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OTERO COUNTY PERSONNEL POLICY

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Adopted 16 September 2014

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SECTION I - GENERAL PROVISIONS

1.1 PURPOSE

The purpose of this Personnel Ordinance is to establish consistent, basic policies and practices concerning relations between Otero County and its employees. This Personnel Ordinance further establishes the formal grievance procedure available to regular employees to hear their grievances with respect to improper promotions, demotions, terminations and suspensions, and provide the method by which a personnel hearing officer is chosen to hear formal grievances. Provisions of the Personnel Ordinance shall apply to all County employees except as provided herein. Independent contractors are not subject to the provisions of the Personnel Policy Ordinance.

1.2 SCOPE

Definite rules and regulations cannot be readily formulated for every possible problem and situation. This Personnel Ordinance serves as a general basis and guide for the proper, efficient, and effective administration of personnel matters of the employees of Otero County. The personnel rules contained herein replace and supersede all previously issued personnel rules and regulations applicable to employees of Otero County, including but not limited to the Otero County Personnel Policy Ordinance, adopted January 11, 2012 and all amendments and revisions related thereto.

1.3 AMENDMENT OF ORDINANCE

There shall be no resolution or other action of the Board of County Commissioners or other County officials, which is inconsistent with this Personnel Ordinance except by amendment of this Personnel Ordinance as required by law. The Board of County Commissioners reserves the right to amend this Personnel Ordinance at its discretion.

1.4 EMPLOYEE KNOWLEDGE AND INFORMATION OF ORDINANCE

The Human Resources Department shall provide a copy of this ordinance to present employees and to all new employees with instructions to read and be familiar with all provisions of this Ordinance. Employees shall sign for a copy and acknowledge that they have read and understand the ordinance.

1.5 EQUAL OPPORTUNITY EMPLOYMENT

Otero County provides equal employment opportunities (EEO) to all employees and applicants for employment without regard to race, color, religion, gender, national origin, age, disability, marital status, or status as a covered veteran in accordance with applicable federal, state and local laws. Otero County complies with applicable state and local laws governing non-discrimination in employment in every location in which the company has facilities. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, termination, layoff, recall, and transfer, leaves of absence, compensation, and training.

1.6 ADMINISTRATION BY COUNTY MANAGER

The County Manager or his/her designee, in consultation with the elected office, which is effected, shall administer and interpret the personnel system and the terms of this personnel ordinance and its amendments, and all future approved operating procedures. The County Manager or Elected Officials may recommend to the Board of Otero County Commissioners any necessary amendments or revisions to the Personnel Ordinance.

1.7 DUTIES OF DEPARTMENT HEADS

All Department Heads and Elected Officials shall adhere to the provisions of this Personnel Policy.

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1.8 CHAIN OF COMMAND

In order to maintain open communication between Otero County and its employees and to ensure that employees' concerns are addressed quickly and efficiently, the county will utilize the chain of command concept. It is required that an employee discuss concerns first with their immediate supervisor. If the concern cannot be handled at this level, the employee may request a meeting in writing with the next level supervisor, up to the Elected Official or Department Head of his/her department. If it becomes necessary to pursue the issue beyond the Department Head, supervisor, or Elected Official, the next appropriate step will be a meeting with the highest ranking Human Resources officer, or County Manager.

1.9 SEVERANCE CLAUSE

It is the intent of the governing body that the sections, paragraphs, sentences, clauses and phrases of the Otero County Personnel Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of the Otero County Personnel Ordinance shall be determined to be invalid for any reason, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of the Otero County Personnel Policy Ordinance.

1.10 DISCLAIMER

No phrase, clause, sentence, paragraph or section of this Personnel Policy Ordinance shall be construed to create a contractual right or give rise to any contractual rights.

1.11 HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY COMPLIANCE

Otero County is required to maintain the privacy and security of Protected Health Information (HIPAA). HIPAA regulations will be followed in administrative activities undertaken by staff when it involves PHI in any of the following circumstances: health information privacy, health information security and health information electronic transmission. Documents containing PHI shall not be removed from County Offices. Otero County will consider any breaches in the privacy and confidentiality of PHI to be serious and any violation of this policy will result in disciplinary action, up to and including termination of employment.

1.12 AMERICANS WITH DISABILITIES ACT

Otero County shall provide reasonable accommodations as defined in Title I of the ADA to qualified employees with a disability as defined by the Americans with Disabilities Act (ADA) to perform the essential job functions and/or to enjoy equal benefits and privileges of employment. Human Resources shall serve as Otero County's ADA Coordinator in matters of reasonable accommodation. If an employee believes an accommodation(s) is necessary in order to perform his/her essential job functions or to enjoy equal benefits and privileges of employment, it is the employee's responsibility to submit a written request to Human Resources indicating the employee's condition and how the employee believes it affects his/her ability to perform their job duties. The request should state the accommodation(s) the employee is requesting and any alternatives. The employee must submit medical documentation to support the request for an accommodation. Human Resources will forward the written request to the County Manager and Elected Official along with an opinion of the reasonableness and availability of the requested accommodation(s). The County Manager after consulting with the Elected Official will make the final determination as to whether or not the accommodation and/or any alternative accommodation will be granted.

1.13 MANAGER'S STANDARD OPERATING PROCEDURES

It is the intent of the governing body that the County Manager is hereby empowered and authorized by delegation of the power and authority of the Board of County Commissioners to enact Standard Operating Procedures governing a broad spectrum of topics and issues which are necessary to efficiently and effectively perform the functions and services provided by Otero County. For individuals wanting to review these Standard Operating Procedures, please contact the Otero County Human Resources

Department.

1.14 STANDARD OPERATING PROCEDURES IN OTHER DEPARTMENTS

The Otero County Sheriff, and the Otero County Correctional Services Director are hereby empowered and authorized by delegation of the power and authority of the Board of County Commissioners to enact Standard Operating Procedures governing a broad spectrum of topics and issues which are necessary to efficiently and effectively perform the functions and services provided by their respective departments.

1.15 COLLECTIVE BARGAINING

The Governing Body recognizes the existence of one or more Collective Bargaining units in Otero County. The provisions of those Collective Bargaining Agreements govern the relationship between the County and the employees represented by the applicable unit, and those agreements shall be deemed to be controlling except where the applicable agreement adopts one or more provisions of this Ordinance by reference.

1.16 ADDITIONAL RULES

Employees shall follow all standards, rules, procedures, and policies that are normally expected in the work place.

SECTION II - RECRUITMENT AND SELECTION

2.1 PURPOSE

It is the policy of Otero County to select and recruit the best suited persons for all regular classified positions in an open and competitive manner, to insure no discrimination and to insure equal employment opportunity for all applicants and employees. This section applies only to regular classified employees, except as specifically stated for temporary employees.

2.2 RECRUITMENT OF APPLICANTS

When a classified position becomes open the Elected Official or Department Head, in coordination with the County Manager, may promote a qualified employee in the subject department to fill the vacant position. If there is no qualified employee within the subject department then, at the discretion of the Elected Official or Department Head, the position may be advertised internally for five workdays or opened to the public. The department head and/or Elected Official shall document in writing to Human Resources the reasons why each step in the recruitment process is deemed to appropriate for the particular position. If internally advertised and no qualified applications are received or the Elected Official or Department Head has directed, a job announcement through such media deemed appropriate to insure open and competitive recruitment with sufficient time to insure reasonable opportunity for persons to apply shall be accomplished. All publications for job announcements shall include reference to Otero County as an Equal Opportunity Employer, such as EOE and a Drug Free Workplace. Additionally, public advertisement for positions of the same title is required only one time during each six-month period, provided there is a sufficiently large pool of applications received through original advertisement.

2.3 TEMPORARY POSITIONS

Vacant positions may be filled by temporary employees on a temporary basis to replace regular classified employees on leave for a period not to exceed six (6) months. To insure open and competitive recruitment for such positions a job announcement through such media deemed appropriate to insure open and competitive recruitment with sufficient time to insure reasonable opportunity for persons to apply shall be accomplished. All publications for job announcements shall include reference to Otero County as an

Equal Opportunity Employer, such as EOE and a Drug Free Workplace.

2.4 BEST SUITED APPLICANT DETERMINATION

All applications shall be turned in to the County Human Resource office. The human resource office shall ensure that the appropriate Elected Official, Department Head, County Manager or designee of the County Manager are given the opportunity to review all applications submitted for a position in their respective offices. The best suited applicant is determined by the Elected Official or Department Head based on minimum qualifications of education, experience, abilities, skills and past work experience as specified in written position specifications for each position. Personal interviews shall be conducted with at least three (3) applicants, or if less than three applications are received, all applicants shall be interviewed.

Interviews shall be conducted by an interview board consisting of a minimum of three (3) County supervisory employees chosen by the County Manager, Department Head, or Elected Official. Members of the public may serve on the interview board when appropriate. This board shall provide a recommendation to the Department Head, Elected Official or County Manager.

2.5 SELECTION

After personal interviews have been conducted, a recommendation shall be made by the interview board to the County Manager, final appointment shall be made by the County Manager after consulting with the Elected Official or Department Head based on the recommendation of the interview committee.

2.6 PRE-SELECTION PROHIBITED

Publicly posted and advertised positions shall not be promised to a person prior to recruitment and selection.

2.7 INELIGIBILITY FOR HIRE AND REHIRE

Applicants shall be considered ineligible for hire or rehire by Otero County if the applicant has:

- a. knowingly made any false statement or omission on the employment application;
- b. not met the requirements of the position;
- c. failed to complete pre-employment examinations drug/alcohol or other requirements as directed by the County;
- d. not met the criteria for insurance or bonding as required by County or State law;
- e. been dismissed from County service as a disciplinary measure;
- f. not been certified by a physician that the applicant can perform the physical requirements or the essential requirements of the position;
- g. been convicted for driving while under the influence of alcohol or drugs in the three years prior to the date of the application, if a valid New Mexico driver's license is required for the position;
- h. has been convicted of or plead guilty to or entered a plea of *nolo contendere* to any felony charge to any violation of any federal or state law or local ordinance relating to aggravated assault, theft, driving while intoxicated, controlled substances or other crimes involving other moral turpitude and/or has not been released or discharged under dishonorable conditions from any of the armed forces of the United States within the 3 year period immediately proceeding his/her application, (Sec. 29-7-6 NMSA 1978)

In addition to the above criteria, ineligibility of applicants for Deputy Sheriff and Detention Officer applies as follows: No person who 1) is not a citizen of the State of New Mexico, 2) convicted of a felony, 3) under indictment, and/or 4) who is generally known for having a bad character or as a disturber of the peace shall be eligible to serve as a deputy sheriff or detention officer.

The above list is not necessarily exhaustive and may not include all of the reasons, which would make an applicant ineligible for hire or rehire

2.8 TESTING

The County may require an applicant to submit to testing for certain bona fide occupational qualifications to determine employment eligibility.

2.9 REFERENCE/BACKGROUND CHECKS

Applicants are required to provide an authorization for the County to check references and do background check. Only applicants who sign this written authorization will be considered for the position for which they have applied. References provided by applicants will be checked by the Human Resources Department. Human Resources will coordinate with the Sheriff's Department to run Criminal Background checks or through an independent company hired for that purpose. Applicants must receive satisfactory employment references or demonstrate a total of five (5) years of previous satisfactory performance. Applicants who are entering the job market for the first time may substitute references from their educational background including high school.

SECTION III - EMPLOYMENT STATUS

3.1 JOB DESCRIPTIONS

The County shall establish a set of job descriptions for all positions. Job descriptions shall include title, tasks, duties, responsibilities and minimum qualifications. They will also specify knowledge, skills, education, and abilities required of applicants.

