall not constitute a break in service except that the period during which the employee was separated shall not be counted as creditable service.

Service time for annual leave accrual rate, stability pay, and other purposes specified in these rules shall be made on the basis of such employee's adjusted service date.

The provisions of this rule will be applied to a returning employee only one time during his/her employment with the County. This rule does not apply to employees who have retired from the County.

*HISTORY: APPROVED 2/19/68; AMENDED 5/14/79; AMENDED 2/06/90; AMENDED 9/4/90; AMENDED 5/16/94; AMENDED 8/1/06; AMENDED 5/5/09; AMENDED 3/20/18*

**Rule 310 Working Hours Requirements:** The number of hours an employee is required to be on duty each day, week, or month shall, as far as practical, be uniform for all regular employees in the same job class. The scheduled work period of an individual employee shall normally be established consistent with that of the organizational unit, provided that the County Manager may approve deviations to suit the needs of the County so long as the period total is observed. The County Manager may authorize the inclusion of meal periods as time actually worked for shift-type positions.

*HISTORY: AMENDED 1/90; AMENDED 5/91*

**Rule 310.1 Normal Work Day:** The normal administrative workday, beginning at 8:00 a.m., is a scheduled work period of at least eight (8) hours within a twenty-four (24) hour period. Work periods for field personnel may begin as early as 7:00 a.m. based on operational requirements and seasonal needs. The normal workday for Public Safety personnel may consist of shifts as recommended by the Department Director and approved by the County Manager. Other departments may establish work schedules based on operational needs and approved by the County Manager or Utilities Manager as applicable.

Staggered work days or work periods, rotating shifts, split shifts, and other exceptions to the standard schedules may

be established as required to meet the needs of the department and County. Such exceptions are subject to advance approval of the Department Director and the County Manager or Utilities Manager as appropriate. In granting approvals, the County Manager or Utilities Manager shall consider how the needs of the County and the citizens are being met as well as potential impacts to other departments. All approved exceptions are to be filed with the Human Resources Division. Departments shall annually review all granted exceptions to determine if the exception should be continued based upon current operational needs.

Employees required to work an exception to the normal workday or basic shift should be notified before the beginning of the workday or shift.

In the case where an employee is required to work additional hours in a day due to unforeseen operational needs, the employee should be notified before the end of the normal workday.

*HISTORY: APPROVED 8/5/65; AMENDED 9/18/78; AMENDED 5/91; AMENDED 10/24/06; AMENDED 9/10/13*

**Rule 310.2 Normal Work Period:** A normal work period consists of seven (7) consecutive days with a forty (40) hour schedule; , exclusive of unpaid mealtime; worked hours over forty (40) will be calculated at prevailing overtime rates in accordance with the Fair Labor Standards Act (FLSA). The standard pay week is Sunday through Saturday, and the normal work schedule consists of five (5) eight (8) hour workdays within the pay week.

For shift firefighter personnel, a work period consists of fourteen (14) consecutive days with a basic schedule of forty-eight (48) duty hours and ninety-six (96) off-duty hours. The fourteen (14) day period consists of ninety-six (96) or one hundred forty-four (144) base pay hours; worked hours over one hundred six (106) will be calculated at prevailing overtime rates in accordance with the Fair Labor Standards Act (FLSA).

For shift police officers, a work period consists of eight (8) consecutive days with a basic schedule of four (4) duty days and four (4) off-duty days. The eight (8) day period shall consist of forty-nine (49) base pay hours; worked hours over forty-nine (49) will be calculated at prevailing

overtime rates in accordance with the Fair Labor Standards Act (FLSA).

For shift detention officers, a work period consists of fourteen (14) consecutive days with a basic schedule of seven (7) duty days and seven (7) off-duty days. The fourteen (14) day period consists of eighty-six (86) base pay hours; worked hours over eighty-six (86) will be calculated at prevailing overtime rates in accordance with the Fair Labor Standards Act (FLSA).

The normal work period for shift firefighters, shift police officers, and shift detention officers includes paid mealtime. *HISTORY: APPROVED 8/5/65; AMENDED 9/18/78; AMENDED 1/90; AMENDED 5/91; AMENDED 10/24/06; AMENDED 12/19/06; AMENDED 8/11/11; AMENDED 2/16*

**Rule 310.3 Exempt Employee:** An exempt employee is an employee who performs work in a bona fide executive, administrative, professional, or computer position as defined by the Fair Labor Standards Act (FLSA). The Human Resources Manager shall maintain a list of positions that are identified as exempt.

*HISTORY: APPROVED 3/7/66; AMENDED 5/14/79; AMENDED 8/1/06*

**Rule 310.4 Non-Exempt Employee:** A non-exempt employee is any employee other than an exempt employee, as defined in Rule 310.3 and as defined by the Fair Labor Standards Act (FLSA).

*HISTORY: APPROVED 3/7/66; AMENDED 5/14/79*

**Rule 311 Overtime:** When a non-exempt employee is required to work past the end of the scheduled work shift or normal work day, the employee will be considered to be working an extension of the original shift or normal work day. Overtime compensation provisions may apply, if the employee exceeds 40 hours, as defined in Rule 311.4, in that work week. Fire protection and law enforcement personnel, as defined in the Fair Labor Standards Act (FLSA), will be compensated for overtime as defined by Rule 311.4 and in accordance with the FLSA.

Night differential shall also apply as appropriate.

*HISTORY: APPROVED 8/5/65; AMENDED 9/18/78; AMENDED 2/8/88; AMENDED 7/17/90; AMENDED 3/9/99; AMENDED 12/19/06*

**Rule 311.1 Overtime Requirements:** Overtime work is work performed by non-exempt employees and ordered or approved by the Department Director as defined in Rules 310.2 and 311.4. Overtime hours worked without prior supervisor approval will be paid; however, such actions may be regarded as a violation of the County Personnel Rules and Regulations and may subject the employee to disciplinary action. Emergency situations, as determined by the Division Manager, shall be an exception to this requirement.

Overtime work shall be kept to a minimum and authorized only under circumstances that require immediate action or in situations resulting from the nature of the operation or status of the activity.

*HISTORY: APPROVED 3/7/66; AMENDED 9/18/78; AMENDED 5/14/79; AMENDED 1/90; AMENDED 5/91; AMENDED 3/9/99; AMENDED 12/19/06*

**Rule 311.2 Non-Exempt Employees Overtime Compensation:** Non-exempt employees are compensated at one and one-half times their straight time hourly rate for all required overtime hours of their regularly scheduled work period or as a result of call-out as defined in Rule 313. Overtime compensation is based on straight time hourly pay, not on cumulative pay. **Any work an employee performs outside their normal work period must be pre-approved by their immediate supervisor, prior to the work being commenced.**

The accrual of compensatory time in lieu of overtime pay must be requested by the employee and approved by the Department Director or designee before the work commences. A non-exempt employee may not accrue in his/her banks more than one-hundred twenty (120) compensatory time hours or, in the case of police officer and firefighter non-exempt employees, two-hundred forty (240) compensatory time hours. Compensatory time may be accrued at the rate of one and one-half times the actual overtime hours worked, provided all other overtime requirements outlined in these Rules are met. Compensatory time is to be paid at the straight time hourly rate. Regardless of the Firefighter work schedule the dollar value of the compensatory bank will remain the same.

Only full-time regular non-exempt employees are eligible under this rule to accrue compensatory time in lieu of overtime pay. Temporary, casual and part-time regular

employees are not eligible to accrue compensatory time.

One employee may not substitute for another in working overtime without supervisory approval.

*HISTORY: AMENDED 3/20/90; AMENDED 5/16/94; AMENDED 2/11/03; AMENDED 9/10/13; AMENDED 3/20/18*

**Rule 311.3 Use of Compensatory Time:** An employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the department or the County. It will be considered disruptive if the request will require other employees to work overtime. All accrued compensatory time must be paid upon termination of a non-exempt employee or upon change to exempt status. An employee may be allowed to use his/her accrued and unused compensatory leave to extend his/her service time under PERA on an hour for hour basis.

*HISTORY: APPROVED 2/13/70; AMENDED 12/22/75; AMENDED 9/18/78; AMENDED 5/14/79; AMENDED 4/4/88; AMENDED 7/1/88; AMENDED 1/31/90; AMENDED 3/20/90; AMENDED 5/91; AMENDED 9/10/13*

**Rule 311.4 Computing Hours Worked for Overtime Pay:** The following hours are considered as hours worked for the purpose of qualifying for overtime pay if they fall within the employee's normal working hours:

- (a) Hours actually worked,
- (b) Hours allowed for court duty when appearing as a witness on behalf of the County or because of an official capacity with the County,
- (c) Job-required training, including hours outside regular working hours, as required by the Fair Labor Standards Act (FLSA),
- (d) Hours allowed for call-out (see Rule 313.)
- (e) Holiday hours as defined per Rule 722.3.

*HISTORY: APPROVED 2/13/70, AMENDED 12/22/75; AMENDED 9/18/78; AMENDED 1/31/90; AMENDED 2/27/90; AMENDED 3/15/93; AMENDED 10/24/06; AMENDED 5/13/08; AMENDED 9/10/13; AMENDED 2/16*

**Rule 311.5 Hours Not Computed for Overtime Pay:** The following hours are excluded when determining hours worked for overtime purposes:

- (a) Sick Leave
- (b) Annual Leave
- (c) Hours allowed for holidays
- (d) Compensatory time
- (e) Court Duty when not appearing as a witness for the County
- (f) Jury Duty
- (g) Hours allowed for voting time
- (h) Job-incurred Injury
- (i) Military Leave
- (j) Job-related training not authorized by the Department Director or designee
- (k) Standby duty
- (l) Administrative Leave
- (m) Bereavement
- (n) Other compensable hours not actually worked or not listed in Rule 311.4

Should a non-exempt employee be granted time for any of the purposes listed above during a given work period and subsequently be required to work in excess of the scheduled work day or work period, the employee will be allowed full pay at the straight-time hourly rate until the normal work period requirement has been satisfied or at least a forty (40) hour work week [one shift for non-exempt shift firefighter personnel] has been worked on that day. The employee will then be placed on the overtime rate. An exception to the normal work period or forty (40) hour work week [one shift for non-exempt shift firefighter personnel] requirement is made when a non-exempt employee is called back to work for emergency service. In this event the employee will be paid at the overtime rate and the provisions of Personnel Rule 313 with regard to minimum compensation for call-out will apply.

*HISTORY: APPROVED 2/13/70; AMENDED 12/22/75; AMENDED 9/18/78; AMENDED 5/14/79; AMENDED 1/31/90; AMENDED 5/91; AMENDED 3/15/93; AMENDED 2/11/03; AMENDED 9/10/13*

**Rule 312 Exempt Employees Overtime Compensation:** Exempt employees are paid salaries at biweekly rates and may be required to work occasional overtime without extra or premium pay. Exempt employees assigned to extended overtime may be

paid for pre-approved hours in excess of forty-five (45) hours per week, or for exempt shift fire personnel, in excess of scheduled hours per normal work period, but only with prior written approval of the County Manager or Utilities Manager. When payment for overtime work is authorized, exempt employees shall be paid at straight-time rates computed on an hourly basis for those hours worked in excess of forty-five (45) hours per week, or for exempt shift fire personnel, in excess of scheduled hours per normal work period.

In recognition of the requirement that exempt employees work occasional overtime, some flexibility is allowed for authorized time off with pay during the normal work day or normal work period as compensatory time. However, it is not intended that compensatory time be granted in an amount to equal overtime worked in a non-pay status, and exempt employees are expected to use compensatory time with discretion. Compensatory time may not be used to engage in outside employment without prior approval of the County Manager or Utilities Manager. It is not intended that an exempt employee's status will change to non-exempt status by virtue of accruing compensatory time.

- (a) Exempt employees may accrue compensatory time with the prior approval of their supervisors for those hours worked in excess of forty-five (45) hours per week, or for exempt shift fire personnel, in excess of scheduled hours per normal work period to a maximum of sixty (60) hours that can be accrued in their compensatory time banks (eighty-four (84) hours for exempt shift fire department personnel).
- (b) Upon separation of employment with the County, an exempt employee shall not be paid for any unused compensatory time, and compensatory time shall not be used to extend the date of the employee's separation from employment.

*HISTORY: APPROVED 8/5/65; AMENDED 9/18/78; AMENDED 5/14/79; AMENDED 10/89; AMENDED 1/31/90; AMENDED 2/11/03; AMENDED 2/16; AMENDED 3/20/18*

**Rule 313 Call-Out Pay:** Only non-exempt employees shall be eligible for call-out pay. An eligible employee who receives notice after the end of his/her regularly scheduled shift or approved overtime that he/she is required to report to work at a time prior to the

commencement of the employee's next regularly scheduled shift, and who actually reports to work as required, shall be considered to have been "called out." Each quarter (1/4) hour, or part thereof, worked after reporting to work on call-out shall be subject to call-out pay pursuant to this Rule, except that no time worked during any regular shift shall be subject to this Rule. An eligible employee who is called out shall be compensated for time worked on call-out as provided in this Rule.

- (a) If the employee's regular shift begins less than four (4) hours after reporting to work on call-out, the employee shall receive compensation at the premium rate of pay from the time the employee reports to work on call-out until the time the employee's regular shift commences. The employee may be required to perform regular duties during any period following the completion of the work for which he/she was called out and the commencement of his/her regular shift.
- (b) If the employee works four (4) or more hours during any call-out period, the employee shall receive compensation at the premium rate of pay for the eligible time worked.
- (c) If the employee works less than four (4) hours during any call-out period, the employee shall receive compensation at the premium rate of pay for four (4) hours.
  - i. If an employee receives notice that he/she is required to report to work again prior to the expiration of the initial four (4) hour call out period, and the eligible time worked extends past the initial four (4) hour call-out period, then the additional eligible time worked shall be considered to be a continuation of the initial call-out period and shall be compensated at the premium rate of pay.
- (d) If the employee is called out a subsequent time after the expiration of initial four (4) hour call out period, it will be treated as a new call out period and subject to the criteria listed above.

- (e) If an eligible employee who is not on standby is called-out on a County holiday, the employee shall receive call-out pay as specified in this Rule and, in addition, shall receive:
  - 1. Holiday pay that would have otherwise been paid for on the holiday which the call-out occurred; and
  - 2. Paid administrative leave to be used within ninety (90) days after accrual, at a time determined or approved by the Department Director, consistent with the work needs of the County, in the amount of either:
    - i. The employee's regular holiday allocation if the hours worked are equal to or exceed one-half (1/2) of the employee's regular holiday allocation, or
    - ii. One-half (1/2) the employee's regular holiday allocation if the hours worked are less than one-half (1/2) of the employee's regular holiday allocation.
- (f) In the case where a non-exempt Information Management employee is required to perform work duties but does not actually report to his/her assigned work location and is able to perform the work from a remote location; he/she will be paid at a minimum two (2) hours of premium rate of pay or for actual hours worked as defined above.

*HISTORY: APPROVED 8/1/65; AMENDED 1/24/77; AMENDED 8/5/67; AMENDED 5/14/79; AMENDED 3/9/81; AMENDED 9/9/03; AMENDED 9/10/13; AMENDED 5/2/17*

**Rule 314 Standby Pay**: An employee may be required to remain on standby within Los Alamos County, at home or immediately available by the telephone or other means of communications approved by the County, to answer emergency service requests. The requirement that an employee have a telephone in his/her personal residence shall not constitute cause to pay for standby duty.

When assigned to standby duty and required to remain within Los Alamos County, the employee shall be paid equivalent

to sixteen (16) hours pay at their regular rate for a full calendar week of standby duty. In the event that an employee is unable to complete his/her full calendar week, adjustments will be made at the rate of 2.3 hours of standby pay per day.

When assigned to standby duty and **not** required to remain within Los Alamos County, the employee shall be paid equivalent to eight (8) hours pay at his/her regular rate for a full calendar week of standby duty.

Standby hours will be recorded appropriately on the employee's timesheet and payment will be included in the employee's paycheck for the pay period standby was held. Standby time will not be considered time worked in the computation of regular and/or overtime hours.

When an employee is on standby duty and a holiday occurs, the employee shall be granted one (1) additional day off with pay. Such additional day off shall be specified by the employee's Department Director, within a ninety (90) day period, subject to the work needs of the County.