3.2 PROBATIONARY EMPLOYEE

The purpose of the probationary period is to evaluate the employee's ability, potential and performance. This includes an evaluation of the employee's performance and the employee's ability to work with the public, peers, supervisors, and management. A probationary employee is terminable-at-will and is not entitled to exercise formal grievance rights pursuant to this Personnel Ordinance.

Temporary, seasonal, and part time employees who are transferred and/or promoted to fulltime status as a regular classified employee will be required to complete the required probationary period regardless of time served as an employee of Otero County.

In cases where a contract employee serves in a full time capacity who has performed in the service of the county for more than six months is promoted or transferred into a full time regular classified position performing the exact same responsibilities; the Board of County Commissioners may, upon the recommendation of the County Manager, Elected Official, or Department Head, either shorten or eliminate the probationary period.

3.3 TEMPORARY EMPLOYEE

A temporary employee is hired on either a full-time or a part-time basis to a seasonal position or to a position established for a period of no more than six (6) months, or during the term of a particular project. A temporary employee is terminable-at-will, shall not receive any County benefits and is not entitled to

exercise formal grievance rights pursuant to this Personnel Policy Ordinance.

3.4 PART TIME EMPLOYEE

An unclassified employee paid by the hour, who may be called on short notice and/or on an occasional basis. Part-time employee may also be one who works less than twenty (20) hours a week and/or a maximum of 1040 hours (1664 hours for law enforcement) per year. A part-time employee is paid only for hours worked and does not receive any employment benefits. A part-time employee does not have the right to grieve employment decisions.

3.5 REGULAR EMPLOYEE

A full-time classified employee hired as a regular full time employee for county service, who has successfully completed probation.

3.6 GRANT FUNDED EMPLOYEE

A full or part-time employee hired to fill a position, which exists only upon receipt of grant funds. This position is terminable-at-will and is not otherwise entitled to grievance as set forth in this Ordinance.

3.7 CONTRACT EMPLOYEES

Contract employees are unclassified employees and have a contract approved by the County Commission or the respective elected official for whom they work. Contract employees serve at the will and pleasure of the Otero County Commission or the respective Elected Official. Contract employees are not entitled to formal grievance procedures and have no due process rights pursuant to this policy. Benefits, wages, and all other conditions of employment shall be in accordance with the terms of the contract negotiated by the contract employee and the County. In accordance with state law, the Chief Deputy contract is negotiated between the Chief Deputy and the Elected Official. All Elected Officials will consult with the County Manager before final approval of any employment contract.

SECTION IV - CHANGES IN EMPLOYMENT STATUS

4.1 PROMOTION

Otero County encourages the professional growth of its employees and rewards the initiative, creativity, effort, commitment, and diligence of its employees through the promotional process. County employees are encouraged to take advantage of promotional opportunities and apply for higher paying positions for which they qualify. Any employee whose job performance reflects an ability to do his or her present job in an exceptional manner and to handle more difficult assignments or greater responsibility may be considered eligible for promotion to available positions in a higher classified level.

When a position within Otero County becomes available, the following steps will be taken to ensure that current employees are considered for the vacant position:

An announcement describing the position and noting the grade level will be posted in each department or office. In most cases, an announcement will be posted for a minimum of five workdays.

Any employee possessing the minimum stated qualifications may apply for the position. This must be done prior to the closing date indicated on the announcement.

4.2 DEMOTION

An employee may be demoted to a position for which the employee is qualified when the employee would otherwise be terminated because the employee's position is being abolished due to lack of funds or

lack of work and there are no appropriate vacancies at the same level; when the employee's job is being reclassified; when the employee does not demonstrate the necessary ability to render satisfactory performance in the position presently held, or when the employee voluntarily requests such a demotion, provided there is a position available.

4.3 TRANSFERS

a. General transfer. Employee may be moved from one position to another of the same grade and pay range either voluntarily or involuntarily. An employee may be transferred if it is in the best interest of the County. Involuntary transfers are not eligible for formal grievance procedures. Shifting department or office needs may require that an employee be temporarily or permanently transferred from one geographic location to another within a department or office. An employee may be transferred from one position to another position at the same salary range within a department or office. If such a transfer involves a probationary employee, time served in the former position shall be credited toward achievement of regular full-time status and salary increases, and accumulated annual and sick leave shall be retained.

b. Transfers between departments. An employee that voluntarily requests a transfer from one department to a vacant position in another department may be required to accept the new position at its entry-level salary depending on their experience and qualifications required for the new position. The Department Head or Elected Official in the receiving department or office must consent to the transfer in order for it to be effective and may require a probationary period, not to exceed six (6) months

4.4 RESIGNATION

An employee voluntarily resigning shall submit, in writing, a two-week minimum notice of resignation. Failure to provide this written notice may be grounds for refusal of future employment with Otero County. Unauthorized absence from work for a period of three (3) consecutive regularly scheduled working days shall be considered a voluntary resignation.

4.5 PROCEDURE FOR WORKFORCE REDUCTION

After consultation with the Elected Official, the County Manager shall make the determination for layoffs. When layoffs of more than one employee are required, pursuant to workforce reductions, layoffs shall be determined using the following criteria:

- Temporary or part-time employees
- Contract employees/ independent contractor employee services
- Performance of employee compared to other employees being laid off in same/similar positions.
- Value of the employee to the critical operation of the County or department
- Length of service with the County

Termination because of a reduction in force is not eligible for formal grievance procedures.

4.6 LAYOFF RETURN PRIVILEGES

Any full-time employee who is laid off and returns within six (6) months of lay-off shall not have to serve a probationary period if the employee returns to their previous position. A laid off returning employee will be credited for all unused sick leave remaining at the time of layoff if the employee returns within the six (6) month period and serves for three continuous years. Layoff return privileges end:

- a. Six (6) months after the effective lay off date;
- b. After an employee has refused employment in a position for which the employee is qualified

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and/or for which the pay rate is the same or higher than the position previously held;

c. When a laid off employee accepts another position with the County. A lay off employee accepting another position with the County shall serve the required probationary period.

4.7 MEDICAL DISABILITY TERMINATION

Employees may be involuntarily terminated upon completion of the twelve (12) week family/medical leave if the employee is physically unable to perform the essential duties of the employee's position as certified by a qualified, licensed physician. The provisions of this paragraph are subject to the provisions regarding Workers' Compensation Laws and On the Job Injury Leave found in Section 9.12 of this Ordinance.

4.8 REINSTATEMENT

Individuals that are re-hired or reinstated as a regular employee are not entitled to any previous benefits such as sick leave, which may have been accrued during previous employment with the County.

4.9 EMPLOYEE JOB PERFORMANCE EVALUATIONS

Job Performance Evaluations will be conducted yearly for each employee employed by Otero County. Department Heads/Elected Officials will provide each employee under their management with an evaluation of performance. Performance evaluations shall be created by Department Heads/Elected Officials based, at a minimum, upon the following criteria:

- Job description
- Professionalism
- Training
- Professional/personal achievements
- Recommendations for future employee performance
- Recommendations for future professional development

For all employees not in a probationary period, evaluations will be performed a minimum of once per year or as deemed necessary by Department Head/Elected Official. For employee's within the probationary period, an evaluation will be completed at 6 months into the probationary period and an evaluation will be completed prior to the employee completing their probationary period. Employee's shall receive copies of evaluations and provided an opportunity to give written comments on the evaluations. Evaluations shall be signed by management, acknowledged by the employee and placed in the employee's personnel file.

SECTION V - CONDITIONS OF EMPLOYMENT

5.1 PROBATIONARY PERIOD

An employee hired to fill a regular classified position shall serve a probationary period of twelve (12) months, beginning on the first workday, during which time the employee is terminable-at-will. The probationary period is an integral part of the evaluation process and is utilized for observing the employee's performance and obtaining the most effective adjustment of a new employee to the position. The employee must achieve a satisfactory performance or better by the end of the twelve (12) month probationary period before the employee can become a regular classified employee entitled to all of the rights and benefits of that status. If the employee satisfactorily completes the probationary period, the employee will become a regular employee. If the employee does not satisfactorily complete the probationary period, the employee will be terminated.

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NOTE: The probationary period may be extended, at the discretion of the County Manager, after consulting with the Elected Official, or Department Head, for further evaluation if required.

An employee hired to fill a regular classified law enforcement position shall serve a minimum twelve (12) month probation period. During the probationary period, the law enforcement employee shall obtain or be scheduled for completion of the statutorily required law enforcement certification for the position. Failure to obtain such certification or to be scheduled for the academy within the twelve (12) month probationary period shall bar the employee from becoming a full-time classified employee and may result in the employee's dismissal. The probationary period called for herein shall include a minimum of six (6) months after the date of the employee's certification.

Additionally a full time classified employee may be put on probation pursuant to the requirements of this section as part of a disciplinary process. A probationary employee:

- a. can be terminated, without cause, at any point during the probationary period;
- b. is allowed to use annual leave as soon as it is accrued.
- c. cannot grieve disciplinary actions;
- d. is allowed to use sick leave as soon as it is accrued

5.2 TEMPORARY EMPLOYEE HIRED TO A REGULAR POSITION

An employee who fills a temporary position and is subsequently hired to fill a regular classified position shall serve the required probationary period. The beginning date of the probationary period is the date the employee changes from temporary to probationary status.

5.3 FORMER COUNTY EMPLOYEES HIRED TO A POSITION

A former Otero County employee re-hired at any time to fill a position shall serve the required probationary period.

5.4 PERMITTED POLITICAL ACTIVITIES

All employees;

- a. Are encouraged to register to vote
- b. Have a right to express their opinion on all political subjects and candidates;
- c. May serve as convention delegates;
- d. May sign nominating petitions and make voluntary contributions to political organizations and participate in political activity;
- e. May serve as an election official, provided the employee is representing the jurisdiction conducting the election rather than a political party.

5.5 PROHIBITED POLITICAL ACTIVITIES

All employees, Elected Officials, and Department heads are prohibited from:

- a. Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose.
- b. Directly or indirectly coercing, attempting to coerce, commanding or advising a state or local

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official or employee to pay, lend, or contribute anything of value to a party, committee or organization, agency, or person for a political purpose.

c. Threatening to deny promotions to any employee who does not vote for certain candidates, requiring employees to contribute part of their pay to a political fund, influencing subordinate employees to buy tickets to political fund-raisers and similar events, advising employees to take part in political activity and matters of a similar nature.

d. Engaging in political activity while on duty.

e. Using any County owned equipment, supplies, vehicles, space or property for political purposes.

5.6 PUBLIC OFFICE

Employees may not hold political office AS AN ELECTED OFFICIAL FOR Otero County, during employment with the County, except as provided in provisions of the Hatch Act.

5.7 NEPOTISM

In order to avoid the practice or appearance of nepotism in employment, the following situations will be avoided without exception:

Immediate family shall not work in the same department when there is a supervisory relationship between them. When there is a change in assignment or relationships among County employees, which leads to the supervision of or by other immediate family, the employee, must inform the Elected Official or Department Head in writing within five (5) working days. The supervisor or department head shall immediately notify the County Manager and Elected Official in writing. The County Manager, after consulting with the Elected Official, will decide on a course of action and advise the affected employees within five (5) working days of receipt of notification. Failure to inform the Department Head, Elected Official or County Manager of the situation may result in discipline. If the relationship will transgress the policy, the County Manager shall determine the best course of action to be taken for adhering to the policy, upon consultation with the Elected Official.

Any problem arising from such a situation should be referred to the County Manager by the Elected Official or Department Head for review.

5.8 CONFLICT BAN

No employee shall engage in any business or transaction or accept private employment or other public employment or public office which is incompatible with the proper discharge of the employee's responsibilities, or which gives the appearance of impropriety. Determination of a conflict shall be made by the County Manager, upon consultation with the Elected Official.

5.9 OUTSIDE EMPLOYMENT

Prior to accepting outside employment, an employee shall request in writing, permission to engage in outside employment or acquire private interest in a business. Such employment or interests shall not interfere with the efficient performance of his/her duties or conflict, or give rise to suspicion of conflict with the interests of the County, his/her department or office. The Elected Official or Department Head will consult with the County Manager and document in writing the underlying justification for approval or denial. The Elected Official or Department Head shall indicate approval or disapproval of the employee's outside employment on the letter submitted by the employee. A copy of this letter will be forwarded to the personnel office for placement in the employee's file.

5.10 ANTI-DISCRIMINATION AND DISPARAGING TREATMENT

The County will not tolerate disparaging conduct of verbal, non-verbal and/or physical nature by any employee against another employee on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, disability, age, spousal affiliation or any other protected classification. Anyone violating the provisions of this section will be subject to disciplinary action up to, and including termination. All employees are responsible for knowing and following this policy.

5.11 HARASSMENT

Otero County is committed to taking reasonable steps to provide a professional working environment free from all forms of harassment, whether based on sex, sexual orientation, gender identity, race, color, religion, national origin, age, disability, spousal affiliation, or any other protected classification. This means that verbal or physical conduct that singles out, denigrates or shows hostility or aversion toward someone because of race, religion, color, national origin, age, disability, veteran status, citizenship or any other characteristic protected by law is also prohibited.

The County will not tolerate verbal or physical conduct by any employee which harasses, disrupts or interferes with another employee's work performance or which creates an intimidating, offensive or hostile environment. This provision applies to all employees, elected officials and volunteers. Any such behavior shall be reported immediately to an affected employee's immediate supervisor, following the department's chain of command, for guidance and a prompt, confidential investigation. If the complaint involves the employee's immediate supervisor or if the problem continues the employee may contact the County Manager or his/her designee. Employees may be assured that appropriate corrective measures will be taken and that there will be no retaliation for having filed a complaint of harassment. The employee making the report shall be informed of the findings and conclusions of investigations. Anyone violating the provisions of this section will be subject to disciplinary action up to, and including termination.

5.12 SEXUAL HARASSMENT

The County bases its determinations relative to employment, training, compensation, and promotions on job-related qualifications in compliance with Equal Employment Opportunity Commission laws and regulations, which prohibit discrimination based on sex. Federal and state laws make sexual harassment unlawful.

5.13 SEXUAL HARASSMENT POLICY

Sexual harassment can occur in a variety of forms and is unlawful discrimination. Sexual harassment in any form is strictly prohibited, whether directed at employees, customers or others. It is the policy of this County to ensure a work environment free of sexual harassment. Unwelcome sexually oriented behavior, sexual advances, request for sexual favors, sexual demands, or other verbal, non-verbal, physical, or visual conduct of a sexual nature will constitute sexual harassment when:

- a. Submission to the conduct is either an explicit or implicit term or condition of employment.
- b. Submission to or rejection of the conduct is used as a basis for an employment decision.
- c. The conduct has the purpose of affecting or unreasonably interfering with an employee's work performance, or creating an intimidating, hostile, or offensive work environment;
- d. In third-party situations, one individual is offended by the sexual interaction, conduct, or communications between others. The County expects that employees will treat one another with courtesy, dignity, and respect. Sexual harassment is a form of misconduct, which constitutes a serious offense and subject offenders to disciplinary action, up to and including termination.

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The County will exercise reasonable care to prevent or correct any sexually harassing behavior by providing training, by enacting this policy, by launching prompt, thorough, and impartial investigations of any complaints, and by enforcing appropriate disciplinary actions. Each Elected Official, Department Head, and/or Supervisor is responsible for complying with this policy and any victim of perceived harassment is responsible for reporting sexual harassment complaints or observations to the County Manager, Elected Official, Human Resource Director, or County Attorney. In addition, each Elected Official, Department Head, and/or Supervisor is responsible in distributing this policy to all employees and, where appropriate, including in new employee orientation material and publicizing in employee publications.

To avoid misunderstandings about what might constitute sexual harassment, the following examples are submitted but are not all inclusive of what could constitute sexual harassment:

- a. Repeated, unwanted social invitations.
- b. Touch, e.g., hugs, brushing against, massages, fanny pats, hip-grinds, and behavior that, if it occurred to a stranger on the street, would subject the employee to charges of molestation, indecent exposure, assault, or rape.
- c. Sexual gestures or other offensive body movements, e.g., “the finger,” or grabbing personal areas of the body.
- d. Sexually suggestive or abusive talk, e.g., dirty jokes, sexual innuendoes, talking about body parts, and repeated, unwanted sexually explicit invitations; bragging or speculating about one’s own or others’ sexual performance.
- e. Offensive printed or written materials, display of sexually oriented visual items such as calendars, cartoons, photos or posters.
- f. Discussing their sexual preference, sexual relationships or even sexual matters seen on TV, YouTube, movies or other formats including books, magazines or any other electronic devices.
- g. Any conduct that ridicules, or is malicious or abusive to and individual because of the individual’s gender, sex, sexual orientation, gender identity, race, color, religion, national origin, age, disability, spousal affiliation, or any other protected classification..
- h. Asking employee questions of a sexual nature.
- i. Threats or retaliation against an employee who refuses unwelcome sexual attention or sexual behavior.
- j. Overt promises or practices that imply preferential treatment for any employee in exchange for dates, sexual attention or sexual behavior.

The County will provide employees, supervisors, managers, and elected officials sexual harassment prevention training, which explains prohibited conduct, outlines the County’s complaint procedure, and details disciplinary and corrective actions. The County will not permit employment-based retaliation against anyone who brings a complaint or speaks as a witness in a sexual harassment investigation. Retaliation, reprisal, or other adverse action for making a complaint or report of harassment in good faith or for assisting in the investigation of any such complaint is absolutely prohibited. Any incident of retaliation or intimidation should be immediately reported to the County Manager, the highest ranking personnel officer or County Attorney and will subject the employee to disciplinary action up to and

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including termination.

NOTE: Under no circumstances is a Supervisor, Department Head, or Elected Official authorized to investigate alleged violations of this policy.

5.14 SEXUAL HARASSMENT PROCEDURE

Employees experiencing or witnessing sexual harassment must immediately report it to the County Manager, highest ranking personnel officer or County Attorney. Employees failing to report sexual harassment may be subject to disciplinary action up to and including termination. The County Manager, highest ranking personnel officer, County Attorney, or an outside party retained by County management shall promptly, thoroughly, and impartially investigate any complaint or report of any violation of this policy. Investigations will be initiated within three (3) working days after receipt of a complaint. To the extent possible, the employee's confidentiality and that of any witness and the alleged harasser will be protected against unnecessary disclosure. However, the immediate Supervisor, Department Head or Elected Official shall be notified unless they are the alleged harasser. The County will take prompt disciplinary and/or remedial action for violations of this policy. Such discipline may range from a verbal warning to termination from employment. The affected employee will be informed of the findings when the investigation is complete. The County takes complaints of violations of these provisions seriously. In addition, false or dishonest complaints or reports are also a violation of these provisions. The responsible party may be subject to disciplinary action, up to and including termination.

Nothing in this policy shall prohibit an employee from filing a complaint directly with the Equal Employment Opportunity Commission (EEOC) or the New Mexico Human Rights Division (NMHRD). This option may be used when an employee feels he or she has not obtained relief from the County. Employees are encouraged to seek consultation with the County Manager, highest ranking personnel officer or County Attorney before filing a formal complaint with the EEOC or NMHRD.

5.15 DRUG FREE WORK PLACE POLICY

The County of Otero is a Drug Free Workplace and adopts this policy in accordance with the Drug Free Workplace Act (41 U.S.C. 701). The Drug and Alcohol Policy applies to all employees of Otero County. This policy replaces any and all previous policies or practices. This policy is effective immediately. Violation of this policy is cause for dismissal from employment with the county.

All County employees are strictly prohibited from:

1. Using or being under the influence of illegal drugs to any degree during working hours or while actively engaged in the duties of employment, including but not limited to, lunch periods, breaks, or while on call;
2. Consuming alcohol or having sufficient quantities of alcohol in the employee's system to impair mental or bodily functions to any degree during working hours or while actively engaged in the duties of employment, including but not limited to, lunch periods, breaks, or while on call;
3. Using or being under the influence of prescription or over the counter drugs during working hours or while actively engaged in the duties of employment to the extent that the use of any such legal drug may affect the safe and efficient performance of the employee's job duties, or may endanger the safety of co-workers or members of the public;

4. Possessing, selling, transferring, or purchasing of illegal drugs or alcohol during working hours, while on County property, or while operating County-owned vehicles or equipment.

A: Pre-Employment

All applicants for employment with the County will be required to complete a pre-employment drug test as a condition for employment. A certified licensed physician (Medical Review Officer-MRO) is responsible for receiving all laboratory reports and reviewing those tests to determine the validity of a positive test. Pre-Employment job applicants that test positive for controlled substance will not be hired.

Any employee or applicant who tests positive for alcohol or controlled substances will not be considered for employment by the County for a minimum of one (1) year from the date of testing.

B: Drug and Alcohol Refusal and Positive Test Result

Refusal of a Drug and Alcohol test will lead to termination. Full time or part time employees who test positive shall be subject to disciplinary action up to and including termination.

C: Post Accident/Injury Testing

1. All Otero County employees while performing job duties are subject to post accident or post injury drug and alcohol testing.
2. Otero County shall conduct post-accident and post injury drug testing on all employees whose actions or conduct contributed to an accident or injury and cannot be completely discounted as a contributing factor to the accident. Testing will be conducted as soon as practical after an accident or injury in accordance with the following:
 - a. Alcohol testing must be conducted within 2 hours after the accident or injury.
 - b. Drug testing must be conducted within 8 hours after the accident or injury.
3. Any person not reporting an accident shall be subject to disciplinary action.

D: Reasonable Suspicion Testing

Any employee may be drug/alcohol tested based on a belief drawn from specific, objective, particular facts and/or reasonable inferences drawn from those facts in light of experience. Reasonable suspicion may be based upon, but is not limited to, the following;

1. Observable phenomena, such as direct observation of a drug/alcohol use and/or the physical or mental symptoms or manifestations of being under the influence of drug's or alcohol;
2. Abnormal conduct or erratic behavior while at work, absenteeism, tardiness, or deterioration in work performance;
3. A report of drug/alcohol use provided by a credible eyewitness with first-hand knowledge which has been independently corroborated;

4. Evidence that an individual has tampered with a drug/alcohol test while employed by the County;
5. Evidence that an employee has caused or contributed to an accident while at work;
6. Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of drugs while working for the County or while on the County's premises, or while operating a County vehicle, machinery, or equipment.

E: Random Drug Testing

1. Safety-sensitive positions include, but are not limited to: Sheriff's Department, Road Department, Detention Center, Dispatch, the Building and Maintenance Department and any employee who regularly operates a County owned vehicle. All safety-sensitive employees will be placed in separate pools by department and may be tested as often as monthly.
2. The County complies with The Department of Transportation's (DOT) rule, 49 CFR Part 40, which describes required procedures for conducting workplace drug and alcohol testing for the federally regulated transportation industry. Employees with commercial driver's licenses (CDLs) are also subject to the testing requirements established by the Department of Transportation. Random alcohol and/or substance abuse testing is required for County CDL drivers on an unannounced basis in compliance with these Federal Department of Transportation (DOT) rules. Random alcohol and/or substance-abuse testing is characterized by randomly selecting designated employees for drug and alcohol testing on an unannounced basis.
3. The County will test at least twenty-five percent (25%) of each department, each calendar year. A person may be randomly selected more than once or not at all during the calendar year.
 - a. Random selections are made using a scientifically valid method that ensures each covered employee has an equal chance of being selected each time a selection is made, thus employees may be selected more than once a year.
 - b. Random drug and alcohol tests will be conducted throughout the year in an unpredictable pattern. Otero County reserves the right to increase or decrease the frequency of testing based on its mission, need, availability of resources, and experience in the program, consistent with the duty to achieve a drug free work place.
 - c. The random selection process will be conducted in strict confidence to ensure no employee is forewarned and the testing is unannounced. A limited number of individuals will have knowledge of the random selection to ensure confidentiality and the integrity of the testing process.
 - d. Testing may be conducted any hour that employees are on duty.
 - e. Employees will be escorted to the collection site upon notification of their random selection.
 - f. An employee selected for random drug testing may obtain a deferral of testing if the employee's supervisor concurs that a compelling need necessitates a deferral. An employee who is in a leave status or on an official travel status away from the test site may be a consideration for a deferral of testing. An employee whose random

drug test is deferred will be subject to an announced test within the following 60 days.