*HISTORY: APPROVED 5/10/66; AMENDED 6/17/74; AMENDED 1/24/77; AMENDED 9/18/78; AMENDED 1/21/80; AMENDED 11/7/88; AMENDED 5/16/94; AMENDED 12/19/06; AMENDED 9/10/13*

**Rule 315 Night Differential Pay:** A non-exempt employee assigned to work between the hours of 6:00 p.m. and 6:00 a.m. shall be paid for those hours worked between such times, in addition to all other compensation for which he/she is otherwise eligible, premium or "night differential" pay at the rate of ten percent (10%) of the basic rate of pay computed on an hourly basis, subject to the following exceptions:

- (a) Night differential shall not be paid for standby as defined in Rule 314 except as a part of call-out pay.
- (b) Exempt employees shall not be paid night differential.
- (c) Night differential shall not be paid to a non-exempt employee regularly assigned to night work when he/she is absent from his/her regularly assigned shift because of a holiday, annual

leave, sick leave, or in the event of any other authorized or unauthorized absence from duty.

- (d) Night differential shall not be paid to an employee in travel status.
- (e) Night differential shall not be paid to the firefighter job family, including Fire Cadets.

*HISTORY: APPROVED 7/4/71; AMENDED 9/18/78; AMENDED 9/4/90; AMENDED 12/20/16; AMENDED 3/20/18*

**Rule 316 Stability Pay:** Stability payments based on length of service shall be made in a single payment in December of each year when the employee fulfills requirements prescribed under the following rules and regulations.

*HISTORY: APPROVED 8/5/65; AMENDED 3/7/66; AMENDED 4/16/91*

**Rule 316.1 Stability Pay Eligibility:** Employees eligible for stability payments shall consist of only those employees who:

- (a) Are in a regular full-time or regular part-time status, as defined in Rule 411,
- (b) Are in such status at the time stability payments are awarded,
- (c) Have completed at least five (5) years continuous service on or before December 1 in the calendar year in which the stability payment is awarded,
- (d) Are a current employee at the time of payment except as set forth in Rule 316.3, and
- (e) Received a "meets expectations" or higher rating on their most recent performance appraisal.

*HISTORY: APPROVED 3/7/66; AMENDED 12/18/89; AMENDED 5/91; AMENDED 5/16/94; AMENDED 10/24/06; AMENDED 9/10/13*

**Rule 316.2 Stability Pay Calculations:** In arriving at years of service for stability pay calculations, only total continuous employment with the County will be taken into account, regardless of position or department. Continuous

service includes previous regular service time and/or temporary service time in connection with a regular appointment and is the employee's original date of hire or adjusted date of hire, whichever is most recent.

Stability payments will be calculated on the basis of fifty dollars (\$50.00) for each completed year of continuous service, as of December 1, after a minimum of five (5) years of continuous service. Stability payments shall be calculated on a prorated basis for part-time employees. Maximum stability payment will be set at twenty-five (25) years of continuous service.

*HISTORY: APPROVED 3/7/66; AMENDED 11/15/73; AMENDED 5/91; AMENDED 5/16/94; AMENDED 10/24/06*

**Rule 316.3 Stability Pay-Retirement:** An employee who is eligible for stability pay who retires under Public Employees Retirement Association (PERA) will receive a prorated payment at the time of retirement.

*HISTORY: AMENDED 12/18/89; AMENDED 8/14/90; AMENDED 9/6/90*

**Rule 317 Uniforms:** In various positions of the County service, it is desirable or necessary that employees wear prescribed uniform clothing. When the County Manager or Utilities Manager determines that prescribed clothing shall be worn, such clothing may be purchased for use by the employees.

At the time of their separation from County service, or upon request by the County Manager or Utilities Manager, employees shall return all clothing furnished. If the clothing provided is not returned, the Department Director will take the appropriate action, after consultation with the Human Resources Division, dependent upon the missing items.

Department Directors are required to account for the disbursement and return of all required uniforms to employees in a manner suitable to the County Manager or Utilities Manager.

*HISTORY: APPROVED 8/15/65; AMENDED 5/14/79; AMENDED 12/19/06; AMENDED 9/10/13*

**Rule 318 Annual Pay Increase Effective Date and Eligibility:** Annual pay increases will become effective in the first full pay period beginning on or after July 1. Only those employees who have completed their new hire probation by June 30 and who have not received a probationary or promotional pay increase between May 1 and June 30 are eligible to participate in the annual pay increases each year.

*HISTORY: APPROVED 3/9/99; AMENDED 11/2/99; AMENDED 8/22/06*

**IV. RECRUITMENT, SELECTION, APPOINTMENT, AND PERFORMANCE EVALUATION**

**Rule 400 Recruitment Area:** Individuals shall be recruited from a geographic area as wide as necessary to ensure obtaining well-qualified candidates for the various types of positions.

Current County employees are encouraged to apply for positions in which they are interested and for which they meet the minimum qualifications identified in the job posting. Regular County employees shall be given a preference in hiring over non-County employees if all things are equal at the end of the interview/testing process.

*HISTORY: AMENDED 2/13/95; AMENDED 5/5/09; AMENDED 9/10/13*

**Rule 401 Recruitment Announcement:** Unless filled by a transfer all competitive position vacancies shall be announced and publicized. The County shall publicize job vacancies through appropriate methods to ensure an adequate pool of qualified applicants.

*HISTORY: AMENDED 10/22/90; AMENDED 5/16/94; AMENDED 5/5/09; AMENDED 9/10/13*

**Rule 402 Reference Checks:** A minimum of three (3) reference checks made by personal or telephone contact shall be documented and made a part of the recruitment file before an offer of employment is made. If the applicant is a current or former County employee, at least one (1) of the three (3) required reference checks must be from the applicant's current County supervisor or the last supervisor if the applicant is a former County employee, if possible.

Information received in a reference check is not public record and will not be released without a court order except to appropriate County personnel.

If the applicant is a current or former County employee, the hiring supervisor must review the personnel file prior to making an offer.

*AMENDED: 5/5/09; AMENDED 9/10/13*

**Rule 403 Examinations:** For those positions that require an examination, all qualified applicants shall be subject to such requirement if selected to participate in the recruitment process. The examination shall pertain to those matters that fairly test the skills and abilities of the candidate to perform efficiently the responsibilities of the position for which the examination is conducted.

Examinations may include written, oral, or performance tests, or any combination of these. They may take into consideration such factors as education, experience, aptitude, knowledge, physical fitness, or other qualifications that enter into the determination of the relative abilities of applicants.

*HISTORY: AMENDED 2/13/95; AMENDED 5/5/09*

**Rule 403.1 Medical Examinations or Inquiries:** Unless authorized by law, no medical examinations or inquiries shall be made of applicants prior to a contingent offer of employment. However, an offer of employment may be conditionally made upon satisfactory results of medical examinations or inquiries prior to the applicant's start date. Some jobs require that employees meet certain physical fitness requirements, but such requirements must be identified in the job description.

*HISTORY: APPROVED 2/13/95; AMENDED 5/5/09*

**Rule 404 Applicant Disqualification:** An applicant shall be removed from further consideration anywhere during the recruitment process if the applicant:

- (a) Does not possess the minimum qualifications required for the applicable position;
- (b) Fails to complete and fulfill each step of the application process;

- (c) Interferes or attempts to interfere with any part of the recruitment process;
- (d) Has established an employment or personal record, as evidenced by reference checks, of such a nature as to demonstrate unsuitability for employment in the position;
- (e) Has a known or disclosed disability and the applicant:
  - 1. cannot describe or demonstrate after a bonafide employment offer has been made how he or she would perform the essential functions of the job applied for, with or without reasonable accommodation(s), or
  - 2. possesses a direct threat to the health or safety of others and the threat cannot be eliminated by reasonable accommodation(s);
- (f) Has made material omissions or false statement(s) on an application;
- (g) Is a former employee who was terminated for cause, resigned in lieu of termination, or whose resignation was accepted and advised in writing that he/she was ineligible for rehire; or
- (h) Fails to appear for processing or for work as directed by the Department Director or the Human Resources Manager.

*HISTORY: AMENDED 1/31/90; AMENDED 2/13/95; AMENDED 5/5/09; AMENDED 9/10/13*

**Rule 405 Application Rejection:** Whenever the Human Resources Manager or designee determines that an applicant has been actively considered but not offered employment, the applicant shall be notified in writing within five (5) days after the acceptance of an employment offer by the selected candidate. Applications, whether accepted or rejected, shall remain on file as required by law.

*HISTORY: APPROVED 8/5/65; AMENDED 9/18/78; AMENDED 10/22/90; AMENDED 3/4/96; AMENDED 5/5/09; AMENDED 9/10/13*

**Rule 406 Qualification Evaluation:** All applicants for a position shall be evaluated and determined as qualified by the Human Resources Division against the minimum qualification requirements based on the job description.

*HISTORY: AMENDED 5/5/09; AMENDED 9/10/13*

**Rule 407 Physical and Psychological Standards:** Appointment, promotion, and continued employment in the County shall be contingent upon meeting and maintaining established job-related physical and psychological standards as prescribed in the approved job descriptions.

Physical or psychological re-examination may be required on the basis of evidence of job-related problems pertaining to performance or safety, or in jobs in which such re-examination is routine due to the job's unusual physical demands or safety-sensitivity, as described in the job descriptions of such jobs. Refusal to complete a requested examination shall be cause for disciplinary action up to and including termination.

The Human Resources Division will review and, if appropriate, approve all requests for examinations and/or testing. The cost of all required examinations shall be paid by the County. The results of such examinations will be evaluated on the basis of whether the individual can satisfactorily perform the essential functions of the job with or without reasonable accommodation, and whether the individual poses a direct threat to the health or safety of others, and, if so, whether the threat can be eliminated by reasonable accommodation.

*HISTORY: APPROVED 8/5/65; AMENDED 9/18/78; AMENDED 10/22/90; AMENDED 2/13/95; AMENDED 5/5/09*

**Rule 408 Personnel Requisitions:** Whenever a vacancy in the competitive service is to be filled, the Department Director shall submit a requisition containing the job title of the position, the number of positions to be filled, the location and hours of work, any specific qualification requirements for the position, and other pertinent information required.

When a vacancy occurs in any County position, the County Manager, or Utilities Manager if applicable, shall evaluate the need for filling, abolishing, or reclassifying the position.

HISTORY: *AMENDED 5/5/09; AMENDED 9/10/13*

**Rule 409 Temporary Appointment:** A temporary appointment of a regular County employee can be made pending the hiring as determined by the County Manager, or Utilities Manager if applicable.

HISTORY: *AMENDED 10/22/90; AMENDED 5/5/09*

**Rule 410 Regular Employee Probation Periods:** Every regular employee shall serve a probationary period of not less than six (6) months. Police Officers and Firefighters shall serve a probationary period of not less than twelve (12) months. The probationary period may be extended for regular employees other than Public Safety, if necessary, for up to an additional ninety (90) days at the request of the individual's Department Director with the approval of the County Manager, or Utilities Manager if applicable.

HISTORY: *APPROVED 8/5/65; AMENDED 9/18/78; AMENDED 10/22/90; AMENDED 2/13/95; AMENDED 5/5/09; AMENDED 9/10/13*

**Rule 410.1 Probation Period for New Employees:** All new full-time and part-time regular employees shall serve a probationary period of not less than six (6) months from the initial hiring date. Police Officer and Firefighter personnel shall serve a probationary period of not less than one twelve (12) months from the initial hiring date. The employee must work at least three (3) days in each week of the probationary period and must work an additional week on probation for each week he/she does not work at least three (3) days. The probationary period shall be an integral part of the evaluation process, to be used for closely observing the employee's work performance and for obtaining the most effective adjustment of a new employee

to the position. A probationer shall be removed from probation at the end of the probationary period unless certification is made by the Department Director to the County Manager or Utilities Manager for Utilities employees that the employee's performance is marginal. In the event a probationer's performance is marginal, neither clearly unsatisfactory nor clearly satisfactory, and the supervisor feels that an additional period of time, not to exceed ninety (90) days, is required to evaluate the employee properly, the probationary period may be extended (with the exception of Police Officer and Firefighter personnel), upon the written recommendation of the Department Director with the approval of the County Manager or Utilities Manager for Utilities employees prior to the expiration of the probationary period.

The entire probationary period, if the second probationary period is invoked, shall not consist of more than nine (9) months from the initial hiring date. At the end of the additional ninety (90) day probationary period, the probationer shall be removed from probation unless certification is made by the Department Director to the County Manager or Utilities Manager for Utilities employees that the employee's performance is marginal and that the employee is to be separated. The probationer must be converted to non-probationary status or separated. A probationer who is recommended for separation during or at the end of the probationary period may be considered as an applicant for a vacant position for which he/she is qualified. (See also Rule 604).

*HISTORY: AMENDED 2/13/95; AMENDED 7/9/02; AMENDED 9/10/13; AMENDED 12/20/16*

**Rule 410.2 Probation Periods for Promoted or Laterally Transferred Employees:** A regular employee who has successfully completed their new hire probation period, as in accordance with 410.1, and is promoted to a higher level position or laterally transferred will serve not less than a six (6) month probationary period from the initial promotion or transfer date. Police Officers and Firefighters shall serve not less than a twelve (12) month probationary period from the promotion or transfer date. This probationary period shall be an integral part of the evaluation of the employee's performance in the new position. At the end of the probationary period, the employee shall be removed from probation unless certification is made by the Department Director to the

County Manager or Utilities Manager for Utilities employees that the employee's performance is marginal. In the event a probationer's performance is marginal, neither clearly unsatisfactory nor clearly satisfactory, and the supervisor feels that an additional period of time, not to exceed ninety (90) days, is required to evaluate the employee properly, the probationary period may be extended (with the exception of Police Officer and Firefighter personnel), upon the written recommendation of the Department Director with the approval of the County Manager or Utilities Manager for Utilities employees prior to the expiration of the probationary period.

An employee on probation who is unable to perform satisfactorily in the new position will be returned to the original title, grade, and salary, or if this is not possible, to a position at the original grade and salary occupied before the promotion or transfer within the County. An employee who has completed new hire probation and is on probation as a result of a promotion or transfer will retain that status and will have full appeal rights as specified in Rule 608.2 for dismissal and suspension actions, but not for demotion, transfer or reduction of pay if those actions relate to less than satisfactory performance in the new position. If the demotion is to a lower level position or the reduction in pay is greater than the original rate of pay prior to promotion, then the employee will have full appeal rights as specified in 608.2

*HISTORY: AMENDED 3/13/90; AMENDED 2/13/95; AMDENDED 8/24/99; AMENDED 9/10/13; AMENDED 12/20/16*

**Rule 411 Employment Categories:** There shall be assigned the following employment status categories for County employees:

- (a) Full-time regular employee - An employee who works a normal work period as defined in Rules 310 and 310.2.
- (b) Part-time regular employee - An employee who works at least twenty (20) but less than forty (40) hours of regularly scheduled work within a normal work period as defined in Rules 310 and 310.1.
- (c) Temporary employee - An employee hired into a position established for a period not exceeding

six (6) months, during a defined season (April through September or July through December, and works a normal work period as defined in Rules 310 and 310.2. Temporary employees may return for another assignment or season; however, there must be a minimum break in service of at least six months between assignments/seasons. Temporary employees are not regular employees and do not have recourse to appeal and grievance procedures.

*HISTORY: AMENDED 2/6/15; AMENDED 12/20/16*

- (d) Casual employee - An employee who usually works less than twenty (20) hours in a 40-hour scheduled work week as defined in Rules 310 and 310.2. A work period may exceed twenty (20) hours per week from time to time due to operational needs. Casual employees are not regular employees and do not have recourse to appeal and grievance procedures.
- (e) New Hire probationary employee - An employee who is hired into a full or part-time regular position and is in the initial hiring period of employment (See also Rule 410.1). The employee is subject to certain provisions set forth in these Rules and Regulations governing such status. Probationary employees are not regular employees and do not have recourse to appeal and grievance procedures.

*HISTORY: AMENDED 12/20/16*

- (f) Limited-term employee - An employee whose employment term is for a continuous fixed period of time in excess of six (6) months and normally less than two (2) years and who works a normal work period as defined in Rules 310 and 310.2. The employment term may only be extended upon the approval of the County Manager. The term may be measured by the completion of a specific activity, not necessarily by an ending date. Limited-term employees are not regular employees and do not have recourse to appeal and grievance procedures. Limited-term positions must be

reviewed annually in the budget process to determine future status.

*HISTORY: AMENDED 10/22/90; AMENDED 5/91; AMENDED 2/13/95; AMENDED 12/19/06; AMENDED 1/8/08; AMENDED 8/11/11; AMENDED 9/10/13*

**Rule 412 Performance Appraisal:** As a standard of measurement all regular employees who have completed new hire probation are required to have an annual appraisal conducted that measures performance and identifies areas of improvement. Performance that receives an overall appraisal rating below the minimum standards for the position will require a Work Improvement Plan to be implemented. (Ref. Rule 502.B.2.)

*HISTORY: APPROVED 9/10/13; AMENDED 12/20/16*

**Rule 413 Employee Benefit Programs:** As a standard for assignment of retirement, fringe benefits, and annual salary increases under these Rules and Regulations, the following shall apply:

- (a) Full-time regular employees - Shall be eligible for participation in the following subject to rules and regulations governing said benefits:
  - 1. Public Employees Retirement Association of New Mexico (PERA), Los Alamos County Employee Pension Plan,
  - 2. New Mexico Retiree Health Care Authority,
  - 3. 457 Deferred Compensation Plan,
  - 4. Insurance benefits,
  - 5. Additional fringe benefits identified in the Personnel Rules and Regulations and administrative policies that are applicable to this classification.
- (b) Part-time regular employees - Shall be eligible for participation in the above mentioned benefits, on a pro-rated basis, subject to rules and regulations governing said benefits. Pro-rata is based on the ratio of hired hours to

the number of hours in the normally scheduled work period.

(c) Temporary employees - When a temporary employee is converted from temporary to regular or limited-term, without a break in continuous service, the following shall apply:

1. Eligibility for participation in retirement benefits shall be based on the date the employee was converted to probationary, regular or limited-term status.
2. The service date, as defined in Rule 304, shall be used in computing annual leave, sick leave, stability pay benefits and Los Alamos County Employee Pension Plan vesting.
3. Eligibility for participation in the salary increase process shall be based on the date the employee was converted to probationary, regular or limited-term status and as defined in Rule 318.
4. If the employee is converted to a regular or limited-term position, the date of this conversion shall be used in computing the start of the probationary period.

(d) Casual employees - When a casual employee is converted from casual to regular or limited-term, without a break in continuous service, the following shall apply:

1. Eligibility for participation in retirement benefits shall be based on the date the employee was converted to probationary, regular or limited-term status.
2. The service date, for purposes of computing annual leave, sick leave, and stability pay benefits, shall be based on the date the employee was converted to probationary, regular or limited-term status.
3. Eligibility for participation in the salary increase process shall be based on the date the employee was converted to probationary,

regular or limited-term status and as defined in Rule 319.

4. If the employee is converted to a regular or limited-term position, the date of this conversion shall be used in computing the start of the probationary period.
- (e) Limited-term employees - Shall be eligible for participation in the following subject to rules and regulations governing said benefits:
1. Public Employees Retirement Association (PERA) of New Mexico,
  2. Social Security,
  3. New Mexico Retiree Health Care Authority,
  4. 457 Deferred Compensation Plan,
  5. Insurance benefits with the exception of Long Term Disability,
  6. Additional fringe benefits identified in the Personnel Rules and Regulations and administrative policies that are applicable to this classification.

*HISTORY: APPROVED 8/5/65; AMENDED 9/18/78; AMENDED 2/27/89; AMENDED 1/31/90; AMENDED 2/13/95; AMENDED 1/8/08; AMENDED 9/10/13*

**Rule 414 Nepotism:** It is the policy of the County to avoid the practice or appearance of nepotism in employment. In all personnel actions, the County shall take such reasonable steps as may be warranted to avoid the appearance of impropriety due to nepotism. Avoidance of the appearance of impropriety shall include but not be limited to the following:

(a) Definitions:

1) Indirect supervisor:

- i. An exempt employee that is one level above the employee's direct supervisor and has the authority to

make recommendations regarding the employee's employment status, performance appraisal, compensation, or promotion; or

ii. A non-exempt employee that is one level below the employee's direct supervisor and serves in a "lead" capacity for the employee, and has the on-going responsibility of identifying or influencing work schedules, work assignments or coaching of the employee in the absence of the supervisor.

2) Direct supervisor - The first level of supervision that has responsibility for the employee's performance appraisal, disciplinary actions, and/or employment status.

3) Relative - Any person who is related by blood or marriage or adoption, or whose relationship with the employee is similar to that of persons who are related by blood or marriage or adoption.

4) Third degree of kinship - Includes:

- spouse
- parents/step-parents
- child/step-child
- sibling/step-sibling/half-sibling
- grandparent/grandchild
- aunt/uncle
- niece/nephew

(b) No person shall be hired, promoted, demoted, or transferred to a position which is under the direct or indirect supervision of a relative who is related by blood, adoption, or by marriage to the third degree of kinship except under the situation outlined in the next section (item c).

(c) No employee shall directly supervise employees having a restricted relationship under this Rule. If an indirect supervisor is in the chain of command for a relative, then the next

supervisor up shall make all such supervisory decisions on employment status, performance appraisals, compensation and promotion.

- (d) No relative shall be hired in any capacity, other than in the Student Program, if related to the County Manager, the Utilities Manager, the County Attorney, or to any County Council member.
- (e) No relative of a Department Director shall be hired into the director's chain of command.
- (f) If as a result of marriage, transfer or promotion, any of the restricted relationships described above should occur, best efforts shall be made to transfer one of the employees concerned without loss of pay or length of service, and with full observance of the individual's rights.
- (g) Requirements set forth above apply to the primary employment assignment, excluding initial training in Public Safety.

*HISTORY: AMENDED 3/4/96; AMENDED 7/10/07; AMENDED 9/10/13*

**V. PROMOTIONS, TRANSFERS AND DEMOTIONS**

**Rule 500 Promotion:** Employees, upon application and after the interview and/or testing process, shall be considered for promotion to fill any vacant position in the County service over outside applicants if all things are equal at the end of the process. The County encourages employees to develop skills, attain greater knowledge of their work, and make known their qualifications for promotion to more responsible positions. The Human Resources Division shall work with all departments in establishing in-service training. No supervisor shall deny an employee permission to apply for a promotion in any County office or department.

*HISTORY: APPROVED 8/5/65; AMENDED 9/18/78; AMENDED 9/10/13*

**Rule 501 Transfer:** Definition: An internal transfer is the filling of a vacancy within the County employment structure by an existing County employee. Internal transfers may involve a move from one organizational

division/department to another, but can occur within the division/department. Internal transfers may be lateral, may involve a promotion or demotion, may involve a reclassification (with or without promotion or demotion), and may be temporary in duration.

*HISTORY: AMENDED 9/10/13*

**Rule 501.1 Voluntary Transfer:** A transfer of an employee, per his/her written request, from one position to another, may be made when it is approved by both Department Directors, such approval not to be unreasonably withheld, and:

- (a) It is in the best interest of the County; or
- (b) Further training and development of an employee in another position would be beneficial to future staffing potential of the County; or
- (c) It meets the personal need of the employee and the organization; and
- (d) The employee meets the qualification requirements; and
- (e) The employee is notified of the transfer in advance in writing.

*HISTORY: AMENDED 9/10/13*

**Rule 501.2 Involuntary Transfer:** The County may initiate an involuntary transfer of an employee when:

- (a) It is in the best interest of the County; and
- (b) The employee meets the qualification requirements; and
- (c) The employee is notified of the transfer in advance in writing.

*HISTORY: APPROVED 8/26/86; AMENDED 3/4/96; AMENDED 9/10/13*

**Rule 501.3 Temporary Transfer:** An employee may be temporarily transferred to another position within the County for any of the reasons listed in Rule 501. Once the temporary transfer ends, the employee shall be returned

to the same position or an equivalent position held prior to the temporary transfer. Employees in a temporary transfer status are not subject to the probationary period as defined in Rule 411.2.

*HISTORY: APPROVED 2/13/95*

**Rule 502 Demotion:**

- (a) Voluntary Demotion: An employee may submit a written request to his/her immediate supervisor and the Human Resources Division to be demoted to a position with a lower pay grade for which he/she is qualified. The demotion may result in a decrease in salary.
  
- (b) Involuntary Demotion: An employee will be notified in writing of the demotion to a lower pay grade which may result in a decrease in salary (except as covered in 308.4) and may occur for the following reasons:
  - 1. When an employee fails to successfully complete a promotional probationary period which results in a reduction in pay that is less than the original rate of pay prior to the promotion, in which case refer to Rule 608.2 appeal procedures; or
  
  - 2. For failure to satisfactorily perform the essential functions of the job as documented on the Performance Appraisal and/or a Work Improvement Plan established to assist the employee to attain a satisfactory performance level. In this instance the demotion will result in a reduction in pay and will follow the appeal procedures in Rule 608.2.

*HISTORY: APPROVED 8/26/86; AMENDED 1/31/90; AMENDED 9/10/13*

**VI. SEPARATIONS, DISCIPLINARY ACTIONS AND APPEAL OF DISCIPLINARY ACTIONS**

**Rule 600 Separation:** At the time of separation from County service for any cause, all records, assets, or other items of County property in the employee's custody shall be

returned by the departing employee in accordance with any applicable policy regarding County property. Any pending agreement shall be resolved per the conditions of the agreement. Any amount due because of a shortage in the above shall be collected through appropriate action.

*HISTORY: AMENDED 9/10/13*

**Rule 601 Separation Payment**: An employee who separates employment shall receive payment for all amounts due the employee less any amounts owed by that employee to the County according to applicable State and/or Federal laws.

*HISTORY: APPROVED 8/5/6; AMENDED 5/14/79; AMENDED 3/4/96; AMENDED 9/10/13*

**Rule 602 Resignation Requirements**: An employee may resign by submitting his/her intention in writing including the effective date to their immediate supervisor. In order to assist with a smooth transition of knowledge and status of projects for the position, a minimum of two (2) weeks' notice is required in order to be considered for future employment. Employees with extenuating medical circumstances may request to the County Manager or Utilities Manager, where applicable, for a waiver of the two-week notice requirement prior to the resignation date.

The supervisor shall notify the Department Director and the Human Resources Manager. Additionally, the Department Director shall forward the letter of resignation and Personnel Action Notice (PAN) form to the Human Resources Division.

If an employee is **resigning**, the employee should not be utilizing sick or annual leave or compensatory time between the date of the employee's written notice being submitted and their last day at work. The employee must work on their final day of the notice. If an employee is **retiring** they may request to use sick or annual leave or compensatory time between the date of their last day at work and the retirement date. Employees who voluntarily resign shall forfeit all appeal rights under these Rules and Regulations. Failure to comply with these requirements may be cause for denying future employment with the County.

*HISTORY: AMENDED: 8/24/99; AMENDED 8/1/06; AMENDED 9/10/13; AMENDED 2/6/15*

**Rule 603 Reduction in Force:** May occur when a position is discontinued or abolished because of a lack of work, or lack of funds, or when there has been a structural reorganization of work or a substantial change in duties. The Department Director shall submit a written recommendation to the County Manager for approval of a reduction in force (RIF). The County Manager shall determine the order of employee separation resulting from a RIF on the basis of the relative suitability for the jobs that remain, length of continuous service with the County and other considerations as required by law.

No regular employee shall be separated while there are temporary employees employed, there is a regular vacancy authorized to be filled, or a regular employee on new hire probation in any position for which the regular employee is at least equally qualified. Regular employees subject to this separation shall be notified in writing two (2) calendar weeks before the effective date or shall be granted equivalent severance pay. A regular, full-time County employee who has been separated shall be treated as an internal applicant over other applicants for any vacancy for which he/she has applied and is qualified. This RIF privilege ends after one hundred twenty (120) days have passed since the separation date, or after an employee has refused employment in a classification in which he/she is qualified in which the pay rate is the same or higher than the employee's rate at time of separation.

*HISTORY: AMENDED 2/13/95; AMENDED 9/10/13*

**Rule 604 New Employee Probationary Period Termination:** At any time during the probationary period, an employee whose performance does not meet the required standards may be terminated by the Department Director with approval from the County Manager or Utilities Manager for Utilities employees. The Department Director shall inform the employee of the evaluation of his/her performance before completion of the probationary period.

The reasons for the termination shall be furnished to the employee verbally and in writing to include the termination date. The Human Resources Division shall be notified in

writing prior to the termination being served. This termination is not subject to the appeal procedures.

*HISTORY: AMENDED 2/6/90; AMENDED 10/22/90; AMENDED 2/13/95; AMENDED 9/10/13*

**Rule 605 Disability Termination:** If, after reasonable effort has been made to make an accommodation as defined in the Americans with Disabilities Act, an employee shall be separated for disability when he/she cannot perform the essential functions of the position, because of physical or mental impairment. Action may be initiated by the County at the time of Maximum Medical Improvement (MMI) determination or nine (9) months (from last day worked), whichever comes first. The action must be supported by medical evidence. The County may require an examination at its expense, performed by a medical professional of its choice. In the event of conflicting medical information an independent examination may be requested by either party at the requestor's expense. In the event that an employee is separated due to disability, the action will follow the appeal procedure as outlined in Rule 608.2. (Ref. Incorporated County of Los Alamos Administrative Procedure Guideline: Policy to Implement the Americans with Disabilities Act - Index No, 1105)

*HISTORY: AMENDED 9/10/13*

**Rule 606 Death:** Separation shall be effective as of the date of death.

*HISTORY: APPROVED 6/20/66; AMENDED 3/4/96; AMENDED 9/10/13*

**Rule 607 Discipline:** Discipline, to be effective, should be designed to correct and improve an employee's performance and/or behavior. Discipline shall be fairly and equally applied. Whenever an employee's performance, work habits, or personal conduct fall below a desirable level, supervisors shall inform the employee promptly and specifically of such lapses and give counsel and assistance. In some instances, a specific incident may justify severe disciplinary action, up to and including immediate termination. However, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance, length of service, and previous conduct. Copies of the Personnel Rules shall be available for all employees. Copies of any written departmentally issued work rules or directives

shall be made available to employees and employees shall be expected to be aware of those rules. Employees found in violation of rules, policies or directives may be subject to discipline, up to and including termination, depending on the severity of the offense and appropriate legal action may be taken. Any internal investigations that are not conducted by Human Resources Division regarding allegations of misconduct must be reviewed by Human Resources Division at the completion of the investigation. Those internal investigation documents will be maintained in the Human Resources Division investigative personnel file. All Performance Appraisals with overall ratings below meets expectations, Work Improvement Plans, Written Warnings, Suspensions, and Terminations must be reviewed with the Human Resources Division before the action is taken.

Violations do not have to occur during working hours for discipline to be applied. Situations that may affect the continued ability of the employee to perform his/her job or indicate unfitness for continued employment may subject the employee to disciplinary action.

The following types of misconduct/poor performance are only examples, and this listing should not be construed as all inclusive:

- (a) Conclusive evidence of dishonesty.
- (b) Insubordination.
- (c) Use of abusive or obscene language directed toward supervisors, fellow employees, or the general public.
- (d) Falsifying or altering time sheets. Hours worked must be reported in accordance with the Fair Labor Standards Act (FLSA) rules and regulations.
- (e) Absenteeism or tardiness. Failure to report absences or tardiness within the allowed time periods or as defined by department guidelines.
- (f) Unauthorized absences or abuse of leaves.
- (g) Willfully damaging, sabotaging, abusing, or defacing County property, supplies, or

equipment, or removing same without authorization.

- (h) Failure to perform work as required. For example, a Performance Appraisal where the overall rating is below meets expectations or not being successful in completing a Work Improvement Plan.
- (i) Falsification of or misrepresentation of the County employment application, work records, or any other public documents or records.
- (j) Distribution, possession, or being under the influence of alcohol, narcotics, drugs, or controlled substances as addressed in the Drug-Free Workplace Policy. Notwithstanding the County's policy of offering rehabilitation where appropriate on an employee's first positive test, a first positive test may result in termination, including, but not limited to, those instances where an employee has signed a drug certification form, or those instances where an employee has a prior disciplinary history.
- (k) Conflicts of interest, as defined in the County Code, and additionally:
  - 1. Accepting payments, services, or loans from, or selling services to, people or entities/parties dealing with or contemplating dealing with the County in a manner to create undue influence.
  - 2. Ownership in concerns with which the County does business without disclosure to the County Manager, and the Purchasing Agent, and waiver pursuant to Procurement Code with involvement in or influence over the County's related conduct of business.
  - 3. Acceptance of gifts or entertainment that implies or leads to a question of whether or

not the recipient could act with total objectivity regarding the County's interests.