4. The County reserves the right to make scheduled or random searches of all sections of the premises generally accessible to employees or the public and all vehicles owned or operated by Otero County.

F: Written Request

The employee may request in writing, within (5) calendar days from the date of final test results from the MRO for any pre-employment, random, post-accident, or reasonable suspicion, a retest of the same specimen at the employees expense. The employee may request the testing at a different laboratory, following the proper chain of custody. The employee may also discuss positive test results with the MRO and may provide a valid prescription for positive test result to the MRO.

G: Drug Free Workplace Act Notification

Any employee convicted of a drug or alcohol violation shall inform the Human Resources Director in writing of the conviction no later than five (5) calendar days after the conviction. If required by the Drug Free Workplace Act, the Human Resources Director shall inform the appropriate federal agency of the conviction. That employee shall automatically be subjected to reasonable suspicion drug and alcohol testing for 60 months and must complete an acceptable EAP rehabilitation program before returning to work. Failure to notify the Human Resources Director may result in termination.

H: Authorized Testing

Continued employment with the County necessitates that an employee comply with the Drug Free Workplace Act and this Policy. Refusal to submit to testing, refusal or failure to produce and adequate specimen within two (2) hours upon arrival at the collection site, a positive test result, or tampering with a specimen is cause for dismissal from employment.

I: Confidentiality of Records

All drug and alcohol testing information is confidential and should be treated as such by anyone authorized to review or compile records. The results of a drug/alcohol test of Otero County employees may not be disclosed without prior written consent of such employee unless the disclosure would be:

1. To the Medical Review Officer
2. To the EAP administrator
3. To any supervisor or management official within the County having authority to take adverse personnel action against such employee.
4. Pursuant to the order of a court of competent jurisdiction or where required to defend against any challenge against any adverse personnel action.

J: Disciplinary Action

Otero County has zero tolerance for drug and alcohol in the work place. Any employees testing positive for a controlled substance or a .04 alcohol level or greater or a refusal to take a post-accident test, reasonable suspicion drug testing, or random drug and alcohol testing shall be subject to disciplinary action up to and including termination. If an employee tests positive for drugs or alcohol, the employee will be placed on administrative leave pending disciplinary action and/or rehabilitation alternatives.

K: Employee Assistance Program

The County offers an Employee Assistance Program (EAP) to all County employees. Employees may self-refer to the program for help with an alcohol or drug problem. An employee who self-refers may request to utilize accrued sick leave, annual leave, or leave without pay during any treatment program, up to a maximum of 12 weeks as per FMLA. Self-referral to the EAP is only available to an employee prior to a drug or alcohol test being administered to the employee, which results in a positive test result. Employees who enter EAP are automatically deemed subject to reasonable suspicion drug and alcohol testing for 60 months.

L: Drug and Alcohol Concentrations

Concentrations of an illegal drug or alcohol at or above the following levels (in nanogram/milliliter (ng/ml) shall be considered a positive test result after a confirmatory GC/MS test of:

Marijuana metabolite (THC)	50 ng/ml
Cocaine metabolite	150 ng/ml
Opiates	2000 ng/ml
Codeine	2000 ng/ml
Phencyclidine	25 ng/ml
Amphetamines	500 ng/ml
Methamphetamine	500 ng/ml
Alcohol/Ethanol	20 ng/ml
Benzodiazepine	200 ng/ml
Propoxyphene	150 ng/ml

M: Permissive Use of Prescribed and Over the Counter Drugs

The legal use of prescribed and over the counter drugs is permitted while on the premises of Otero County, while on duty, while conducting County related business or other activities off premises, while driving a County owned or leased vehicle, or while operating or using other County owned or lease property or equipment only if it does not impair an employee's ability to perform the essential functions of the job (or operate the vehicle, property or other equipment) effectively and in a safe manner that does not endanger the employee, citizens or other

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individuals in the workplace. Examples of impairment include, but are not limited to, drowsiness, dizziness, confusion or feeling unsteady.

N: Mandatory Disclosure by Employees

Employees taking prescription medication and/or over the counter medication must report such use to either their Department Head or the Human Resources Director if there is a reasonable likelihood the medication will impair the employee's ability to perform the essential functions of his/her job (or operate a vehicle or other equipment, if applicable) effectively and in a safe manner that does not endanger the employee, citizens or other individuals in the workplace. Examples of impairment include, but are not limited to, drowsiness, dizziness, confusion or feeling unsteady.

SECTION VI - BASIS FOR EMPLOYEE DISCIPLINE

6.1 Progressive Discipline

Otero County uses a progressive discipline system. Progressive discipline is a process of applying disciplinary actions, moving from less serious to more serious actions based on the initial severity or on repetition of the problem behavior. An employee shall be progressively disciplined whenever possible. All actions involving substandard work performance, leading up to and including dismissal, require progressive warnings. The type of corrective action used depends on the severity of the infraction and the employee's previous work record. Because of the serious nature of some infractions, the first disciplinary action may be suspension or termination.

6.2 JUST CAUSE

In order to promote the efficiency of the services rendered by the County and the operation of its respective departments and offices, disciplinary actions for employees are based on just cause; and are consistent with governing laws and regulations and will be taken without regard to race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or medical condition. No employee will be disciplined for refusing to perform an unlawful act.

- a) *Definition* - any conduct, action or inaction arising from or directly connected with the employee's work, whether on or off duty, which is inconsistent with the employee's obligation to the County and reflects the employee's disregard of the County's interests, policies or procedures. Cause includes, but is not limited to, inefficiency, incompetence, misconduct, negligence, insubordination, or conviction of a felony or misdemeanor.

6.3 DISCIPLINARY ACTIONS

The County Manager, Elected Official, Department Head and Supervisors have the authority to discipline an employee under their supervision; but to ensure consistency throughout the County and to reduce the potential for exposure to liability, Supervisors, Department Heads, Elected Officials and the County Manager shall inform and consult with Human Resources regarding the level of discipline that may be appropriate for violations of department work rules, County policy, poor performance and other misconduct.

- A. County Manager Approval – demotions, suspensions and terminations require final approval from the County Manager prior to implementation. The County Manager may consult the County

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Attorney to review just cause for such disciplinary actions.

- B. Documentation - copies of any documented disciplinary action must be furnished to the Human Resources Department for placement in the employee's personnel file. If the employee refuses to sign the disciplinary action, the supervisor will so note on the disciplinary action form and file it in the employee's personnel file.
- C. Verbal Reprimand - is used for minor infractions to inform the employee that his/her actions, behavior or conduct needs to change. Supervisors will keep written notations of verbal reprimands, and these will not be placed in the employee's personnel file until they are made a part of a later written reprimand. Causes for verbal reprimands include, but are not limited to:
1. substandard or unsatisfactory work performance;
 2. repeated absence or tardiness to include failure to adhere to an established work schedule;
 3. failure to meet and/or maintain job requirements as set forth in the job description;
 4. violation of any personnel ordinance, rules and regulations or supplemental rules;
 5. violation of a professional code of ethics accepted by those in the same professional as an employee;
 6. non-cooperation by an employee with fellow employees or other personal conduct which substantially interferes with the performance of his/her or another employee's work.
- D. Written Reprimand - An employee shall receive a written reprimand because the deficiency or infraction is of a greater degree than that for which a verbal reprimand may be used, or if a verbal reprimand was not effective. Written reprimands for an employee's work performance or conduct shall be placed in the employee's personnel file after providing the employee with a copy of the statement. If the employee refuses to sign the written reprimand, a witness will attest in writing that the statement was presented to the employee for signature but does not concur with its content. The employee may respond with a written rebuttal, which shall be placed in the employee's personnel file as well. The placement of a written reprimand in an employee's file is not entitled to the grievance provision of this Personnel Policy. Employees placed on disciplinary probation as a result of written reprimands are not eligible for salary increases, bonus awards, promotions or transfers during the probationary period without approval of the County Manager. Causes for written reprimands include, but are not limited to:
1. the causes listed for verbal reprimands;
 2. excessive absence or tardiness;
 3. sleeping on the job;
 4. negligence in the performance of duty including negligence in the operation of County vehicles or equipment;
 5. negligence or failure to adhere to established safety rules or regulations as well as willful unsafe conduct;
 6. insubordination and failure to comply with the lawful orders of a supervisor including the refusal to accept after hours assignments;
 7. unauthorized absence from work;

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8. harassment of any kind to include sexual harassment;
 9. failure to report loss of driver's license when required as condition of employment;
 10. failure to follow the chain of command within a department.
 11. unauthorized use or abuse of County property (e.g. computers, cell phones, vehicles, equipment).
- E. Suspension - An employee may be suspended without pay for a single serious offense or for continued inadequate job performance or misconduct after previous attempt(s) to correct the conduct have failed. Such suspension will not exceed thirty (30) working days. Suspension without pay for 2 work days or less will be served immediately. If suspension is overturned through the grievance procedure, those hours will be credited back to the employee at no cost to the employee. Suspensions for more than 3 days are subject to the formal grievance procedures. Causes for suspension include but are not limited to:
1. the causes listed for verbal and written reprimands;
 2. continuous instances of poor performance;
 3. negligent damage to property and/or person(s);
 4. physical or mental unfitness for duty due to being under the influence of alcohol or controlled substance including illegal drugs as well as abuse of prescription drugs;
 5. consumption or possession of alcohol or controlled substances on-duty or on County property;
 6. fighting while on-duty or on County property;
 7. harassment, to include sexual harassment;
 8. failure to report loss of driver's license when required as condition of employment;
 9. operation of a county/private vehicle while on County business without a valid driver's license.
- F. Demotion - An employee may be demoted for continued inadequate job performance after previous attempt(s) to correct the conduct have failed, provided there is a lower job position in the County available and the employee is capable of performing said position. The demotion of an employee is subject to the formal grievance procedures.
- G. Termination - Termination is the final consequence when progressive discipline has failed to change unacceptable behavior or performance, or when the employee has engaged in other behavior that is of a serious nature that is unacceptable for County employees. The termination of an employee is subject to the formal grievance procedure. Causes for termination include, but are not limited to:
1. all causes listed for the previous disciplinary actions, if such causes continues after attempts or correction have failed;
 2. acceptance of a bribe or kick back;

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3. use of official position or authority for personal profit or advantage;
4. theft or destruction of County property;
5. unauthorized disclosure of confidential information from County records or documents as set forth by applicable state law;
6. being convicted of a felony or misdemeanor;
7. falsification of County employment application, health history forms or any other document used in the employment process OR falsification of official documents;
8. serious acts of negligence causing damage to County property OR the intentional abuse or destruction of County equipment;
9. unlawful manufacturing, distributing, dispensing, possessing/ using controlled substances or alcohol on the job or reporting to work under the influence of controlled substance or alcohol;
10. refusal to carry out reasonable orders,
11. failure to meet standards of substance abuse rehabilitation programs

6.4 EXAMPLES NOT INCLUSIVE

The above examples are only a sample of infractions sometimes encountered but are not inclusive of all situations, which may arise. The County reserves the right to exercise judgment and render disciplinary action or termination as deemed appropriate, based on the circumstances of each case. In addition to the forms of discipline described above, the County Manager may impose a probationary period, not to exceed one year as part of the disciplinary consequences imposed on the employee, after consulting with the Supervisor, Department Head, or Elected Official.