4. Benefiting personally from any purchase of goods or services for the County or deriving any personal gain from transactions made on behalf of the County.

- (l) Violation of the County's and/or Department's Policies.
- (m) Felony convictions.
- (n) Unauthorized release of confidential information
- (o) Provoking or instigating a fight with or abusing any person during working hours.
- (p) Possession of firearms unless secured in an employee's personal vehicle, or as required by the employee's job description
- (q) Failure to report a misdemeanor involving moral turpitude or a criminal conviction that directly relates to the particular job duties and responsibilities of the reporting employee.
- (r) Participation in a strike against the Incorporated County of Los Alamos. (Reference: The Code of the Incorporated County of Los Alamos, Section 30-48.)
- (s) Use of official position for personal advantage or undue influence for a favorable outcome.

*HISTORY: AMENDED 2/06/90; AMENDED 11/13/90; AMENDED 11/13/90; AMENDED 3/15/93; AMENDED 5/16/94; HISTORY: AMENDED 8/24/99; AMENDED 9/10/13*

**Rule 607.1 Written Warnings:** May be issued in situations where coaching or training has not resulted in the expected improvement in performance or conduct. Written warnings must be reviewed and approved by the Human Resources Division before the warning is served. A written warning shall be issued through the Department Director to the employee, and a signed copy shall be sent to the Human

Resources Division for placement in the employee's personnel file.

All written warnings shall be issued on a form available from the Human Resources Division or the intranet. The employee will be required to sign the notice, but will be given an opportunity to respond to the warning and give his/her version of the situation within five (5) business days. There are no appeal procedures associated with written warnings.

*HISTORY: APPROVED 8/5/65; AMENDED 6/14/79; AMENDED 7/10/90; AMENDED 3/15/93; AMENDED 3/4/96; AMENDED 9/10/13*

**Rule 607.2 Suspension:** An employee can be suspended without pay for justifiable reasons (See Rule 607). All proposed and final suspensions must be reviewed and approved by the Human Resources Division prior to issuance. Notice of suspension must be in accordance with Rule 608.

*HISTORY: AMENDED 2/13/95; AMENDED 9/10/13*

**Rule 607.3 Termination:** All proposed terminations shall be issued by the Department Director and must be reviewed and approved by the Human Resources Division.

All final notices of termination must be issued by the Department Director and reviewed and approved by the Human Resources Division and have prior approval of the County Manager or Utilities Manager in cases of Utilities employees. Notice of termination must be issued in accordance with Rule 608.

*HISTORY: AMENDED 9/10/13*

**Rule 608 Disciplinary Notification:** Proposed and final termination and suspension must have prior consultation and approval from the Human Resources Division. Whenever such consultation is not practical because of urgency or other pressing reasons, the employee may be placed on administrative leave with pay and the situation reviewed with the Human Resources Division as soon as practicable (See Rules 725 and 725.1).

A copy of the disciplinary action and appeal procedures (Personnel Rules 607 through 608.2) regarding disciplinary procedures will be provided to the employee before termination or suspension take place.

The proposed and final notice shall be issued through the Department Director to the employee and a signed copy shall be sent to the Human Resources Division for placement in the employee's personnel file.

The termination or suspension of an employee shall be accomplished according to the following procedures:

- (a) The employee shall be served by an appropriate member of County management with a written notice of proposed disciplinary action which shall:
  - 1. Cite the specific acts allegedly constituting cause;
  - 2. Provide an explanation of the evidence that the County has;
  - 3. Specify what the proposed disciplinary action is; and
  - 4. State that within five (5) working days of the service of the notice, the employee is entitled to respond to the allegations in writing or request in writing to be heard at an informal hearing conducted by a designee of the County Manager.
  
- (b) If the employee requests an informal hearing, the County must conduct such hearing within five (5) working days of the County's receipt of the request, unless the employee and the County agree in writing to an extension of time. The hearing shall be conducted by the County Manager/Utilities Manager or their designee. The employee has a right should he or she choose to be represented at this hearing. The hearing is not a formal evidentiary proceeding, and is the employee's opportunity to respond to the allegations and the County's opportunity to ask clarifying questions and address concerns

related to the proposed discipline. The hearing will be recorded.

(c) The County shall consider the employee's response, if any, and determine what action is appropriate within five (5) working days of the response or hearing. If the employee does not respond to the notice of proposed disciplinary action in writing or request a hearing, the County may proceed to determine the appropriate action and serve a notice of final decision. The County may proceed with a notice of final decision before the end of the period for response if the employee's response is received or the hearing is concluded before the expiration of this period.

(d) The written notice of final decision must:

1. Specify the date of service of the notice of proposed disciplinary action;
2. Address the employee's defenses, if any, to the notice of proposed disciplinary action;
3. Identify the specific acts constituting cause, which shall not include acts not specified in the notice of proposed disciplinary action;
4. Specify the disciplinary action, if any, to be taken;
5. If termination, or suspension, occur, the effective date must be at least twenty-four (24) hours after the date of service of the written notice of final decision; and
6. Inform the employee that the disciplinary action may be appealed in accordance with the County's Personnel Rules and Regulations, which shall be attached to the notice of final decision.

(e) Service of all notices under this section shall be accomplished by hand-delivery to the employee, by certified mail return receipt requested addressed to his/her last known

address, or by other similar attempts to reach the employee.

*HISTORY: APPROVED 8/1/65; AMENDED 3/6/72; AMENDED 5/14/79; AMENDED 2/06/90; AMENDED 7/10/90; AMENDED 3/15/93; AMENDED 9/10/13*

**Rule 608.1 Unreasonable Discipline:** An employee cannot be disciplined for refusing to perform an illegal act.

*HISTORY: AMENDED 4/10/95; AMENDED 3/4/96*

**Rule 608.2 Appeals, Hearings and Investigations:**

For the purpose of this rule the following definitions shall apply:

"Appeal" shall be defined as a formal written complaint filed by a regular employee concerning a suspension, involuntary demotion, or termination.

"Days" shall be defined as Monday through Friday, excluding County holidays, from 8:00 a.m. to 5:00 p.m.

"The County" for the purposes of the appeal procedure, shall be defined as the person who initiated the action, usually a Department Director or designee, or the County Manager or the Utilities Manager, or their designee.

"Human Resources Manager" for the purpose of the appeal procedure, may include a designee.

*HISTORY: AMENDED 5/16/94 HISTORY: AMENDED 6/21/93; AMENDED 1/11/05; AMENDED 9/10/13*

**Appeals**

Regular employees (except new hire probationary employees) may appeal a suspension, involuntary demotion, or termination to the Personnel Board. Notice of appeal must be filed with the Human Resources Manager no later than ten (10) days after receipt of notice of final decision. The appeal must be in writing and must set forth the reason(s) why the disciplinary action is thought to be improper.

The Human Resources Manager will make reasonable effort to schedule the appeal hearing to be held on a date that is

within fifteen (15) days after receipt of the appeal request. The date of the hearing before the Personnel Board may be postponed beyond the 15-day period provided in this subsection, upon written request to the Human Resources Manager by the employee or the County. In which event the Human Resources Manager shall make every reasonable effort to schedule the hearing on a date that is within thirty-five (35) days after receipt of the appeal request. If that is not reasonably possible, the hearing will be scheduled as soon thereafter as practicable.

A minimum of three (3) members of the Personnel Board must be present at the hearing. The Human Resources Manager shall furnish the County and the Personnel Board members with a copy of the written request of appeal at least five (5) days in advance of the hearing, if possible.

- (a) The Personnel Board or designee has the power to and shall administer oaths to anyone testifying at the hearing.
- (b) The Personnel Board shall be the sole judge of the relevance of all material and testimony presented during the hearing.
- (c) The Personnel Board has the discretion to allow such latitude in the order and the scope of the hearing, to ensure fundamental fairness for all participants.
- (d) The Personnel Board may appoint a hearing coordinator to meet with both the employee and the County together, or their representatives, prior to the hearing for the purpose of clarifying and limiting issues and witnesses as may be appropriate or relevant for that hearing. The appointed hearing coordinator may issue prehearing written directives regarding the conduct of the hearing. Prehearing written directives issued by the hearing coordinator shall be made available to the Personnel Board prior to the hearing and shall be presumed to be effective unless withdrawn by the Personnel Board. Prior to commencement of the hearing, any party may request that the Personnel Board withdraw one or more prehearing directives issued by the hearing coordinator and the Personnel Board shall take up any such request

at the beginning of the hearing. The Committee may also consider any prehearing directive *sua sponte*.

### Hearings

The hearings on appeals from disciplinary action are administrative and shall be closed to the public unless otherwise requested in writing by the employee to the Human Resources Manager at least three (3) days before the hearing. The employee and the County shall be given written notification of the time and place of the hearing at least seven (7) days in advance.

The employee and the County have the right to present witnesses, and give evidence before the Personnel Board. The Human Resources Manager must be given the list of witnesses from both parties at least five (5) days before the hearing, a copy of which shall be provided to both parties. Required prior notice of the hearing and the time for submission of a witness list may be modified by the hearing coordinator as necessary to assure that the hearing is timely held.

The hearing before the Personnel Board is intended solely for the purpose of receiving evidence to refute or to substantiate specific charges which the Personnel Board has been requested to review. The employee's contentions in the appeal hearing shall be limited to the written reasons referred to in 608.2(A) as to why the disciplinary action is thought to be improper. It is not an occasion for making irresponsible accusations, attacks upon the character or conduct of the County or employee, or other derogatory remarks having no bearing on the charges under investigation.

All material presented must be relevant to the stated cause or causes of the stated disciplinary action. The Personnel Board has the sole authority to decide any and all questions or disputes concerning relevancy and its decision is final. The Personnel Board in conducting such hearing is not bound by the rules of evidence.

In appealing to the Personnel Board, the employee and the County are not required to have an attorney. The employee and the County may be represented by an attorney or any other person of his/her own choosing, and must so notify the Human Resources Manager of this

representation at least five (5) days before the appeal hearing. The employee or the County or their representatives may examine and cross-examine witnesses, make statements, and summarize testimony.

Appeal Hearing Procedure: Procedures for Appeals on Disciplinary Action.

- (a) Opening statement of the County;
- (b) Employee's opening statement;
- (c) Presentation of the County's case, with witnesses being subject to cross examination by the employee and then to questions by the Personnel Board, and with the right to redirect and further cross examine respective parties and witnesses;
- (d) Presentation of employee's case, with witnesses being subject to cross examination by the County and then to questions by the Personnel Board, and with the right to redirect and further cross examine the respective parties and witnesses;
- (e) Any rebuttal by the County;
- (f) Closing arguments: the order shall be first the County, then the employee and a final closing argument by the County.
- (g) A recording or transcription of the hearing shall be made.

Findings and Final Action

Deliberations by the Personnel Board in connection with an appeal hearing shall be conducted in closed session as authorized by the New Mexico Open Meetings Act. Only those members of the Personnel Board who attended the hearing may participate in deliberations along with the hearing coordinator. The Personnel Board shall first determine if there is good cause for the disciplinary action. The disciplinary action taken shall be affirmed unless a majority of the members of the Personnel Board hearing the appeal find that there was not sufficient cause for the disciplinary action, in which event the disciplinary action taken shall be overturned. If cause

is found, the Personnel Board shall uphold or impose a lesser disciplinary action based upon the finding of mitigating circumstances.

The Personnel Board shall adopt its findings and take action on its final decision in an open meeting. The Personnel Board shall record the results of final action within thirty (30) days of the hearing at the Clerk's Office and with the County Manager, a copy of which shall be immediately furnished to the employee and the County.

The decision of the Personnel Board is the final administrative decision of the County.

### Conflicts

Any Personnel Board member related within the third degree of kinship to the employee or management involved in a specific case or who has prior knowledge of the merits of the case and who has prejudged any aspect of the appeal shall not be eligible to hear the appeal, to participate in deliberations, or to vote on the adoption of the findings and final decision of the Personnel Board with respect to the appeal. The final determination as to eligibility shall be made by the Chairman of the Personnel Board or his/her designee, should the Chairman be the individual with a potential conflict.

If an appeal is initiated by an employee of the Human Resources Division, then the County Manager, or his/her designee, shall be responsible for administering the appeal process.

### Restoration of Pay/Personnel Benefits

Where, through the appeal procedure, the action appealed is reversed or modified by the Personnel Board, the decision of such reversal or modification may include a provision for the restoration of all or part of the pay and/or personnel benefits lost because of the decision appealed from.

Protected Employees

- (h) Any employee who:
  - i. files an appeal; or
  - ii. provides formal assistance to an appellant or the County; or
  - iii. participates as a witness or is named on the witness list in an appeal hearing shall be entitled to participate without fear of retaliation from the County as a result of such action.
  
- (i) Any employee described in (1) above, who feels that he/she has experienced retaliation for filing or participating in an appeal, shall notify the Human Resources Manager in writing within ten (10) days of the occurrence of such alleged retaliation. The Human Resources Manager shall promptly investigate the allegations of retaliation and take corrective action. If the Human Resources Manager is alleged to have engaged in retaliatory conduct, the employee may bring the allegation(s), in writing, directly to the County Manager for appropriate action. If the Human Resources Manager experiences retaliation, the employee may bring the allegation(s), in writing, directly to the County Council for appropriate action.

If retaliation has been alleged to have been conducted by County Manager, County Attorney and/or Utilities Manager, the complaint will be investigated by the Human Resources Division or County Attorney's Office as appropriate. If allegations are substantiated, the results of the investigation will be forwarded to County Council for action.

*HISTORY: APPROVED 1/24/77; AMENDED 9/18/78; AMENDED 5/14/79; AMENDED 11/30/90; AMENDED 12/90; AMENDED 5/16/94;*

AMENDED 3/4/96; AMENDED 8/18/97; AMENDED 2/11/03; AMENDED 1/11/05; AMENDED 9/10/13

**VII. LEAVE**

**Rule 700 Leave:** Leave is any authorized absence, with or without pay, during regularly scheduled work hours that is approved by proper authority. Absence without leave is an unauthorized absence, subject to disciplinary action.

**Rule 701 Leave Approval:** Leave shall be granted in accordance with these rules on the basis of work requirements of the departments and, whenever possible, the personal wishes of the employee. Leave shall be approved by the supervisor as designated by the Department Director.

For all leave other than official holiday, sick, and administrative emergency leave, a written or electronic request indicating the kind of leave, duration, and dates of departure and return must be approved before leave is taken. The request for leave should be approved before beginning the leave. Unless an absence is documented by a leave form approved by the County Manager, department head or designee, an employee shall not be paid for any absence from scheduled work hours.

*HISTORY: AMENDED 2/13/95; AMENDED 9/10/13*

**Rule 702 Leave Record Maintenance:** The Human Resources Division shall be responsible for the maintenance of accurate electronic leave records for each employee.

Each department shall be responsible for providing the Human Resources Division with the source documents for the electronic records on a quarterly basis. Such written records include but are not limited to approved timesheets and leave requests for each employee. The Human Resources Division, in accordance with the records retention schedule, shall coordinate with Records Management to retain these records.

*HISTORY: AMENDED 10/24/06; AMENDED 8/11/11; AMENDED 9/10/13*

**Rule 703 Annual Leave:** It is the policy of the County to promote employee efficiency, health, and morale through periodic rest from duties by means of paid annual leave. Regular or limited-term employees with less than five (5) years continuous service shall normally accrue and be credited (bi-weekly) with annual leave on the basis of 4.61 hours per completed pay period; regular or limited-term employees with more than five (5) years continuous service but less than ten (10) years continuous service shall normally accrue and be credited (bi-weekly) with annual leave on the basis of 6.46 hours per completed pay period; regular or limited-term employees with more than ten (10) years continuous service shall normally accrue and be credited (bi-weekly) 7.38 hours per completed pay period.

Shift firefighter personnel shall normally receive 6.45 hours in lieu of 4.61 hours, 9.04 hours in lieu of 6.46 hours, and 10.33 hours in lieu of 7.3 hours of annual leave as specified above. Regardless of the Firefighter work schedule the dollar value of the annual leave bank will remain the same.

In the event an employee is in a non-paid status for a portion of their normal work day for any given pay period, their leave accrual shall be prorated based on the number of hours they were in a paid status for that pay period.

In the event an employee is using donated leave, the hours used will not be counted towards annual leave accruals.

Part-time employees shall normally accrue annual leave based on a pro-rated basis. For example: A half-time employee shall normally accrue annual leave at a rate of 2.31 hours per pay period for the first five (5) years of employment.

*HISTORY: APPROVED 8/5/65; AMENDED 6/20/66; AMENDED 9/1/72; AMENDED 1/24/77; AMENDED 2/06/90; AMENDED 3/13/90; AMENDED 9/17/91; AMENDED 5/16/94; AMENDED 2/13/95; AMENDED 9/10/13; AMENDED 3/20/18*

**Rule 704 Maximum Annual Leave Accrual:** No more than 288 hours of accrued annual leave may be carried forward into a new calendar year. Shift firefighter personnel may carry forward 403.2 hours into a new calendar year. Part-time employees may carry forward annual leave based upon a pro-rated basis.

Annual leave in excess of the accrued hours permitted to be carried forward into a new calendar year will be converted to sick leave in an amount not to exceed 12 days or 96 hours (72 hours for 3/4 time employees and 48 hours for 1/2 time employees).

The leave balance to be carried forward or converted includes leave earned through the final full pay period ending date in the calendar year and leave used through December 31.

It is the employee's responsibility to monitor the amount of annual leave that he/she has accrued.

*HISTORY: APPROVED 8/5/65; AMENDED 5/20/68; AMENDED 4/9/73; AMENDED 9/18/78; AMENDED 11/26/84; AMENDED 12/23/85; AMENDED 2/6/90; AMENDED 3/13/90; AMENDED 2/13/95; AMENDED 11/1/05; AMENDED 9/9/08*

**Rule 705 Annual Leave Request:** Requests for annual leave shall be submitted in advance of the proposed absence as directed by the employee's Department Director. Approvals by the Department Director shall be determined consistent with the desires of the employee and the work requirements of the County. Annual leave granted shall not exceed the total amount credited to any employee at the start of the leave period. Annual leave shall be charged in no less than multiples of fifteen minutes. An employee may be allowed to use his/her accrued and unused annual leave to extend his/her service time under PERA on an hour for hour basis.

*HISTORY: APPROVED 8/5/65; AMENDED 6/20/66; AMENDED 12/16/75; AMENDED 9/10/13; AMENDED 11/27/18*

**Rule 706 Annual and Sick Leave Credit:** An employee whose employment classification status is changed from temporary to regular or limited-term, in the same position and without a break in service shall receive annual and sick leave credits from the date of continuous employment. This shall become effective from the most recent temporary appointment (See also Rule 304 and Rule 413).

*HISTORY: APPROVED 8/5/65; AMENDED 9/18/75; AMENDED 2/6/90; AMENDED 2/13/95; AMENDED 9/11/07*

**Rule 707 Annual Leave Payment:** Upon separation, an employee shall be paid for the unused portion of accrued annual leave. All regular employees terminating in the middle of a pay period shall be paid annual leave accrued for that pay period on a prorated basis.

*HISTORY: AMENDED 9/11/07*

**Rule 708 Sick Leave:** Sick leave may be authorized when an employee is incapacitated by sickness, pregnancy, or injury; for medical, dental, or optical diagnosis or treatment; when the employee's attendance at duty jeopardizes the health of others; or for up to two (2) weeks [or up to four (4) twenty four hour shifts for fire fighters] per occurrence for care of certain family members in the event of illness. Additional sick leave in care of a family member may be used for serious health conditions in conjunction with Family and Medical Leave. "Certain family members" shall be defined as spouse, parent, parent-in-law, child, sibling, grandparent, and grandchild, and step-relatives in the same relationship. Sick leave shall be charged in no less than multiples of fifteen minutes.

*HISTORY: APPROVED 8/5/65; AMENDED 9/18/78; AMENDED 5/14/79; AMENDED 2/13/95; AMENDED 5/4/99; AMENDED 9/10/13; AMENDED 11/27/18*

**Rule 709 Sick Leave Accruals:** Full-time regular or limited-term employees eligible for fringe benefits shall normally accrue and be credited 3.69 hours of sick leave per pay period. Unused sick leave may be accumulated from fiscal year to fiscal year without limit.

Shift firefighter personnel shall normally be credited 5.169 hours of sick leave per pay period. Regardless of the Firefighter work schedule the dollar value of the sick bank will remain the same.

Part-time employees shall normally accrue sick leave based upon a pro-rated basis.

In the event an employee is in a non-paid status for a portion of their normal work day for any given pay period, their leave accrual shall be prorated based on the number of hours they were in a paid status for that pay period.

In the event an employee is using donated leave, the hours used will not be counted towards sick leave accruals.

*HISTORY: APPROVED 8/5/65; AMENDED 6/20/66; AMENDED 12/16/75; AMENDED 1/24/77; AMENDED 2/13/95; AMENDED 9/10/13; AMENDED 3/20/18*

**Rule 710 Sick Leave Request**: Request for sick leave shall be submitted in advance whenever possible, or based upon departmental direction or prior to leave usage. Notification must be made to the immediate supervisor or by speaking to the immediate supervisor or Department Director pursuant to the departmental direction. Sick leave with pay may normally be granted to regular or limited-term employees not to exceed the total amount accrued to an employee at the time of his/her absence. In the event of serious illness requiring extended absence, the County Manager or Utilities Manager for Utilities Employees may grant a regular employee leave without pay for continued absence, subject to provisions of Rule 719.

If there are reasonable grounds to believe that an employee is abusing the sick leave provision, the County Manager or Utilities Manager for Utilities Employees may restrict the use of sick leave. (See also Rule 714 Family and Medical Leave).

*HISTORY: APPROVED 8/5/65; AMENDED 6/20/66; AMENDED 9/18/78; AMENDED 2/13/95; AMENDED 9/10/13*

**Rule 710.1 Medical Certification**: Whenever a Department Director has reasonable grounds to believe there is an abuse of sick leave, and so notifies the employee in writing identifying such reasonable grounds, he/she may require the employee in question for up to six (6) months from the time of written notice, whenever absent on sick leave, to provide his/her supervisor with a doctor's certificate or statement certifying that the employee's absence from work was due to illness. The doctor's certification or statement must be given to the Human

Resources Division by the next working business day. If the County believes there are reasonable grounds of abuse of sick leave, the County may require the employee to be examined by an independent medical doctor.

Any employee claiming sick leave who makes a false claim, refuses to be examined by a doctor selected and paid by the County, or fails to cooperate in any investigation by the County of his/her claim for sick leave, shall not be entitled to any leave with pay for the time in dispute and shall be subject to disciplinary action, up to and including termination.

*HISTORY: AMENDED 2/06/90; AMENDED 11/13/90; AMENDED 9/10/13*

**Rule 711 Sick Leave - Holidays:** Sick leave shall not be debited for absence on observed holidays or other non-work days with the exception of Police Officers and Firefighters.

*HISTORY: AMENDED 9/10/13*

**Rule 712 Sick Leave Credits Upon Separation:**

- (a) Termination - Any employee whose service with the County has been terminated before retirement shall not be paid or receive any credit for unused sick leave at the time of termination.
- (b) Retirement - Any employee who retires from the County under PERA and has a minimum of five (5) years creditable County service (reference Rule 304) may be allowed to use his/her unused sick leave balance to extend his/her service time on an hour-for-hour basis ("Pre-Retirement Sick Leave Status"). Full-time regular personnel may be allowed to use a maximum of 520 hours of accrued and unused sick leave to extend his/her service time under PERA. Shift firefighter personnel may be allowed to use a maximum of 728 hours. Part-time employees' maximum accrual shall be pro-rated based on the number of hours worked in a forty (40) hour work week. To be eligible for this benefit, an employee must file his/her intent to retire with PERA, the Department Director, and the Human Resources Division. Employees in Pre-Retirement Sick Leave

Status are not eligible to take bereavement leave. An employee may not rescind the intent to retire after its submission to PERA, the Division Director, or the Human Resources Division if the employee begins using sick leave for pre-retirement purposes as defined herein.

*HISTORY: APPROVED 8/5/65; AMENDED 5/14/79; AMENDED 5/7/84; AMENDED 3/13/90; AMENDED 2/13/95; AMENDED 9/11/07; AMENDED 9/10/13; AMENDED 8/8/17*

**Rule 713 Bereavement Leave:** In the event of death, as defined by N.M.Stat.Ann.§12-2-4, of Certain Family Members defined below, a regular or limited-term employee (not in a Pre-Retirement Leave Status using paid leave), shall be granted bereavement leave with pay for up to five (5) working days per occurrence. Shift firefighter personnel shall be authorized up to two (2) twenty four (24) hour shifts per occurrence. The Department Director or designee grants this leave upon request of the employee. Such leave is generally approved for the time period immediately following the death. However, the Department Director or designee may approve a portion of the bereavement leave allowance to be utilized within three (3) months immediately following the death due to extenuating circumstances (i.e. postponed memorial, etc.).

For the purpose of this rule, certain family members shall be considered to include spouse, parent, parent-in-law, child, sibling, grandparent, grandchild, and step-relatives in the same relationship.

In the event of the death of a family member that is not a Certain Family Member as defined above, a regular or limited-term employee may use up to five (5) working days of authorized leave without pay, annual leave, or sick leave or two (2) twenty four (24) hour shifts for shift Firefighter personnel. The Department Director, pursuant to Rule 719, may approve the leave without pay.

*HISTORY: APPROVED 8/5/65; AMENDED 3/7/66; AMENDED 11/17/86; AMENDED 2/6/90; AMENDED 2/13/95; AMENDED 3/4/96; AMENDED 8/24/99; AMENDED 9/11/07; AMENDED 9/10/13; AMENDED 8/8/17*

**Rule 714 Family and Medical Leave:** The County of Los Alamos shall provide up to 12 weeks unpaid leave per year (a rolling 12 month period), to eligible County employees for the birth or adoption of a child, to care for a spouse or an immediate family member with a serious health condition, when unable to work because of a serious health condition, or any qualifying exigency arising out of the fact that the spouse, son, daughter or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation as defined in the Family and Medical Leave Act (FMLA) of 1993 [29 U.S.C. Section 2601 et. Seq.]. An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled up to 26 weeks of unpaid leave per year (a rolling 12-month period) to care for the service member. This military caregiver leave is available during a single 12-month period during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave. Employees must have worked at least 1250 hours in the 12 months immediately preceding the start of FMLA leave. The County will require the employee to utilize all of the employee's accrued annual or sick leave, or donated leave concurrently with FMLA leave until such accrued leave is exhausted. When the accrued leave is exhausted any remaining time taken under FMLA will be unpaid. An employee may choose, but the County may not require, that compensatory time count towards the 12 weeks to which an employee is entitled. During the period of an employee's leave, pre-existing health benefits coverage will be maintained; if the FMLA leave is unpaid, the employee will be responsible to make payment to the County for his or her share of the premiums for the health benefits. Upon completion of the leave period the employee will be eligible for reinstatement to the same or equivalent job the employee held before going on leave. No part of FMLA leave shall be considered a break in service, and it shall not change an employee's anniversary date. Employees shall not accrue sick or annual leave, nor be paid for observed holidays while on unpaid leave. (See also the Family and Medical Leave Policy).

*HISTORY: APPROVED 2/13/95; AMENDED 3/9/99; AMENDED 9/10/13; AMENDED 12/20/16*

**Rule 715 Military Duty:** Military duty means:

Training and service performed by an inductee, enlistee, or reservist, or any entrant into a temporary component of the Armed Forces of the United States; time spent in reporting for and returning from such training service, or if a rejection occurs, from the place of reporting therefore; it also includes active duty training as a reservist in the Armed Forces of the United States or as a member of the National Guard of New Mexico where the call is for training only.

*HISTORY: AMENDED 2/13/95; AMENDED 9/10/13*

**Rule 715.1 Military Leave:** A regular employee who has completed the probationary period and who leaves the County service for military duty shall be placed on military leave without pay.

The person must not remain on active duty longer than five (5) years, unless the period beyond five (5) years is at the request and for the convenience of the federal government and the military discharge form carries this statement. Active duty during a period of declared national emergency, if at the request of and for the convenience of the federal government, does not count toward this five (5) year limitation. In some cases, the limitation may be beyond five (5) years.

*HISTORY: APPROVED 2/13/95; AMENDED 9/10/13*

**Rule 715.2 Military Leave of Absence:** A regular employee who has completed his/her probationary period shall be granted a leave of absence without pay for the purpose of being inducted or otherwise entering military duty. If not accepted for such duty, the employee shall be reinstated in his/her position without loss of seniority or status, or reduction in rate of pay. During such period the employee shall for all purposes be considered to have rendered service and to have been compensated therefore at this regular rate of pay.

**Rule 715.3 Military Leave Reinstatement:** An Employee returning from a military leave shall be entitled to job restoration.

A veteran must apply to the pre-service employer (the County) within ninety (90) days after separation from active duty. If the veteran is hospitalized or

recuperating when discharged, the ninety (90) day application period begins upon release from the hospital or completion of the recuperation, which may last up to one (1) year. For Reservist and National Guard members returning from initial active duty for training, the application period is thirty-one (31) days instead of ninety (90) days.

The person must be discharged or released from active duty in the Armed Forces of the United States as attested to by other than a dishonorable discharge. The County shall, in accordance with the ADA (Americans with Disabilities Act), make reasonable accommodations for the employee.

*HISTORY: AMENDED 2/06/90; AMENDED 2/13/95; AMENDED 9/10/13*

**Rule 715.4 Re-Employment after Military Service:** A returning employee shall normally be restored to the position that was vacated upon entering the military service. In the event the vacated position no longer exists at the time he/she qualifies for return to work, he/she shall be entitled to be re-employed in another existing position of the same class, provided such re-employment does not require the termination of another person with greater seniority. The law protects a veteran from discharge without cause for one (1) year from the date of re-employment and a Reservist or National Guard member from discharge without cause for six (6) months after returning from initial active duty for training.

*HISTORY: AMENDED 2/06/90; AMENDED 2/13/95; AMENDED 9/10/13*

**Rule 715.5 Annual Leave Disposition - Military Service:** A regular employee who leaves the County service directly for such military leave without pay may elect to be paid for any accrued annual leave as he/she may be entitled to if he/she were actually separating from the County service. The decision shall be noted on the personnel action form affecting the leave. If the employee elects not to be paid for such leave, the accrued leave credits shall be reinstated upon return of the employee.

*HISTORY: AMENDED 9/10/13*

**Rule 715.6 Military Sick Leave Credits Restored:** Employees restored to duty under these provisions shall have unused sick leave credits restored for their use.

**Rule 716 Military Paid Leave:** A regular full-time or part-time employee who is a member of any organized reserve unit of the United States Armed Forces or who is a member of the National Guard will be allowed military leave with pay not to exceed fifteen (15) business days in a calendar year when he/she is ordered to active duty training with such organized unit or seven shifts for firefighters. Such leave is in addition to other leave or vacation time with pay to which the employee is otherwise entitled. Temporary and casual employees are not eligible for military leave with pay but shall be granted military leave without pay for such active service.

The intent of the County in providing a maximum of fifteen (15) business days, or seven shifts for firefighters, of paid military leave in a calendar year is for the express purpose of covering the two (2) weeks of required active service for members of the Reserve Units of the United States Armed Forces or the National Guard. It is not intended for, nor will be approved for, occasional weekend requirements.

*HISTORY: APPROVED 8/18/69; AMENDED 9/10/13; AMENDED 12/20/16*

**Rule 717 Military Deferment:** In order to ensure uniformity, requests for deferment of employees from service in the Armed Forces shall be made only by the County Manager.

**Rule 718 Military Experience:** If, in the opinion of the County Manager, the military duties of an employee on military leave were closely related to his/her duties as a County employee and constituted an addition to his/her training and experience for County work, the employee, when returned from his/her military leave, may be given a pay rate not higher than that which he/she would have attained had he/she remained in continuous employment.

*HISTORY: AMENDED 2/13/95; AMENDED 9/10/13*

**Rule 719 Leave Without Pay:** Department Directors may grant any employee leave without pay for a period not to exceed five (5) consecutive work days or shift equivalent for Police Officers and Firefighters. The County Manager may grant a regular employee leave without pay for a period not to exceed one (1) year. Leave requests in excess of five (5) consecutive work days must be submitted in writing to the County Manager through the Human Resources Division. Leave without pay may be granted only when it is in the best interest of the County, and only following consideration of the employee's performance and disciplinary history, and the potential disruption of County operations.

Employees on leave without pay shall not accrue annual or sick leave for those hours on leave without pay, nor be paid for observed holidays. Employees on leave without pay shall be responsible for 100% of health insurance premiums for benefits in which they are enrolled. Employees must pay their premiums on time or be subject to having their Leave Without Pay request rescinded.