6.5 PRE-DISCIPLINARY HEARING

Regular employees shall receive a pre-disciplinary hearing prior to disciplinary action for cause, which may result in suspension without pay, demotion, loss of pay or involuntary termination. The County Manager may consult the County Attorney to review the cause for such disciplinary action prior to the pre-disciplinary hearing. The hearing shall be held by the Department Head, Elected Official, County Manager or their designee.

6.6 WRITTEN NOTICE

The employee's supervisor, Department Head or Elected Official shall present the employee with written notification of their intent to conduct a pre-disciplinary hearing at least three (3) working days in advance of the hearing date. The written notification shall explain the reasons for the hearing, the employee's right to invoke the Otero County formal grievance procedures and the time and date of the pre-disciplinary hearing. The time, place and date of the pre-disciplinary hearing can be revised upon the written agreement of the parties.

6.7 IMMEDIATE SUSPENSION WITH PAY

In cases where County property, other employees or citizens are at risk because of the employee's actions, the County Manager shall, after consulting with the Department Head and the Elected Official, put the employee on administrative leave with pay until the pre-disciplinary hearing is held and a decision is rendered.

6.8 PRE-DISCIPLINARY HEARING PROCEDURE

The County Manager or Elected Official or their designee shall meet with the employee at the appointed time. At this hearing, the employee will have an opportunity to respond to the reasons for the disciplinary action. Witnesses are permitted as determined relevant to the case by the County Manager or Elected Official. Legal representation will not be permitted. An electronically recorded record of all pre-disciplinary hearings will be made.

6.9 PRE-DISCIPLINARY HEARING DECISION

The County Manager or Elected Official or their designee will issue a decision in writing within five (5) calendar days of the hearing. The decision will include the time, date and location of the meeting, persons present, and the determination. The written decision shall be either delivered to the employee (obtaining employee's signature of receipt of the decision) or be sent to the employee by certified mail, return receipt requested.

6.10 NOTICE OF FORMAL GRIEVANCE

Within five (5) working days of receipt of the written decision, the employee must notify the County Manager or Elected Official or their designee in writing of their intent to pursue a formal grievance hearing before a Personnel Appeals Hearing Officer/appeal panel. The written request for a grievance hearing shall include what the specific complaint is and/or why the employee believes there is an error and the desired remedy requested.

SECTION VII - FORMAL GRIEVANCE PROCEDURES

The formal grievance procedure is applicable for improper promotions, suspensions, demotions or terminations.

7.1 CONDITIONS OR ACTIONS NOT GRIEVABLE

The following matters are not eligible for the formal grievance provision of this Personnel Policy:

- a. disputes as to whether or not an established County practice or policy is good;
- b. matters in which a method of review is mandated by law;
- c. matters where the County is without authority to act or does not have the ability to provide a remedy;
- d. termination of temporary, part-time or contract employees;
- e. preferences for transfers, temporary assignments, and removal from temporary assignments, and lay-offs;
- f. termination of a probationary employee prior to the expiration of the probationary period;
- g. letters of complaint when the employee's supervisor determines it is justified and appropriate to be placed in the employee's personnel file;
- h. written reprimands in the employee's file;
- i. denial of outside employment;
- j. voluntary resignation (see Section 4.4 -RESIGNATION);

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k. suspensions for three (3) work days or less.

7.2 EMPLOYEES NOT ELIGIBLE FOR FORMAL GRIEVANCE PROCEDURE

The County Manager, an Elected Official, a Chief Deputy, Appointed Officials, the Sheriffs Administrator, part time employees, contract employees, probationary, and temporary employees are not eligible for formal grievance procedures nor are they entitled to a formal grievance hearing.

7.3 FORMAL GRIEVANCE PROCEDURE

A regular employee may request, in writing, a hearing before a Personnel Hearing Officer within five (5) calendar days of the event, which gave rise to the grievance. The request should state with specificity the reason for the grievance and the remedy requested.

An employee is required to use the supervisory chain of command or department review committee to resolve problems before requesting a hearing. Matters involving termination for cause shall not be subject to review by a department review committee and may be appealed only before the Personnel Hearing Officer.

7.4 APPOINTMENT OF PERSONNEL HEARING OFFICER

The County Manager shall appoint the Hearing Officer and set the date for the hearing. As soon as the date, time and location have been selected, the County Manager shall notify the grievant by certified mail, return receipt requested. Requests for continuances shall be submitted to the County Manager. Under no circumstances will a formal grievance hearing be granted more than two (2) continuances.

7.5 HEARING OFFICER QUALIFICATIONS

Hearing Officers may be attorneys, personnel professionals, or have pertinent experience in the fields of management, education or law. The County Manager may appoint an appeal panel composed of three (3) members of management as the appointed hearing officer and shall designate a chairperson. The County Manager shall verify the qualifications of the Hearing Officer/appeal panel. The Hearing Officer is not required to reside in Otero County.

7.6 FORMAL GRIEVANCE HEARING SCHEDULE

Within thirty (30) days of the notification that the employee wants to pursue a formal grievance hearing, the County Manager will schedule a hearing. The parties must agree in writing to any postponement of the hearing beyond thirty (30) calendar days. At this hearing, the grievant shall have an opportunity to present witnesses and physical evidence and cross-examine the County's witnesses before the Hearing Officer. The grievant and the County may be represented by legal counsel. If the grievant chooses to be represented by legal counsel, the employee must inform human resources in writing to allow the County time to arrange for its general counsel to be present at the hearing. The County reserves the right to have the general counsel present at any and all hearings.

7.7 FORMAL GRIEVANCE HEARING PROCEDURES-RULES OF PROCEDURE -

The Hearing Officer shall:

- a. make rulings on procedural and substantial issues of the hearing;
- b. determine the admissibility of evidence and testimony, all of which must have a direct bearing on the issue before the hearing officer;
- c. issue a written ruling, including findings of fact, which form the basis of the hearing officer's conclusions of law.

The grievant, the grievant representative, if any, and the County's designated representatives are required to be present at the hearing unless otherwise excused by the Hearing Officer or by agreement of the parties.

The grievant can request that the meeting be open.

Prior to the hearing, the parties or their representatives shall prepare and exchange at least five work days prior to the hearing copies of all exhibits and evidence which are expected to be presented. The parties shall bring to the hearing adequate copies for the Hearing Officer as well as the opposing party.

At least five (5) calendar days prior to the hearing, all parties must submit to the hearing officer and the Opposing party identifying the issues to be heard, a witness list, and a complete list of documents to be admitted as evidence. Witness lists and exhibits shall be exchanged between the parties.

Each party will be responsible for ensuring that their witnesses are present for the hearing. The County shall insure the attendance of any necessary county employees.

Witnesses in formal grievance hearings are not permitted in the hearing room until called upon to testify.

A tape-recorded record of all formal grievance hearings will be made.

7.8 CONDUCT OF HEARINGS

The County shall present a statement of issues involved in the case, followed by the Grievant. Opening statements are limited to the pertinent issues of fact and law and shall not exceed ten minutes without the permission of the Hearing Officer.

7.9 ORDER OF PRESENTATION

County will present first. Witnesses for the County may be called and questioned concerning their involvement in or knowledge of the case. Following each witness's testimony, the Grievant/Grievant Representative will have the opportunity to cross-examine the witness.

The Hearing Officer will then have an opportunity to question the witness on matters related only to the witness's testimony. The Hearing Officer shall restrict questions to those necessary to clarify the testimony previously given. Follow up or redirect questioning will be allowed at the discretion of the Hearing Officer.

Witnesses for the Grievant may be called and questioned concerning their involvement in or knowledge of the case. Following each witness's testimony, the County will have the opportunity to cross-examine the witness. The hearing officer will have an opportunity to question the witness on matters related to the witness's testimony. The hearing officer shall restrict questions to those necessary to clarify the testimony previously given. Follow up/redirect questioning will be allowed at the discretion of the Hearing Officer. Following the presentation of the County and Grievant positions, rebuttals may be offered. Such testimony shall be brief and shall address only new issues brought forth in the Opponent's presentation.

The Grievant closing statement shall be presented followed by the County's closing statement. These statements shall not exceed ten (10) minutes without the permission of the Hearing Officer and shall contain a request for the desired outcome.

7.10 COMMUNICATION OF HEARING OFFICER'S DECISION

- A. The Hearing Officer's decision will be issued within fifteen (15) calendar days of the hearing and will be signed by the Hearing Officer and transmitted to the grievant and the County Manager or Elected Official.

- B. The Hearing Officer may uphold, modify or reverse the decision of the County Manager or Elected Official, and may reinstate the employee and award back pay and benefits.

- C. The record of the proceedings will be retained by the County Manager's office for a period of not less than three (3) years from the hearing date along with all of the physical evidence admitted by the Hearing Officer. The verbal record shall be transcribed only in the case of appeal to the District Court by one of the parties. The party requesting the transcription shall pay for the transcription.

7.11 APPEAL OF HEARING OFFICER'S DECISION

Either party may appeal the Hearing Officer's decision to the District Court on the whole record, within thirty (30) days of the Hearing Officer's decision PURSUANT TO NMRA 1-074.

SECTION VIII - COMPENSATION AND BENEFIT PROGRAM

8.1 PURPOSE

The purpose of the compensation plan is to establish equitable compensation for all positions in the County. Such a plan shall establish a salary schedule containing a minimum and maximum wage or salary for each position. Pay ranges are intended to furnish administrative flexibility. However, all wages and salaries are approved by the County Commission. All wage and salary increases, not already approved in the budget by the County Commission will be brought to the County Commission for their approval. Absolutely no wage and salary increases will be provided outside of the budget without the Commission's approval. All wage and salary increases, when authorized, shall be dependent upon the financial conditions of the County. The County Commission shall review the Manager's proposed wage and compensation plan and approve the pay schedule and policy regarding any raises and promotional increases for the entire fiscal year for all County employees.

8.2 HOURS OF WORK

Employees will work their scheduled hours pursuant to work schedules established by their Department Head or Elected Official. Full-time employees will work a minimum of forty (40) hours per week or a minimum of eighty (80) hours per pay period. Commissioned Law Enforcement Personnel and Detention Officers who work a twelve-hour shift pursuant to a Section 207 K Fair Labor Standards Act election shall work eighty four (84) hours per pay period. Actual work periods may fluctuate at the discretion of the Department Head or Elected Official. Part-time employees are scheduled to work pursuant to scheduling set forth by their supervisors, the Department Head or Elected Official.

8.3 OVERTIME PAY

Overtime pay shall be paid only when overtime work is authorized by the Department Head or Elected Official and only to nonexempt employees. Failure to obtain authorization for overtime shall result in disciplinary action, up to and including termination. The rate shall be one and one-half (1/2) times regular pay for each hour of overtime and such payment shall be made only in cases when a nonexempt employee works over forty (40) actual hours in a normal work week. A nonexempt sheriff's deputy or detention officer shift employee shall be paid overtime according to FLSA regulations. Holiday, vacation, sick and other leave hours shall not be considered actual working hours. Nonexempt employees authorized and required to work on a scheduled holiday shall receive their holiday pay plus their regular hourly rate of pay for actual hours worked on the holiday. Chief Deputies and exempt employees are not eligible for holiday or overtime pay.

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8.4 CONSISTENCY WITH FAIR LABOR STANDARDS ACT

The provisions of Section 8.3 are subject to change or revision by the Fair Labor Standards Act and any federal regulation or revision thereof. All County employees shall be given a copy of such revisions and notified that they are, in effect, Personnel Policy Supplements.

8.5 PERA BENEFITS

All County employees with the exception of those employees, who are subject to exclusion under PERA rules, are required to join the Public Employees Retirement Association of New Mexico (PERA).

8.6 INSURANCE BENEFITS

The County offers medical, dental, vision and life insurance benefits to all employees except part-time and temporary employees. Insurance plans may be changed at the discretion of the County Commission.

8.7 FRINGE BENEFITS

The County will follow the Internal Revenue Service's rules with regard to Fringe Benefits. Taxable fringe benefits will be included on the employee's W-2 form. (Examples of fringe benefits are: uniforms, uniform allowances, cell phone usage, vehicle usage, etc.) If you have a question, regarding what constitutes a fringe benefit and how that may affect you, please contact the Finance Office.

8.8 PROFESSIONAL DEVELOPMENT AND TRAINING

Otero County recognizes the value of professional development and personal growth for employees and encourages all employees to pursue education and training to better themselves and their career/job opportunities.

NOTE: Prior approval is required before signing up for any conferences, seminars or college related courses that the employee expects to be paid for/reimbursed by the county. Payment to attend approved job-related may include the following:

- a. Registration Fee;
- b. Tuition;
- c. Per Diem;
- d. Mileage if use of personal vehicle is approved;
- e. Continuation of employee's regular salary for no more than eight (8) hours per day. Overtime will not be paid.
- f. Leave with pay may be authorized for an employee to attend professional development directly related to the performance of duties.

If the employee desires to attend a workshop, seminar or course that is not approved, the employee shall be responsible for all his/her expenses related to the training. Arrangements must also be made with his/her supervisor to arrange for annual leave or leave without pay.

8.9 TUITION ASSISTANCE

After consulting with the County Manager and written documentation justifying the approval or denial of approval of any education course, if approved, the County may provide tuition assistance to full-time employees. The course(s) must enhance or create a skill that is directly related to the employee's profession, skill or craft, and must demonstrate a benefit to the County. The determination for reimbursement is the responsibility of the County Manager, Elected Official or Department Head. The request to attend courses should be submitted to the County Manager, Elected Official or Department

Head thirty (30) days in advance of the beginning of the course. NOTE: This thirty-day requirement may be waived by the County Manager, Elected Official or Department Head per their discretion. Books, supplies, and material information will be considered as property of the employee and will not be reimbursed by the County.

To be reimbursed, the employee must meet the following requirements:

- a. Be actively employed by the county upon satisfactory completion of the training;
NOTE: Employee whose employment is terminated because of downsizing or reorganization will be reimbursed even if they complete their course work after their employment is terminated.
- b. Must earn a grade of "C" or higher or a rating of "Pass."
- c. Must not be a probationary employee.
- d. Must not have ANY disciplinary action within the 12 months preceding the request.
- e. The County may require the employee to complete an employment agreement allowing County to benefit from employee's gained knowledge, skill or degree or if the employee resigns within thirty-six (36) months after receiving reimbursement, the employee must repay the County in full.

NOTE: Denial of reimbursement is not eligible for the grievance provision of this Personnel Policy.

8.10 PAY PERIODS

The County shall have a bi-weekly pay period. Paychecks shall be distributed on alternating Fridays except as influenced by holidays.

8.11. ENTRY LEVEL COMPENSATION

Compensation for a newly hired employee shall be at the entry-level wage pursuant to the wage and compensation plan, unless the Department Head Elected Official or County Manager demonstrates that the qualifications of the proposed employee justify a higher salary. If a vacant position is advertised for the entry-level wage and no qualified applicant is hired, the position may be re-advertised with a higher wage as determined by the County Manager, after consulting with the Elected Official.

8.12 COST OF LIVING WAGE INCREASES

The County Commission may consider an across the board cost of living wage increase prior to approval of the budget each fiscal year or as otherwise approved by the Commission. Cost of living increases for full-time classified employees, contract employees, or grant funded employees will normally become effective July 1 of each fiscal year or as otherwise approved by the County Commission. Probationary employees will receive any cost of living increases at the end of their probation period. This increase is NOT retroactive. In addition, Cost of Living increases do not change the approved wage and compensation scale. A Cost of living increase allows movement of the employment salary within the wage and compensation pay scale but the wage and compensation scale does not fluctuate. Part time employees are not eligible for a cost of living increase.

8.13 FINAL PAY

An employee who resigns or separates for any reason from County service shall receive a final paycheck no later than the first regularly scheduled payday following the employee's effective date of resignation. Any employee who is dismissed from County service shall receive a final paycheck by 5:00p.m. on the fifth (5) day following dismissal, provided that all County equipment has been returned. Day one (1) begins on the day of dismissal and includes Saturday and Sunday. Any annual leave balance will be paid on the final paycheck. Employees who fail or refuse to return County property or equipment assigned to

them shall have the value of that equipment withheld from the final paycheck. In the event the final paycheck is insufficient to pay for the equipment, the employee shall pay the balance within ten days of the date of separation. In the event the employee fails to make payment, criminal charges or civil court proceedings may be pursued against the employee.

In case of death, final salary and compensation for unused annual leave shall be paid to the employee's named beneficiary. If a beneficiary is not named, Otero County will follow Federal and State legal requirements.

SECTION IX - LEAVE & HOLIDAYS

9.1 LEGAL HOLIDAYS

Legal holidays will be designated by the Board of County Commissioners at the beginning of each calendar year. Compensation for holidays will be eight (8) hours pay for all eligible employees except for some law enforcement and Detention Center employees. Law enforcement employees and Detention Center employees, depending on the shift schedule worked, will receive compensation as set out in the Fair Labor Standards Act. The following conditions will apply with respect to holidays and holiday pay:

- a. Part-time, temporary, and seasonal employees are not entitled to holiday pay;
- b. Part-time employees who work on a holiday will not be paid holiday pay but will be paid only for the number of hours actually worked at their regular hourly wage;
- c. When a holiday falls on an employee's day off, the employee's holiday shall be observed on the following workday, workload permitting, as determined by the department head, elected official or county manager or the employee will be paid appropriate holiday pay;
- d. When a full-time classified employee is required to work on holiday compensation will be paid for the regular work hours worked in addition to holiday pay. In other words, compensation will be paid at twice the regular pay for actual hours worked on a holiday;
- e. When a holiday falls while an employee is on annual leave, the day shall be counted as a holiday, and not an annual leave day;
- f. Employees absent without leave on their scheduled workday before or after a holiday will not receive pay for that holiday, unless the employee is on approved sick or annual leave pursuant to this Policy.

9.2 ANNUAL LEAVE WITH PAY

Annual leave must be approved by the employee's supervisor prior to being taken. Reasonable efforts will be made to accommodate the employee's request. Approval will be subject to advance notification and the needs of the department. Annual leave allowance for full-time classified employees shall accrue as follows:

- a. Less than five (5) years accumulated service: Eight (8) hours annual leave per month.
- b. More than five (5) years but less than ten (10) years accumulated service
Ten (10) hours annual leave per month
- c. More than ten (10) but less than fifteen (15) years accumulated service
Twelve (12) hours annual leave per month
- d. More than fifteen (15) but less than twenty (20) years accumulated service
Fourteen (14) hours annual leave per month.
- e. Twenty (20) years or more accumulated service: Sixteen (16) hours annual leave per month.

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Any employees working a twelve hour shift and qualifies under the Fair Labor Standards Act, Section 207K, shall accumulate an additional 5% (rounded to the nearest quarter hour) in accumulated annual leave above what is stated in subparagraph "a" through "e" above to compensate for the additional hours worked under that plan.

An employee does not accrue annual leave for overtime hours worked.

Annual leave will not be granted in advance of accrual.

An employee may take annual LEAVE any time before separation from County employment with the written approval of the Department Head, Elected Official, or County Manager.

9.3 ACCRUAL LIMITATION

Total number of accrued annual leave hours shall not exceed a maximum of 280 hours. There is no accrual limitation for sick leave.

9.4 TERMINATION PAY

Employees shall be paid for all accrued annual leave upon termination.

9.5 SICK LEAVE WITH PAY

Full-time employees shall accrue sick leave at the rate of eight (8) hours per month. Sick leave may be authorized by the employee's supervisor, when such leave is requested, when an employee is unable to perform normal job duties due to medical considerations such as, but not limited to, the following: illness, injury, prearranged medical or dental examination, quarantine, therapy, counseling, and treatment, or when a member of the employee's immediate family is ill and requires the personal attention of the employee. An employee may be terminated for abusing sick leave. (84) hour law enforcement and detention Center employees accrue sick leave in accordance with the applicable collective bargaining agreement.

NOTE: There is no accrual limitation and there shall be no pay compensation for sick leave upon termination.

9.6 DONATING SICK LEAVE

Consistent with the needs of the County and after consideration of the departmental workload and needs, the Elected Official, Department Head, or County Manager determines that the receiving employee is in need of leave due to catastrophic illness, resulting in a long-term, unexpected absence, which is certified by a physician and which was beyond the receiving employee's control. The Elected Official or Department Head shall consult with the County Manager and document in writing the reasons for granting or denying the request. Any employee with an accumulated sick leave balance of 160 hours (minimum) or more may donate accrued annual and/or sick hours, which will be converted, as needed, into donated sick hours for another employee's use. **NOTE: Annual leave cannot be donated and then used as annual leave.** It is the employee's responsibility to contact Human Resources to request donated time. An employee who is out of sick and annual leave hours may use these donated hours for their own recovery due to injury or illness or to provide care for an immediate family member's recovery due to injury or illness. A certificate of illness or injury will be required from a physician in order to qualify to use donated hours. Approvals for receiving donated leave are valid for a period of 30 days. If, after 30 days, donated leave is still required, a new Donated Leave Request must be submitted by the employee (or Department head, if employee is unavailable.) Once an employee is approved for donated time, a request will be sent to all departments seeking donations for the individual request. Employees donating time must complete the form to donate time and submit the form to Payroll for processing (forms may be

obtained by contacting Human Resources.) Time will be taken from donating employees' accrual on a first-come, as needed basis. Only hours necessary to ensure the receiving employee has sufficient paid leave for the current pay period will be used. If time is not needed; it will not be deducted from the donating employee's accrual. In the case of a terminating employee donating leave, any leave donated but not deducted as of the pay period ending date of his/her final check will be returned to the county. Upon termination, these hours are no longer eligible to be donated. No information will be released to employees regarding the medical condition of the requesting employee without the expressed written permission of the employee requesting donated time. Under no circumstances, including termination, can these donated hours be converted into cash.

9.7 FAMILY MEDICAL LEAVE

Otero County provides family medical leave of absence in accordance with the Family Medical Leave Act of 1993 (FMLA). This provision allows for leave without pay and is available to eligible employees who wish to take time off from work duties to fulfill family obligations relating directly to the birth or adoption of a child or the illness of a child, spouse, parent or the employee themselves. As soon as an eligible employee becomes aware of the need for a family medical leave of absence, they shall request leave from their supervisor. Employees requesting family medical leave related to the illness of a child, spouse, parent or the employee themselves shall be required to provide a physician's statement verifying the need for leave. Eligible employees who do not request family medical leave in advance for a qualifying event will automatically be placed on family medical leave as soon as it is determined by Human Resources that their leave qualifies for protections under the Act. Eligible employees are allowed up to twelve (12) weeks of family medical leave. Eligibility for leave will be determined on a 12-month rolling back calendar. The employee will be required to take any available vacation or sick leave as part of the approved period of leave. Subject to the terms, conditions and limitations of the applicable plans, Otero County will continue to provide the county portion of health insurance benefits for the full period of the approved family/medical leave. The employee must continue to pay their portion for health benefits to remain in effect. When family medical leave ends, every reasonable effort will be made to return the employee to the same position, if it is available, or to a similar available position for which the employee qualifies. Otero County guarantees reinstatement to all eligible employees who are not key employees. If the employee fails to return to work or contact their supervisor on or before their expected date of return, Otero County will assume that the employee has abandoned their job. Slightly different rules under FMLA apply for positions designated as key employees, those who are salaried and among the highest ten percent (10%) of Otero County's workforce. Key employees are entitled to FMLA, however; key employees are not guaranteed reinstatement.