Unless otherwise stated, an employee on leave without pay must maintain communication with their department regarding their work status on a bi-weekly basis, and shall provide documentation to Human Resources Division regarding their ability to return to work prior to the return. Failure to do so may result in termination of employment.

*HISTORY: AMENDED 2/06/90; AMENDED 9/16/91; AMENDED 5/16/94; AMENDED 2/13/95; AMENDED 3/9/99; AMENDED 8/24/99; AMENDED 9/10/13; AMENDED 8/8/17*

**Rule 719.1 Leave Without Pay Reinstatement:** During an employee's approved leave of absence, his/her position may be filled by temporary appointment, a temporary promotion, or temporary reassignment of another employee. At the expiration of a leave without pay, the employee who was on leave shall be reinstated in the position he/she vacated if the position still exists; or, if not, to any other vacant position in the same class. If no vacancy exists, the employee will be offered the first available position for which he/she qualifies. If no position is found within

a period of one-hundred twenty (120) days, the employee will be terminated.

*HISTORY: AMENDED 11/13/90; AMENDED 9/10/13*

**Rule 719.2 Leave Without Pay Break in Service:** Approved leave without pay shall not constitute a break in service. (See Rule 304)

*HISTORY: AMENDED 9/16/91; AMENDED 3/4/96; AMENDED 9/10/13*

**Rule 720 Holidays:** The following holidays, and other days as designated by the County Council, are observed by the County and shall be granted to regular or limited-term employees with pay, unless such employees are required to be on scheduled duty: New Year's Day (January 1); Martin Luther King, Jr. Day (third Monday in January); President's Day (third Monday in February); Memorial Day (last Monday in May); Independence Day (July 4); Labor Day (first Monday in September); Veteran's Day (November 11); Thanksgiving Day (fourth Thursday in November); the Friday following Thanksgiving; and Christmas Day (December 25).

*HISTORY: APPROVED 8/5/65; AMENDED 5/10/66; AMENDED 2/19/68; AMENDED 5/3/71; AMENDED 1/24/77; AMENDED 5/2/79; AMENDED 6/4/84; AMENDED 2/06/90; AMENDED 11/13/90; AMENDED 2/13/95; AMENDED 1/27/97; AMENDED 8/24/99; AMENDED 3/28/00; AMENDED 6/14/05; AMENDED 5/13/08; AMENDED 9/10/13; AMENDED 12/20/16*

**Rule 720.1 Personal Holiday:** Regular or limited-term employees, except shift firefighters, may schedule one (1) Personal Holiday per calendar year (beginning January 1) which is prorated based on regular scheduled hours not to exceed eight (8) hours. New employees are eligible for the Personal Holiday in the calendar year of hire when hired prior to October 1.

A Personal Holiday shall be taken on a regularly scheduled work day and must be taken as a full work day, not to exceed eight (8) hours. A request for Personal Holiday leave shall be submitted by the employee in advance of the proposed absence as directed by the employee's Department Director. Approval by the Department Director shall be

determined consistent with the request of the employee and the work requirements of the County.

An employee's Personal Holiday must be used on or before December 31 of that calendar year. It shall not be carried over from year to year nor shall it be paid when leaving County employment.

*HISTORY: APPROVED 1/27/97; AMENDED 8/24/99; AMENDED 3/28/00; AMENDED 6/14/05; AMENDED 3/25/08; AMENDED 9/9/08; AMENDED 9/10/13*

**Rule 721 Holiday Observance:** It is the policy of the County to ensure that all regular or limited-term employees enjoy the same holidays each year. For these employees, when a holiday occurs on a Saturday it shall be observed on the preceding Friday. When a holiday occurs on a Sunday, it shall be observed on the following Monday. For employees on a work week of other than Monday through Friday, the holiday shall be observed on the date of the holiday designated in Rule 720.

*HISTORY: APPROVED 8/5/65; AMENDED 9/10/91; AMENDED 9/16/91; AMENDED 3/15/93; AMENDED 2/13/95; AMENDED 3/9/99; AMENDED 12/19/00; AMENDED 9/10/13*

**Rule 722 Holiday Pay:** All regular or limited-term employees shall be paid for holidays listed in Rule 720 at the employee's straight time hourly rate. Holiday pay is based on eight (8) hours of pay for full-time employees and prorated hours for part-time employees. Therefore, a  $\frac{3}{4}$ -time employee shall be paid six (6) hours for the holiday and a  $\frac{1}{2}$ -time employee shall be paid four (4) hours for the holiday.

A regular or limited-term non-exempt employee who is required to work on a holiday shall be paid the eligible holiday hours as straight-time and a premium of one-and-one-half times the employee's straight time rate for the hours the employee actually worked on the holiday with the exception of Shift Firefighters, Police Officers, Police Dispatchers, and Police Detention.

If the non-exempt employee is granted another day off in the same work week in lieu of the holiday, the employee will still be paid the premium of one-and-one-half times the employee's straight time rate for the hours the employee actually worked on the holiday. The holiday pay

shall be paid on the day the employee actually takes off in lieu of the holiday.

A temporary or casual employee who is required to work on a holiday shall only be paid one-and-one-half times their straight time rate for actual hours worked on the holiday that is listed in Rule 720 - Holidays. When a holiday is observed on a Friday or Monday under Rule 721, a temporary or casual employee shall only be paid a premium of one-and-one-half times the employee's straight time rate for the hours the employee actually worked on the actual holiday and not on the Friday or Monday.

*HISTORY: APPROVED 8/5/65; AMENDED 3/7/66; AMENDED 6/20/66; AMENDED 12/16/75; AMENDED 9/18/78; AMENDED 2/13/95; AMENDED 3/9/99; AMENDED 11/2/99; AMENDED 3/28/00; AMENDED 12/19/00; AMENDED 5/13/08; AMENDED 9/10/13; AMENDED 9/30/14*

**Rule 722.1 Shift Employee Holiday Pay:** A non-exempt employee who works a regularly scheduled shift work day of more than eight (8) hours on a holiday will be paid eight (8) hours straight time for holiday pay, a premium of one-and-one-half times the employees straight time rate for the hours the employee actually worked on the holiday, up to a maximum of eight (8) hours. Hours actually worked beyond eight (8) hours will be paid at straight time.

For a non-exempt employee who works a shift that includes in part or in whole the hours of a holiday, only those hours worked on the holiday, not to exceed eight (8) hours, shall be used for computing the premium pay set out in this rule. (For example, if a shift is worked from 6:00 p.m. on December 24 to 6:00 a.m. on December 25, only the six (6) hours worked on December 25 will qualify for the premium pay.)

A non-exempt employee who regularly works shifts and observes a holiday that occurs on a regularly scheduled work day will be paid eight (8) hours of straight time of holiday pay. To meet the 40-hour per week requirement the employee must either use annual leave, compensatory time, or be pre-approved to work the additional hours during the same work week in which the holiday occurs, if necessary.

When a holiday occurs during a day that an employee who works shifts is not regularly scheduled to work, the

employee will be paid only eight (8) hours of straight time holiday pay.

This rule does not apply to shift non-exempt firefighters.

*HISTORY: AMENDED 2/13/95; AMENDED 3/4/96; AMENDED 12/19/00; AMENDED 5/13/08; AMENDED 9/10/13; AMENDED 12/20/16*

**Rule 722.2 Holiday Payment Provisions:** To receive pay for an observed holiday, a regular or limited term employee must be in a work or paid leave status during his/her scheduled work day immediately preceding and following the holiday or must have worked on said holiday. An employee absent without leave, or on leave without pay, from his/her scheduled work day before or after a holiday shall not be entitled to receive pay for said holiday.

*HISTORY: APPROVED 8/5/65; AMENDED 3/7/66; AMENDED 9/10/91; AMENDED 9/10/13*

**Rule 722.3 Shift Battalion Chief, Shift Police Officer, Police Dispatchers, and Police Detention Holiday Pay:** Shift Battalion Chief, Shift Police Officer, Police Dispatchers, and Police Detention personnel shall receive holiday pay at their regular rate of pay for eight (8) hours per holiday regardless of whether the employee actually works the holiday or not. This pay shall be paid for the holidays identified in Rule 720. These eight (8) hours are considered as hours worked for the purpose of qualifying for overtime pay. (See Rule 311.4 for non-exempt and 312 for exempt employees.)

*HISTORY: AMENDED 2/13/95; AMENDED 5/13/08; AMENDED 9/10/13; AMENDED 9/30/14; AMENDED 2/16/16; AMENDED 12/20/16*

**Rule 723 Other Approved Leave:** All employees shall be given necessary time off without loss of pay:

- (a) When performing jury duty, jury fees received (other than meal or travel allowances) be returned to the County.
- (b) When required by duties; or subpoenaed to appear before a court, public body, or commission as witness on behalf of the County; or because of his/her official capacity with the County.

- (c) When performing emergency civilian duty in connection with the Los Alamos Civil Defense organization or as a member of a Search and Rescue unit.
- (d) Two (2) hours on Election Day for the purpose of voting between the time of opening and the time of closing the polls; however, the Department Director shall specify the hours during this period that the voter may be absent. The provisions of this subsection do not apply to any employee whose work day begins more than two (2) hours after the polls open, or ends more than three (3) hours before the polls close.

*HISTORY: APPROVED 8/5/65; AMENDED 5/14/79; AMENDED 2/6/90; AMENDED 10/22/90; AMENDED 2/13/95; AMENDED 9/10/13*

**Rule 724 County Manager's Leave**: The County Manager may excuse employees from duty for the normal work day or portions thereof with pay.

*HISTORY: AMENDED 11/7/88; AMENDED 3/4/96*

**Rule 725 Emergency Administrative Leave**: Some situations may necessitate the immediate removal of the employee from the work environment. In these instances, the Department Director or designee may immediately place the employee on Administrative Leave with pay. The Human Resources Division must be notified immediately of this action. Emergency Administrative Leave shall be for the remainder of the work day or shift, whichever is longer.

*HISTORY: APPROVED 3/15/93; AMENDED 2/13/95; AMENDED 3/4/96; AMENDED 9/10/13*

**Rule 725.1 Administrative Leave**: In other situations than those referred to in Rule 725, a Department Director or designee may place an employee on Administrative Leave with pay. The employee shall be informed of the reason for being placed on such Administrative Leave by the Department Director or designee at the time of such placement. The Human Resources Division must be notified prior to such action being taken. Approval by the County Manager or Utilities Manager for Department of Public Utilities employees must be obtained for Administrative Leave of more than one (1) day.

*HISTORY: APPROVED 4/10/95; AMENDED 3/4/96; AMENDED 9/10/13*

**Rule 726 Unauthorized Leave:** An employee who is absent from work without approval shall receive no pay for the duration of the absence and shall be subject to termination or other appropriate disciplinary action. It is recognized that there may be extenuating circumstances for unauthorized absence and due consideration shall be given each case as to the type of leave to be approved or other appropriate action. Failure of an employee to report for work at the expiration of an authorized leave or to request an extension of such leave shall be considered an absence without leave.

An employee absent from work without approval for more than five (5) days may be regarded as having forfeited the employee's position in the County service. (See County Code Chapter 30.)

*HISTORY: AMENDED 3/4/96; AMENDED 9/10/13*

**Rule 727 Outside Employment or Business:** No employee of the County shall conduct any other business or engage in outside employment during paid working hours. Other employment or business shall not interfere with the ability to respond to call-back by the County. An employee may request annual leave to engage in other employment. However, approval of such leave is governed by the Rules concerning requests of annual leave (Ref Rule 705).

Outside employment or business requires the completion and submittal of the Outside Employment Form from an employee to the Human Resources Division. In the case of a Department head, such notification must be submitted to the Human Resources Division and shared with the County Manager by the employee. See Rule 607 regarding conflicts of interest.

*HISTORY: APPROVED 8/5/65; AMENDED 9/18/78; AMENDED 2/6/90; AMENDED 3/4/96; AMENDED 4/8/08; AMENDED 9/10/13*

## **VIII. COMPLAINT RESOLUTION AND GRIEVANCE PROCESS**

### **Rule 800 Complaint Resolution and Grievance Process:**

- (a) Purpose - The purpose of the complaint resolution and grievance process is to provide a uniform, systematic, just, and equitable method for the resolution of Complaints and Grievances by regular employees as quickly as possible at the

point nearest their origin. The process assures an employee that any Complaint or Grievance will be heard and that any corrective action indicated will be taken without retaliation, coercion, or discrimination against the employee.

- (b) Scope - Any alleged timely Complaint or Grievance arising out of employment with the County shall be governed by this section.

Matters governed by section VI. Separations, Disciplinary Actions and Appeal of Disciplinary Actions, and performance appraisals, are excluded from this Section VIII.

- (c) The following terms are used in the Complaint and Grievance process:

1. "Complaint" shall be defined as a matter raised by a regular employee alleging that the employee has actually been harmed as a result of a violation of the County Charter, the County Code, County Personnel Rules and Regulations, County Policies and Procedures, departmental work rules, and any other State or Federal statutes relevant to the employee's conditions of employment, and identification of a proposed solution. The Complaint is the first step in trying to resolve a matter, which is to begin at the immediate supervisor level if at all possible. See Rule 1202 and 1203.
2. "Grievance" shall be defined as a formal written complaint filed by a regular employee requesting a Grievance hearing pursuant to Rule 802, alleging that the employee has actually been harmed as a result of a violation of the County Charter, the County Code, County Personnel Rules and Regulations, County Policies and Procedures, departmental work rules, and any other State or Federal statutes relevant to the employee's conditions of employment, and identification of a proposed solution. The Grievance shall state in detail the alleged facts which constitute the violation; the specific person(s) who committed or were responsible for the alleged violation(s); and the specific section(s) of the County Charter, the County Code, County

Personnel Rules and Regulations, County Policies and Procedures, departmental work rules, and any other State or Federal statutes relevant to the employee's conditions of employment which were violated, and identification of a proposed solution.

3. "Days" shall be defined as Monday through Friday, excluding County holidays, from 8:00 a.m. to 5:00 p.m.
  4. "Qualified Person" shall be defined as (a) person not related in any way to the grievant or management, and (b) must be a current employee of the County.
  5. "The County", for the purposes of the Grievance process, shall be defined as the person against whom the Grievance has been filed, usually a supervisor or Department Director or the County Manager or Utilities Manager for Utilities Employees, or a person designated to represent the County Manager or Utilities Manager.
- (d) Employee Participation:
1. Any employee who:
    - i. files a Complaint or Grievance; or
    - ii. provides formal assistance to a complainant or grievant; or
    - iii. participates as a witness or is named on the witness list in a Grievance hearing; or
    - iv. acts as one of the members of a Grievance Hearing Committee shall be entitled to participate without fear of retaliation from the County or employees as a result of such action.
  2. Any employee described in (1) above, who feels that retaliation has been practiced against him or her, shall notify the County Manager, Utilities Manager or the Human Resources Manager in writing within ten (10) days of the occurrence of such alleged retaliation. The County Manager, Utilities Manager or the Human Resources Manager

shall promptly investigate the allegations of retaliation and take corrective action, if applicable. If any retaliation is alleged to have been practiced by the County Manager or the Utilities Manager, the employee may bring the allegation(s), in writing, directly to the Human Resources Manager for appropriate action. If any retaliation is alleged to have been practiced by the Human Resources Manager the employee may bring the allegation(s), in writing, directly to the County Manager for appropriate action. If the Human Resources Manager believes the County Manager has retaliated, they may bring the allegation to the County Council for appropriate action.

**Rule 801 Complaint Procedure (See Addendum A):** If a concern cannot be resolved informally a formal written Complaint can be addressed to the immediate supervisor within ten (10) days of the occurrence or knowledge giving rise to the concern.

A valid complaint shall be filed on a County complaint resolution form or other similar document submitted by the employee, and must provide sufficient facts to establish what violation of the County Charter, the County Code, County Personnel Rules and Regulations, County Policies and Procedures, departmental work rules, and any other State or Federal statute occurred. The form must include timeliness, harm and identification of a proposed solution. At any level in this process the County has the responsibility to inform the employee if the Complaint is not within the scope of the complaint resolution procedure and it shall not be subject to review or further reconsideration:

- (a) An employee has a responsibility to initiate a Complaint within ten (10) days of the occurrence or knowledge of the matter giving rise to the Complaint, by submitting a complaint resolution form and discussing it with the immediate supervisor, unless prevented from doing so by circumstances beyond the employee's control. If the Complaint is against the immediate supervisor, or the immediate supervisor is not available, the employee may pursue the Complaint with the Department Director.
- (b) If the written Complaint is not satisfactorily resolved by the immediate supervisor within five

(5)days of its initiation, the employee may pursue the Complaint with the Department Director within the next five (5) days.