NOTE: Employees are not permitted to work in an outside job during FMLA leaves of absence unless a specific request for outside employment during the FMLA period is made in advance of the leave and approved by the County Manager.

9.8 CERTIFICATION OF ILLNESS FOR SICK LEAVE

A physician's written certification shall be required prior to receipt of sick leave pay, at the discretion of the Elected Official, County Manager, or Department Head, when an employee is absent for three (3) or more days to verify illness; or when there are excessive absences, a trend in abuse of sick leave, or other evidence which appears to indicate that the employee is not ill. NOTE: An Elected Official, County Manager, or Department Head may request a physician's certificate of physical examination when a pattern of sick leave develops or when work performance is inadequate due to frequent absences. In cases where the county requests a physical examination, the county will pay for the examination.

9.9 ADMINISTRATIVE LEAVE

An employee may be granted or placed on Administrative Leave with or without pay at the discretion of the Elected Official or County Manager.

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A. Disciplinary Administrative Leave

An employee placed on administrative leave for disciplinary reasons shall be required to turn in all County property including keys, badge and any other equipment assigned. The employee shall not contact any County employee regarding the disciplinary matter other than the Department head or Human Resources staff, or for the purpose of requesting County Employees as witnesses and shall not return to the workplace until requested by County Management. During the hours of 8:00 am and 5:00 pm, Monday through Friday, the employee is to remain available for County business. The employee may be required to remain in contact with the Human Resources Director for the duration of the administrative leave.

9.10 EMERGENCY LEAVE

Emergency leave may be granted in the event of death in the employee's immediate family or other family emergency that requires the employee's personal care and attendance. Employees may be granted up to three (3) days Administrative leave with pay to attend the funeral of a member of his immediate family or to attend or care for an immediate family member as the result of some other immediate emergency. In the event of extenuating circumstances, additional sick leave and/or Administrative leave with or without pay may be granted by the County Manager in consultation with the Elected Official or Department Head.

9.11 WORKER'S COMPENSATION INSURANCE

Otero County provides a comprehensive worker's compensation insurance program at no cost to employees. This program covers any injury or illness sustained in the course of employment that requires medical, surgical, or hospital treatment. Subject to applicable legal requirements, Workers' Compensation insurance provides benefits after a short waiting period, or if the employee is hospitalized, immediately. Employees who sustain work-related injuries or illnesses shall inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. This will enable an eligible employee to qualify for coverage as quickly as possible. Neither Otero County nor the insurance carrier will be liable for the payment of worker's compensation benefits for injuries that occur during an employee's voluntary participation in any off-duty recreational, social, or athletic activity sponsored by Otero County.

Subject to the terms, conditions and limitations of the applicable plans, Otero County will continue to provide health insurance benefits while the employee is receiving worker's compensation benefits. Eligible employees will automatically be placed on family medical leave as soon as it is determined by Human Resources that their leave qualifies for protections under the Act.

9.12 ON-THE-JOB INJURY LEAVE

An employee injured on the job will use accrued annual or sick leave for the first seven (7) scheduled workdays after the injury occurs except as noted in the Law Enforcement Agreement. (For payroll purposes, Law Enforcement injuries on the job will be posted as Injury Leave with Pay.) If the employee is on Worker's Compensation for more than four (4) weeks and is entitled to compensation for the first seven (7) days of injury, the workers compensation payments received for all such days shall be paid directly to the County by the workers compensation carrier. In that event, annual or sick leave used by the employee in lieu of workers compensation shall be re-credited to the employee upon the County's receipt of the reimbursement by workers compensation after the expiration of the statutory waiting period. Employees shall be certified by a physician for a specified period as unable to return to work while receiving workers' compensation benefits. The County may, at its discretion, request certification of the injury from a physician of its choice. An employee will not accrue any benefits, including pay for holidays while receiving workers' compensation benefits. The County at its discretion may terminate the employee consistent with workers' compensation laws and Section 4.7 of this policy.

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9.13 VOTING LEAVE

Employees are encouraged to exercise their right to vote before or after regular working hours. If an employee is unable to vote before or after working hours, the County shall provide adequate time to vote during regular working hours not to exceed two (2) hours. The employee's supervisor may specify the hours for the leave. This leave will not be granted to any employee whose workday begins more than two (2) hours subsequent to the time of the opening of the polls or ends two (2) hours before the closing of the polls. This leave will not be granted to employees who are not eligible to vote in the scheduled election.

9.14 COURT SERVICE LEAVE WITH PAY

Pay for jury duty shall be authorized only for those days that the employee is scheduled to work. If excused by the court during a working day, the employee shall return to work. If the employee does not return to work, the balance of the day will be charged to annual leave or leave without pay. Employees serving as a juror must surrender to the County any compensation or pay other than for meals or mileage. Employees will be allowed to retain any jury duty pay for hours served beyond their regular work hours. Employees shall provide the payroll department with a copy of their Juror Attendance Record reflecting the actual time served on the jury. The form shall be signed by the appropriate employee from the District Court Clerk's Office. When jury duty consumes or exceeds the entire work shift for the employee, the employee shall only receive pay for the work shift, not the actual hours spent in jury duty.

9.15 LEAVE WITHOUT PAY

Except as otherwise specified in this policy, leave without pay is a benefit which may be approved for employees that require authorized leave of absence. Leave without pay may be granted only if the employee's position or similar position can be assured as being available upon return of the employee and should be carefully considered. An employee on leave without pay for more than fourteen (14) consecutive calendar days will not accrue any leave or be eligible for receiving the county share of any benefits including but not limited to: PERA contributions, health insurance premiums and/or any other benefits to which the employee would otherwise be entitled.

9.16 LIFE THREATENING ILLNESSES IN THE WORKPLACE

Employees with life-threatening illnesses, such as cancer, heart disease, and AIDS, often wish to continue their normal pursuits, including work, to the extent allowed by their condition. Otero County supports these endeavors as long as employees are able to meet acceptable performance standards. As in the case of other disabilities, Otero County will make reasonable accommodations in accordance with all legal requirements, to allow qualified employees with life-threatening illnesses to perform the essential functions of their jobs. Medical information on individual employees is treated confidentially. Otero County will take reasonable precautions to protect such information from inappropriate disclosure. Management as well as other employees has a responsibility to respect and maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information is subject to disciplinary action up to and including termination of employment.

9.17 INCLEMENT WEATHER

The County Manager, after consulting with Elected Officials, may close offices and/or send employees home due to inclement weather.

9.18 MILITARY LEAVE

Otero County supports the Armed Forces of the United States and the men and women who serve. Military leave will be granted in accordance with The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA, 38 U.S.C. § 4301 – 4335.) NOTE: USERRA's definition of "service in the uniformed services" covers all categories of military training and service, including duty performed on a voluntary or involuntary basis, in time of peace or war. Although most often understood as applying to National Guard and reserve military personnel, USERRA also applies to persons serving in

the active components of the Armed Forces. Certain types of service specified in 42 U.S.C. 300hh-11 by members of the National Disaster Medical System are covered by USERRA. In general, if the employee has been absent from a position of civilian employment by reason of service in the uniformed services, he or she will be eligible for reemployment under USERRA by meeting the following criteria:

- (1) Military leave must be requested twenty (20) working days in advance (verbal or written request.) In emergency situations, documentation will be provided stating the nature of the emergency in lieu of the 20 day advance.
- (2) The employer has advance notice of the employee's service;
- (3) The employee returns to work in a timely manner; and,
- (4) The employee has not been separated from service with a disqualifying discharge or under other than honorable conditions.

NOTE: Paid military leave is granted for authorized reserve or National Guard activities for a maximum of fifteen (15) working days during a one (1) year period based on the Federal Government's fiscal year from October 1 to September 30. Employees voluntarily or involuntarily serving on extended active duty for more than fifteen (15) working days shall be placed on leave without pay. The employee taking unpaid military leave will not be required to exhaust accrued annual leave.

Employees Returning from Qualifying Service Under USERRA - Any employee who leaves a position he has held with the County, other than a temporary position, to enter the armed forces of the United States, National Guard, or other organized reserve, and who serves on active duty and is honorably discharged or released from an active duty status and who is still qualified to perform the duties of a County position, may be re-employed in accordance with the rules set forth in The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA, 38 U.S.C. § 4301 – 4335)

NOTE: The returning employee will be deemed to have accrued seniority and length of service rights as though their employment with the County had been continuous since the date of initial employment. The returning employee shall have all unused annual leave and sick leave accrued at the time of their departure for military service restored.

9.19 RETURN-TO-WORK (Light Duty)

Covers employees who are on leave due to an injury or illness. Because employees are Otero County's most valuable resource, Otero County attempts to help employees return to work as soon as possible after their physician certifies their fitness to do so. Return to work decisions and job duties will be established by the County Manager in consultation with Elected Officials and Department Heads with due regard for the employees medical condition and the clearance provided by the attending physician.

a. Coordination with Attending Physician - An employee on leave due to an injury or illness can return to work only when Otero County receives the attending physician's written medical release authorizing such return. Employees who have been given a restricted duty or light duty release from their doctor shall report to the Human Resource Department prior to attempting to return to work. The County's Human Resource Department is responsible for providing the physician with a copy of the employee's job description, copies of job descriptions for potential restricted duty assignments, and written information explaining Otero County's return-to-work program.

NOTE: The Human Resource Department is responsible for working with supervisors to ensure that job descriptions accurately and completely describe the essential functions of each position.

b. Return-to-Work Options - Arrangements to facilitate an employee's early return to work are made in consultation with the attending physician and/or other qualified medical professionals. The following options will be explored:

1. Return to prior position. An employee is offered the opportunity to return to his or her prior position if the attending physician certifies that the employee can perform the essential functions of the job with or without reasonable accommodations. The Human Resource Department is responsible for working with the employee's supervisor and attending physician (and/or third-party consultants to provide reasonable accommodation.
 2. Restricted duty. Any employees who are not yet able to return to their former duties are offered a temporary restricted duty assignment that has been approved by the employee's attending physician. The Human Resource Department is responsible for working with the employee's supervisor, the Human Resource Specialist, and the employee's attending physician to develop and implement the restricted duty assignment. The assignment can consist of the employee's regular job, with reduced working hours or reduced activities, or an alternative restricted duty position.
- c. Limitations on Restricted-Duty Assignments - The following limitations apply to restricted duty assignments:
1. No guarantee of work - Otero County will endeavor to return employees to gainful employment as soon as possible by exploring possible restricted duty assignments. However, Otero County does not guarantee the availability of restricted duty work.
 2. 8-Week limit - Restricted duty assignments are temporary arrangements intended to complement and facilitate the healing process. Restricted-duty assignments cannot exceed eight (8) weeks without approval from the Otero County Manager.
- d. Workers' Compensation Benefits - Employees on workers compensation who return to work before they have reached maximum medical improvement (MMI) may be eligible for temporary partial disability benefits under New Mexico Workers' Compensation law. Employees in restricted duty positions are not permitted to supplement their workers compensation benefits by using their accrued vacation, personal, or medical/sick leave.
- e. Medical Information - All employee medical information is held in strict confidence in accordance with state and federal laws.
- f. Coordination with FMLA - Nothing in this policy should be construed as denying employees their rights under the Family Medical Leave Act or any other federal or state law.