(c) If the written Complaint is not resolved by the Department Director within ten (10) days after the employee first discusses it with that person, or if the employee chooses not to discuss it with the immediate supervisor or Department Director, the employee should discuss it with the County Manager or Utilities Manager for Utilities employees within the next five (5) days.

(d) Within ten (10) days from it being brought to their attention, the County Manager or Utilities Manager must:

1. Resolve the Complaint; or

2. Advise the employee that he/she may file a written Grievance within ten (10) days addressed to the Human Resources Manager requesting a formal Grievance hearing.

(e) Time Limits and Waivers

1. If the County at any level in this process fails to comply with the time limits established herein, the written complaint shall be deemed denied and the employee may proceed to the next level of the process outlined in this Rule.

2. If an employee fails to pursue a Complaint from one level to the next level within the time limits and in the manner provided, the Complaint shall not be subject to further review or reconsideration.

3. Any time limits established may be waived or extended by mutual agreement between the employee and the County and must be confirmed in writing. The extended time limits may not exceed five (5) days.

**Rule 802 Grievance Procedure (See Addendum B):**

- (a) The request for a Grievance hearing must be in writing and filed within ten (10) days of the employee being advised by the County Manager or Utilities Manager as described in Rule 801. The Grievance request must include:
1. Only those matters that were raised in the original Complaint; however, it may include additional facts in support thereof.
  2. The name of the person against whom the Grievance is filed.
  3. A statement of the facts upon which the Grievance is based.
  4. The remedy or proposed solution desired.
  5. The County Charter, the County Code, County Personnel Rules and Regulations, County Policies and Procedures, departmental work rules, and any other State or Federal statutes relevant that were alleged to be violated, if applicable.
  6. The name of the qualified person selected by the employee to be a member of the Grievance Hearing Committee (See Rule 800 C.4).
  7. The name of the person, if any, who will represent the employee during his/her Grievance hearing.
- (b) If the Grievance is initiated by or against an employee of the Human Resources Division, the County Manager or Utilities Manager for Utilities employees, or designee, shall be responsible for administering the Grievance process.
- (c) The Grievance Hearing Committee shall be comprised of:
1. Three (3) voting members, one (1) qualified person selected by the grievant, one (1) qualified person selected by the County, and

the third person selected from the Personnel Board who will serve as Chair.

2. The Personnel Board Member shall be appointed as follows:

i. The names of three (3) members of the Personnel Board shall be chosen at random by the HR Manager or designee.

ii. The employee shall within one (1) day of receiving the names of the three (3) Personnel Board members strike the name of one member and return the list to the Human Resources Manager.

iii. The County shall, within one (1) day of receiving the names of the remaining two (2) Personnel Board members, strike the name of one member and return the list to the Human Resources Manager.

iv. The Personnel Board member remaining on the list shall serve as the third member of the Grievance Hearing Committee.

3. Any Personnel Board member related within the third degree of kinship to the employee or management involved in a specific case or who has prior knowledge of the merits of the case that would prejudice the final outcome of the Grievance shall not be eligible to hear the Grievance, to participate in deliberations, or to vote on the adoption of the findings and final decision of the Grievance Hearing Committee with respect to the Grievance. The final determination as to eligibility shall be made by the Chair of the Grievance Hearing Committee or his/her designee, should the Chair be the individual with a potential conflict.

(d) Grievance timelines:

1. The County, within two (2) days after receipt of the Grievance, shall appoint a qualified person to serve as a member of the Grievance Hearing Committee.
2. Within four (4) days after the member has been selected by the County, the Personnel Board member of the Grievance Hearing Committee shall be chosen in accordance with 802(C)(2)(i) of the Rules.
3. The grievant must supply his/her list of witnesses and exhibits to the Human Resources Manager within five (5) days of filing the Grievance. The County must supply its list of witnesses and exhibits to the Human Resources Manager within five (5) days of receipt of notification of the Grievance. Upon mutual agreement of the parties, time limits of the witness list and exhibits may be extended and confirmed in writing.
4. A copy of the respective witness list shall be furnished to both parties within (2) days of receipt.
5. In scheduling the time, place, and duration of any Grievance hearing, both the employee and the County shall give due consideration to the duties each has in the essential operation of the department. No employee shall lose Grievance rights because of County imposed limitations in scheduling meetings or hearings.
6. The Grievance Hearing Committee shall meet to determine the date and time in which the hearing shall commence. This date and time shall be given to the Human Resources Manager who shall notify the parties. The hearing shall take place no more than 45 days from receipt of the Grievance. Upon mutual agreement of the parties and approval of the Grievance Hearing Committee chair, the hearing

may be extended for up to an additional twenty (20) days.

(e) Grievance Hearing Procedures:

1. The Human Resources Manager shall notify the grievant and all other parties involved of the date, time, and place of the hearing no less than three (3) days before the hearing. It is the responsibility of the grievant and the County to notify their respective witnesses.
2. The Human Resources Manager shall advise the grievant that the hearing shall be closed to the public unless otherwise requested by the employee to the Human Resources Manager at least three (3) days before the hearing.
3. The hearing before the Grievance Hearing Committee shall be informal and shall follow the procedures as stated in Rule 608.2 Appeals, Hearings & Investigations under the section entitled "Appeal Hearing Procedure", except that the order of presentation shall be reversed, such that the employee makes the first opening statement, the first case presentation, and the first closing argument, to be followed in each instance by the County.
4. After the hearing, the Grievance Hearing Committee shall meet in closed session to develop its decision.
5. The Grievance Hearing Committee shall issue a written decision within seven (7) days after the hearing. This decision shall be served through the Human Resources Manager on the grievant, Management and the County Manager or Utilities Manager and shall describe the action, if any, that is to be taken.
6. The decision of the Grievance Hearing Committee shall be final.

7. The award by the Grievance Hearing Committee shall not contain any punitive monetary awards nor provide for grade changes.

*HISTORY: AMENDED 6/21/93; AMENDED 5/16/94; AMENDED 2/13/95; AMENDED 3/4/96; AMENDED 3/9/99; AMENDED 11/13/90; AMENDED 12/10/90; AMENDED 9/10/13;*

**IX. GROUP INSURANCE:**

**Rule 900 Group Insurance:** It is the policy of the County to offer a Group Insurance Plan to regular full-time, regular part-time, and limited-term employees effective on the first day of the month following the employee's date of hire. The eligible employee may participate in the plan without proof of insurability for himself/herself or any covered dependent. However, if an employee does not apply for coverage under the plan before expiration of grace period allowed in the insurance policy after commencing employment, or within thirty-one (31) days following a qualifying event as defined by the benefit plan, proof of insurability for himself/herself and his/her eligible dependents shall be required and enrollment will be allowable only during specific enrollment periods. Participation in the Group Insurance Plan is strictly on a voluntary basis and may be commenced in compliance with the above-stated conditions or terminated by the employee at his/her discretion.

Specific details of the plan and cost to an employee are available in the Human Resources Division Office.

Retirees were considered as County employees for Group Insurance purposes until June 30, 2006. Beginning July 1, 2006, retirees are eligible for coverage under the New Mexico Retiree Health Care Authority and subject to the requirements of that plan.

*HISTORY: AMENDED 2/13/95; AMENDED 11/1/05; AMENDED 9/10/13*

**X. RETIREMENT:**

**Rule 1000 Retirement Program:** It is the policy of the County to provide a retirement program to regular employees in addition to, and independent of, those benefits provided by the Public Employee's Retirement Association (PERA). This program shall be called the Los Alamos County Employee Pension Plan.

*HISTORY: AMENDED 5/16/94; AMENDED 8/18/97; AMENDED 9/10/13*

**XI. ACCESS TO PERSONNEL FILES**

**Rule 1100 Employee Privacy Rights:** The employee shall have the right to have all employee records held in private and not be disclosed except when necessary in the normal course of business or where specifically legally mandated. Most personnel records may be privileged documents. Their use is restricted to the interest of the individual employee as well as for the efficient conduct of the County's business.

Access to personnel records is restricted to the following:

- (a) The employee;
- (b) The Human Resources Manager and his or her designee;
- (c) Supervisors and managers who need to be informed about necessary restrictions on the work or duties of an employee and necessary accommodations;
- (d) First aid and safety personnel who need to be informed if a disability might require emergency treatment or if any specific procedures are needed in the case of fire or other evacuations;
- (e) Government officials investigating compliance with ADA and other Federal or State laws prohibiting discrimination on the basis of disability; and
- (f) The state workers' compensation offices or second injury fund, in accordance with state workers' compensation laws;

(g) Where specifically mandated by law.

In no case will any medical or other treatment records be available to anyone other than the Human Resources Manager or his or her designee except as permitted by §§ 14-2-1, et. seq., NMSA 1978 and §§ 14-3-1, et. seq., NMSA 1978, unless ordered by a court of competent jurisdiction. Persons above may review personnel records only under the supervision of the Human Resources Manager or his/her designated representative. Only the County Manager or designee may authorize the permanent removal of material from an employee's personnel record. An employee may ask that items be removed from their personnel file by making a written request to the Human Resources Manager. The employee shall be informed in writing within ten (10) days of the request of action taken.

*HISTORY: AMENDED 02/06/90; AMENDED 2/13/95; AMENDED 3/4/96; AMENDED 9/10/13*

## **XII. EMPLOYEE DEVELOPMENT AND WELFARE ACTIVITIES**

**Rule 1200 Training:** It shall be the responsibility of all management to foster and promote programs of training for the purpose of improving the quality of personnel services rendered to the County.

*HISTORY: AMENDED 3/4/96; AMENDED 9/10/13*

**Rule 1201 Training Programs:** Under direction of the County Manager the County shall:

- (a) Establish standards for training programs and see that training is performed as approved;
- (b) Provide assistance to Department Directors in developing and conducting training to meet the specific needs of their departments;
- (c) Develop supervisory and management training and other types of training and employee development programs common to all departments;
- (d) Provide training opportunities in order to guide employees in increasing their efficiency in their present positions, and in preparing themselves for promotions;

- (e) Maintain a record of all approved training courses and programs and a record of employees who successfully complete such courses and programs.

*HISTORY: AMENDED 3/4/96; AMENDED 9/10/13*

**Rule 1202 Working Conditions:** The County will strive to provide a safe, secure and healthy work environment that supports and encourages employee growth. Each employee is required to follow working conditions specified in his/her job description or as assigned.

**Rule 1203 Discrimination and Harassment:**

Statement of Policy

The County of Los Alamos is an equal opportunity employer and committed to:

- (a) Providing a work environment free from all forms of illegal harassment;
- (b) Ensuring that appropriate corrective measures, up to and including termination, will be taken if this policy is violated;
- (c) Establishing a complaint procedure that is fair, confidential as much as possible, and protects the rights of all parties;
- (d) Ensuring that all complaints are investigated promptly, thoroughly and fairly; and
- (e) Ensuring that all County employees, Elected Officials and Boards and Commissions members are fully aware of their responsibilities under the policy.

Implementation

Implementation shall be in accordance with the procedures identified in the "Incorporated County of Los Alamos Administrative Procedure Guideline: Harassment Policy and Procedure - Index No. 1120".

*HISTORY: APPROVED 4/29/85; AMENDED 5/16/94; AMENDED 2/13/95; AMENDED 3/4/96; AMENDED 8/18/97; AMENDED 1/8/08; AMENDED 9/10/13*

**Rule 1204 Licensing Requirements:** Employees are responsible for meeting the requirements involved in obtaining necessary licenses, certificates, permits, and registrations required for the performance of their duties and responsibilities. Department Directors are responsible for informing their employees that their duties require them to obtain such licenses, etc., and to verify employees obtain and maintain the needed licenses. It is the employee's responsibility to inform their supervisor prior to reporting to work regarding the loss of any of the above. The supervisor must immediately inform the Human Resources Division of the loss.

*HISTORY: APPROVED 2/6/90; AMENDED 3/4/96; AMENDED 9/10/13*

**Rule 1205 Union Activity:** No employee shall be coerced, threatened, or pressured into joining or not joining any organization or union. No unions or organizations or their representatives may interrupt or interfere with the normal conduct of County business. Visits for the purpose of conducting organization business and/or recruiting are confined to those areas where County business is not being conducted.

*HISTORY: AMENDED 3/4/96; AMENDED 9/10/13*

**Rule 1206 Violence in the Workplace:**

Statement of Policy

It is the County's goal to provide a work environment that is free from violent behavior and threats of violence. Violent behavior and threats of violence are unacceptable conduct and are prohibited.

Intimidating, coercing, threatening, discriminating against, or retaliating against an employee for assisting with an investigation of a complaint, participating in an appeal or grievance hearing, or for reporting violent behavior or threats of violence is prohibited.

## Implementation

Implementation shall be in accordance with the procedures identified in the "Incorporated County of Los Alamos Administrative Procedure Guideline: Workplace Violence Policy and Procedure - Index No. 1125".

*HISTORY: APPROVED 8/18/97; AMENDED 9/10/13*

## **Rule 1207 Drug and Alcohol Free Workplace Policy:**

### Statement of Policy

The objective of this Policy is to provide a safe, healthful, and efficient workplace for County employees, business associates and the general public.

It is the policy of the County of Los Alamos to provide a work environment that is free from the use, possession, sale or distribution of illegal drugs and from the misuse of alcohol and legal drugs by County employees. Accordingly, the County requires that employees and contractors alike will be subject to testing to determine the presence of unacceptable levels of illegal drugs, alcohol or inappropriately used legal drugs within his/her bodies while performing the County's business.

### Implementation

Implementation shall be in accordance with the procedures identified in the "Incorporated County of Los Alamos Administrative Procedure Guideline: Drug and Alcohol Policy and Testing Procedures - Index No. 1160".

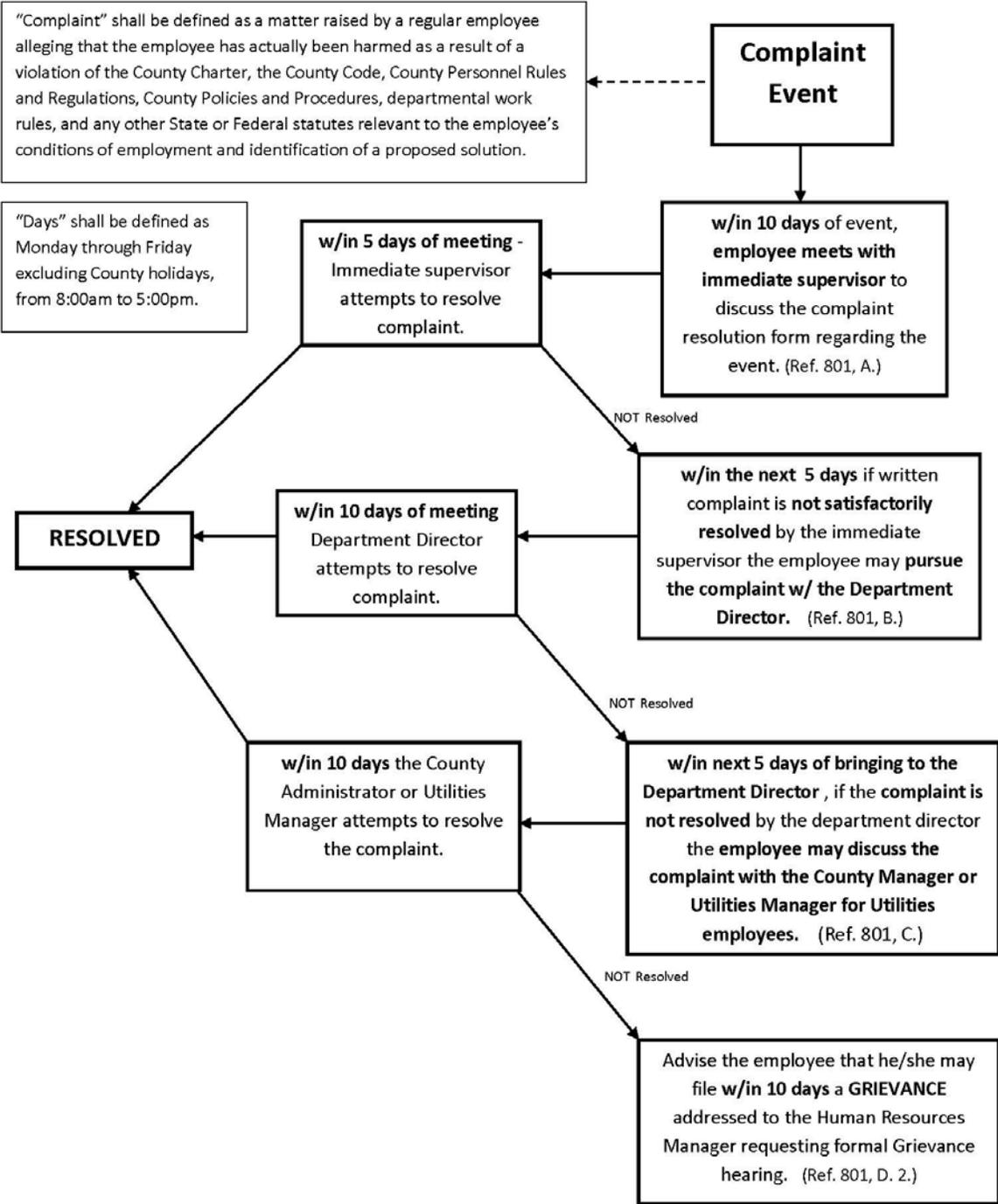
### Employee Assistance Program

The County Manager shall, by contract or other means, establish an employee assistance program that will be made available to all County employees. The administrator of the program shall, for the benefit of all employees:

- (a) Identify avenues for obtaining drug and alcohol treatment and rehabilitation,
- (b) Outline available drug and alcohol abuse counseling and educational programs, and
- (c) Describe any drug and alcohol abuse rehabilitation benefits available through the County's group health plan.

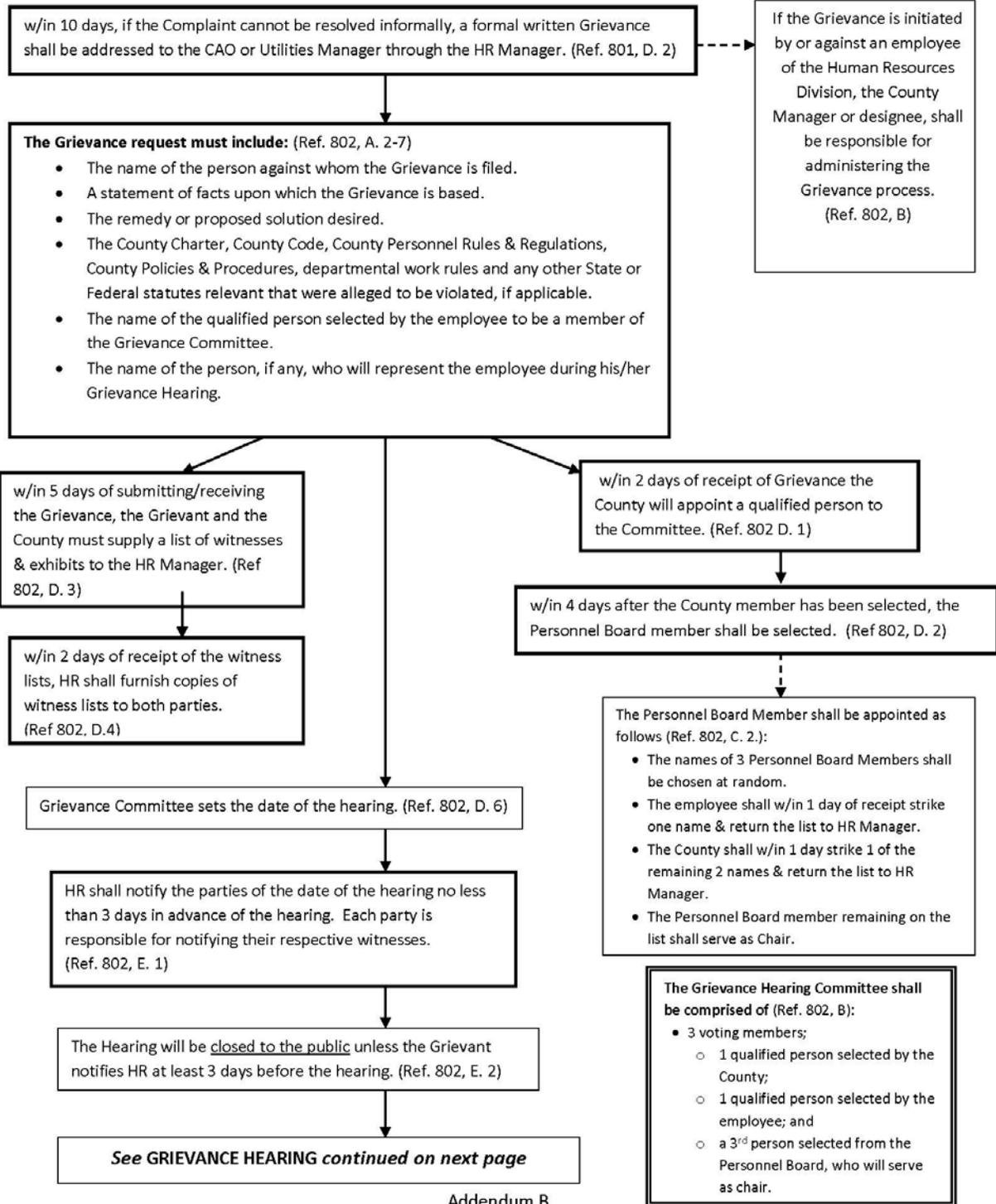
*HISTORY: APPROVED 11/12/97; AMENDED 3/28/00; AMENDED 9/11/07; AMENDED 9/10/13*

**COMPLAINT PROCESS**  
Reference Rule 801



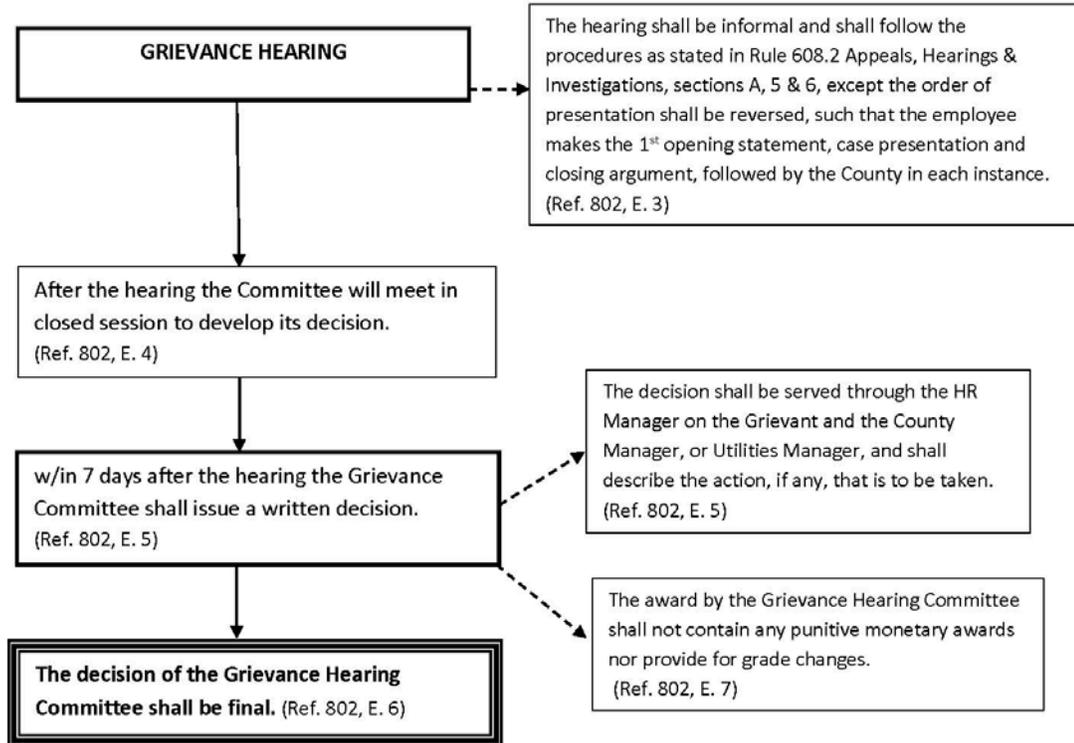
Addendum A

**GRIEVANCE PROCESS**  
Reference Rule 802



Addendum B

GRIEVANCE PROCESS  
Reference Rule 802



Addendum B

## GLOSSARY

**Annual Leave:** Paid leave which is granted to regular or limited term employees in accordance with the annual leave hours earned by the employee.

**Appeal:** A formal written complaint filed by a regular employee concerning a suspension, involuntary demotion or termination, except where such demotion or termination is the result of a reduction in force or termination during new hire probation. The appeal must be in writing and must set forth the reason(s) why the action is thought to be improper.

**Base Rate:** The employee's rate of pay excluding any premiums, such as overtime pay, call-out pay, and standby pay.

**Bereavement Leave:** Leave with pay granted to a regular or limited term employee in the event of a death for certain family members as defined in the rule.

**Break In Service:** A cessation from the County payroll of the employee for at least one normal work day.

**Call-Out Pay:** Pay for work done when an employee is ordered to work without prior notice, outside of the normal work day.

**Casual Employee:** An employee who normally performs less than twenty (20) hours of scheduled work within a basic work period.

**Certain Family Members:** In regards to sick leave and bereavement purposes, shall be defined as spouse, parent, parent-in-law, child, sibling, grandparent, grandchild, and step-relatives in the same relationship.

**Compensation Plan:** A plan which includes a salary schedule and the assignment of classes to ranges or rates, adopted by the Los Alamos County Council.

**Compensatory Time:** Time accrued in lieu of overtime payment.

**Competitive Service:** Service in which interested people must apply for and compete for selection in the Los Alamos County recruitment process.

**Complaint:** A matter raised by a regular employee alleging that the employee has actually been harmed as a result of a violation of the County Charter, the County Code, County Personnel Rules and Regulations, County Policies and Procedures, departmental work rules, and any other State or Federal statutes relevant to the employee's conditions of employment and identification of a proposed solution. The Complaint is the first step in trying to resolve a matter, which is to begin at the immediate supervisor level if at all possible.

**Continuous Service:** County employment in a regular appointment without a break in service.

**Creditable Service:** Continuous employment in the County service in a regular appointment without a break in service.

**Exempt Employee:** An employee who performs work in a bonafide executive, administrative, professional, or computer position as defined by the Fair Labor Standards Act.

**Full-Time Employee:** An employee who works a 40 hour week during a 7 day work week; shift firefighter personnel work a 192 hour period in 24 days. For shift police personnel Department Directives should be followed in regards to FLSA.

**Gratuity:** Any reward, gift, or other form of remuneration in addition to regular compensation that is received from any source other than the County by an individual for performance of his/her duties.

**Grievance:** A formal written complaint filed by a regular employee requesting a grievance hearing pursuant to Rule 802, alleging that the employee has actually been harmed as a result of a violation of the County Charter, the County Code, County Personnel Rules and Regulations, County Policies and Procedures, departmental work rules, and any other State or Federal statutes relevant to the employee's conditions of employment, and identification of a proposed solution.

**Harassment:** Any unwelcome negative comment, material or conduct that is based on an individual's race, color, religion, age, gender, national origin, sexual orientation, gender identification, disability, veteran status or other protected status, or unwelcome sexual attention. (Reference: Harassment Policy)

**Holiday:** A designated day off with pay for regular or limited-term employees, as scheduled on the Los Alamos County calendar.

**Hire Date:** The original date of hire with the County.

**Job Class:** Positions that are similar in knowledge, skills and abilities, and qualifications which are assigned to the same pay grade.

**Job Family:** Levels within a job description. For example, level I, II, III.

**Lateral Transfer:** A change to another position within the same pay grade.

**Leave:** Any authorized absence, with or without pay, during regularly scheduled working hours that is approved by proper authority.

**Leave Without Pay:** An authorized absence, without pay, granted to a regular employee for a period not to exceed five (5) consecutive days by a Department Director or for a period not to exceed one (1) year by the County Manager.

**Limited-Term Employee:** An employee whose employment term is for a continuous fixed period of time in excess of six (6) months and normally less than two (2) years and who works a normal work period.

**Military Duty:** Training and service performed by an inductee, enlistee, or reservist, or any entrant into a temporary component of the Armed Forces of the United States; time spent in reporting for and returning from such training service, or if a rejection occurs, from the place of reporting therefore; it also includes active duty training as a reservist in the Armed Forces of the United States or as a member of the National Guard of New Mexico where the call is for training only.

**Nepotism:** Favoritism based on third degree of kinship.

**Night Differential Pay:** An additional 10% of pay of the basic rate for a non-exempt employee assigned to work hours between 6:00 P.M. and 6:00 A.M., with some exceptions (See Rule 315).

**Non-Competitive Service:** Appointed or contract service (i.e., County Manager, County Attorney) and not covered by the Personnel Rules and Regulations. See County Code Sec 30-85 and 30-86.

**Non-Exempt Employee:** A non-exempt employee is any employee other than an exempt employee, as defined in Rule 310.3 and as defined by the Fair Labor Standards Act (FLSA).

**Normal Work Day:** A scheduled work day of at least eight (8) hours within a 24 hour period, normally beginning at 8:00 a.m.

**Normal Work Period:** Normally, a 40 hour period, not inclusive of unpaid meal time, consisting of five (5) basic work days within a work week, Sunday through Saturday. For shift firefighter personnel, a normal work period consists of 24 consecutive days, 48 hours working, 96 hours off. For shift police personnel, Department Directives should be followed in regards to FLSA. The normal work period for shift police department and shift fire department employees includes paid meal time.

**Overtime:** Hours worked beyond 40 hours in a work week. For police and fire personnel, it shall follow the schedule of the FLSA

**Part-Time Employee:** An employee who performs at least 20 but less than 40 hours of regularly scheduled work within a normal work period.

**Pay Grade:** The salary range identified for each position.

**Physical Standards:** The physical ability to satisfactorily perform the required tasks of a specific job as outlined in the job description.

**Premium Pay:** Compensation received at one and one-half times the base pay rate for overtime duty for non-exempt employees.

**Probation:** An initial period of at least six (6) months to evaluate an employee's work performance. (See Rule 410, 410.1 and 410.2)

**Promotion:** A change to a higher level position and pay grade.

**Qualifying Event:** Special benefit enrollment due to a change of status of the eligible employee or eligible dependents.

**Reduction in Force:** When a position is discontinued or abolished because of a lack of work, or lack of funds, or when there has been a structural reorganization of work or a substantial change in duties.

**Service Date:** Adjusted date for creditable service for an employee whose employment classification status has changed from temporary to regular, in the same position and without a break in service. The date shall be the beginning date of the most recent temporary appointment and will be used for purpose of stability pay, annual leave accrual and retirement. See Rule 304 for service date calculation.

**Sick Leave:** Leave which may be authorized when an employee is incapacitated by sickness, pregnancy, or injury; for medical, dental, or optical diagnosis or treatment; when the employee's attendance at duty jeopardizes the health of others; or for up to two (2) weeks [or up to four (4) twenty four hour shifts for fire fighters] per occurrence for care of certain family members in the event of illness.

**Stability Pay:** A lump sum payment for regular employees who have completed at least five (5) years of continuous service in employment with the County of Los Alamos by December 1 of the calendar year in which payment is to be received. For computation see Rule 316.2.

**Standby Pay:** Payment for time that an employee is required to be immediately available for emergency work situations. See Rule 314 for computation.

**Temporary Employee:** An employee hired to a position established for a period not to exceed six (6) months, during a defined season (April through September or July through December), who works a normal work period. Temporary employees may return for another assignment or season; however, there must be a minimum break in service of at least six months between assignments/seasons.

*History: AMENDED 12/20/16*

**Third Degree of Kinship:** Includes spouse, parents/step-parents, child/step-child, sibling/step-sibling/half-sibling; grandparent; grandchild; aunt/uncle; niece/nephew.

**Transfer:** The filling of a vacancy within the County employment structure by an existing County employee.

**Unauthorized Leave:** Absence from work without approval. Unauthorized leave is not compensated.

**Vesting:** The employee's entitlement on retirement or termination to the contributions made to the pension fund on his/her behalf by the County. Vesting credit is based on years of creditable service.

**Work Improvement Plan:** A formalized individual plan outlining performance deficiencies and expectations.