SECTION X - MISCELLANEOUS

10.1 DESIGNATED WORK AREAS

All employees are to be at their designated work areas on time and ready to work. They shall work until the scheduled quitting time, unless permission of the supervisor has been obtained for different work hours. Employees shall not litter work areas and will keep them neat and clean. Employees will limit socializing due to responsibilities and duties to the County and the taxpayer.

10.2 PERSONAL BUSINESS

Personal business shall not be conducted during work hours. Personal cell phones will be put on vibrate during work hours and usage will be restricted to emergencies only.

10.3 SAFETY

The County is committed to having all work conducted in a safe manner. All safety precautions shall be

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followed in accordance with the OTERO COUNTY SAFETY POLICY.

10.4 COUNTY PROPERTY

Employees shall not misuse County property, records, or other material in their care, control, or custody; nor shall any County property, records, or other material be removed from the premises of the County offices unless written permission by the Department Head or Elected Official has been given.

10.5 COUNTY VEHICLES

No County vehicle will be taken out of Otero County without permission of the Elected Official or Department Head and employees shall notify the Elected Official or Department Head of their destinations and itineraries. County vehicles shall be used for County business only. County vehicles may not be taken home with the exception of law enforcement personnel and those employees designated by the Elected Official or County Manager, in writing, as being subject to call out after hours. County Employee's with approval for a take-home vehicle, must reside within a 10 mile radius of their place of employment. County vehicles shall not be used for personal business, except as is incidental in commuting.

10.6 DRESS AND APPEARANCE

Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and affect the business image Otero County presents to customers and visitors. Employees shall follow the Otero County Dress Code Policy.

During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions. Employees who appear for work inappropriately dressed will be sent home and directed to return to work in proper attire. Under such circumstances, employees will not be compensated for the time away from work unless such time is designated as annual leave by the employee. Consult your Elected Official or Department Head if you have questions as to what constitutes appropriate attire as well as referring to the Dress Code Policy.

10.7 WEAPONS IN THE WORK PLACE

Otero County believes it is important to establish a clear policy that specifically addresses weapons in the workplace. Otero County prohibits all employees who enter County property from carrying a handgun, firearm, or prohibited weapon of any kind onto the property regardless of whether the person is licensed to carry the weapon or not. This policy applies to all County employees, elected, contract and temporary employees, regardless of whether or not they are licensed to carry a concealed weapon. The only exceptions to this policy will be Federal, State, and Local commissioned law enforcement officers.

All County employees are also prohibited from carrying a weapon while in the course and scope of performing their job for the County, whether they are on County property at the time or not and whether they are licensed to carry a handgun or not. Employees may not carry a weapon covered by this policy while performing any task on the County's behalf. The only exceptions to this policy will be persons who have been given written consent by the County Manager to carry a weapon while performing specific tasks on the County's behalf. Weapons are also prohibited at any County sponsored functions such as parties or picnics.

Prohibited weapons include any form of weapon or explosive restricted under local, state or federal regulation. This includes all firearms, illegal knives or other weapons covered by the law. (Legal, chemical dispensing devices such as pepper sprays that are sold commercially for personal protection is not covered by this policy.) If you have a question about whether an item is covered by this policy, please contact the County Manager's office. Employees will be responsible for making sure beforehand that any potentially covered item they possess is not prohibited by this policy.

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County owned property covered by this policy includes, without limitation, all County owned or leased buildings and surrounding areas such as sidewalks, walkways, driveways and parking lots under the County's ownership or control. County vehicles are covered by this policy at all times regardless of whether they are on County property at the time.

SEARCHES - The County reserves the right to conduct searches of any person, vehicle or object that enters onto County property. Pursuant to this provision, the County is authorized to search lockers, desks, toolboxes, lunch sacks, clothing and any other item in which a weapon may be hidden given probable cause and pursuant to the laws and regulations regarding legal search and seizure. Additionally, the County may search a county owned vehicle, used by the employee.

VIOLATIONS: Failure to abide by all terms and conditions described above may result in discipline up to and including termination. Further, carrying a weapon onto County property is a violation of this policy, which will be considered an act of criminal trespass and will be grounds for immediate removal from the County's property and may result in prosecution.

This policy shall not be construed to create any duty or obligation on the part of the County to take any actions beyond those required of an employer by existing law.

If you become aware of anyone violating this policy, please report it to your Department Head or Elected Official immediately.

10.8 WORKPLACE VIOLENCE

Otero County provides a safe work place for all employees. To ensure a safe workplace and to reduce the risk of violence, all employees should review and understand all provisions of this workplace violence policy. All employees, including managers and supervisors, are responsible for using safe work practices, for following all directives, policies and procedures, and for assisting in maintaining a safe and secure work environment.

a. **PROHIBITED CONDUCT.** Otero County does not tolerate any type of workplace violence committed by or against employees. Employees are prohibited from the following behaviors: Making threats or engaging in violent activities, causing physical injury to another person, Making threatening remarks, Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress, Intentionally damaging County property or property of another employee, Possession of a weapon (Refer to Section 10.7) while on county property or while conducting county business, Committing acts motivated by, or related to, sexual harassment, harassment or domestic violence.

NOTE: This list is not inclusive, but is provided as examples of conduct that is prohibited.

b. **REPORTING PROCEDURES.** Any potentially dangerous situations must be reported immediately to a supervisor, department head, elected official and/or the County Manager. Reports can be made anonymously and all reported incidents will be investigated. Reports or incidents warranting confidentiality will be handled appropriately and information will be disclosed to others only on a need-to-know basis. All parties involved in a situation will be counseled and the results of investigations will be discussed with them. The County will actively intervene at any indication of a possibly hostile or violent situation.

c. **RISK REDUCTION MEASURES.** Hiring: The Human Resource Office takes reasonable measures to conduct background investigations to review candidate's backgrounds and reduce the

risk of hiring individuals with a history of violent behavior. Safety: The Safety Officer conducts annual inspections of the premises to evaluate and determine any vulnerability to workplace violence or hazards. Any necessary corrective action will be taken to reduce all identified risk areas. Individual Situations: While Otero County does not expect employees to be skilled at identifying potentially dangerous persons, employees are expected to exercise good judgment and to inform their supervisor, department head, elected official and/or the County Manager if any employee exhibits behavior, which could be a sign of a potentially dangerous situation. Such behavior includes: Discussing weapons in a threatening manner related to the workplace, or bringing them to the workplace; Displaying overt signs of extreme stress, resentment, hostility, or anger; Making threatening remarks; Sudden or significant deterioration of performance; Displaying irrational or inappropriate behavior.

d. DANGEROUS/EMERGENCY SITUATIONS. Employees who are confronted by or encounter an armed or dangerous person should not attempt to challenge or disarm the individual. Law enforcement and/or security personnel shall handle such circumstances. The Human Resource office maintains and distributes to all employees detailed guidelines and procedures for handling workplace violence and threats.

Any of the above behaviors and/or any other acts of aggression or violence in the workplace will not be tolerated. Any employee determined to have committed such acts will be subject to disciplinary action, up to and including termination. Non-employees engaged in violent acts on County's premises will be reported to the proper authorities and fully prosecuted.

10.9 E-MAIL AND INTERNET USE

The e-mail system and internet access are provided by the County to assist in the conduct of County business. This includes any hardware and/or software and all information created, sent, received or otherwise accessed through the e-mail system as well as through the internet. The County, at any time, reserves and intends to exercise the right to review, audit, intercept, access and disclose any and all information created, sent, received or otherwise accessed through the e-mail system or through the internet. This includes information that has been deleted from an employee's computer; as such information may be stored on the computer's backup system. The electronic mail system hardware is County property. Additionally, all messages composed, sent, or received on the county e-mail system are and remain the property of the county and are not considered the private property of any employee.

a. PASSWORDS. The use of passwords for security does not guarantee confidentiality. The county may require that all passwords be disclosed. The use of passwords does not imply that the e-mail system or the use of the Internet is for personal confidential communication nor that the use of the email system or the internet are the property right of an employee.

b. PROHIBITED USES. The e-mail system and the use of the internet are not to be used to create, send, receive or otherwise access any offensive or disruptive information. This includes information which contains sexual implications, racial slurs, gender-specific comments or any other comment that offensively addresses someone's age, sexual orientation, religious or political beliefs, national origin or disability. In addition, the solicitations of funds, any illegal or unethical activity or any activity that can reasonably be construed to be detrimental to the interests of the County are specifically prohibited. NOTE: employees may not intentionally intercept, eavesdrop, record, read, alter, or receive another person's e-mail messages without proper authorization.

c. RETENTION OF INFORMATION. E-mail messages and information accessed through the internet may be subject to the provision of the Public Records Act of the State of New Mexico.

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d. **APPLICABILITY.** The e-mail system and access to the internet shall be used only by County employees unless otherwise authorized by the County Manager in writing. Employees of temporary agencies who are assigned to work for the County are also subject to the provisions of this policy.

e. **ENFORCEMENT.** The County Manager, elected officials and department heads are responsible for the implementation of, and adherence to, this policy within their offices and/or departments. Employees and other authorized users who violate this policy or use the e-mail system or the internet for improper purposes shall be subject to disciplinary action, up to and including termination.

10.10 PRIVACY ACT OF 1974/SOCIAL SECURITY NUMBER PRIVACY

Otero County's goal is to ensure, to the greatest extent possible, that employees' social security numbers are maintained confidentially. Social security numbers will not be released to anyone outside Otero County, except as required by law. Social security numbers will be made available internally on a business related 'need to know' basis only. More than four sequential digits of a social security number will not be included on any document mailed outside Otero County, except as required by law, nor will it be publicly displayed in any manner. The social security number will not be used in the ordinary course of business except as the County may determine that it is necessary to verify an individual's identity or to administer employee benefits, such as health insurance. Documents containing social security numbers shall not be removed from County offices. Any documents that include social security numbers that are discarded are to be shredded. Any violation of this policy will result in disciplinary action, up to and including termination of employment.

10.11 ORGANIZATION, MANPOWER AND PAY SYSTEM CHARTS

The County will maintain an Organizational Chart of the structure of positions within the County and includes all regular positions. This chart also outlines the allocated number of authorized positions to be filled each fiscal year. The Organizational Chart is included as part of this policy by reference and is maintained as a separate document. In addition, the county will maintain a General Wage & Position Classification Chart. This chart classifies each County position within specific wage levels based on the overall qualifications of the position. The General Wage & Position Classification Chart is included as part of this policy by reference and is maintained as a separate document. Copies of the above charts are available in the Human Resources office.

10.12 CONTENTS OF PERSONNEL FILE

Subsequent to hiring, a separate record file shall be prepared and maintained for each employee. These records shall be kept in the County Personnel Office. It is the responsibility of the Human Resource Department to maintain and secure personnel records and ensure they are kept up to date. It is the responsibility of the each Department Head, Elected Official and/or County Manager to insure that appropriate documents, such as training, disciplinary actions and/or letters/awards of commendation are forwarded to Human Resources for filing in the appropriate employees personnel records.

At a minimum, all personnel records will contain the following:

- a. The original application and offer of employment
- b. The originating personnel action showing occupation, position classification, date of beginning employment and salary
- c. Copies of personnel action forms
- d. Records or certificates of educational training or orientation achievement completion

- e. Records of disciplinary actions such as reprimands, suspensions, demotions or termination
- f. Insurance and other elected employee benefit related items
- g. Other related actions and forms concerning payroll deductions, insurance payment records, etc
- h. Other related records and/or forms required to be kept by State or Federal law

10.13 ACCESS TO PERSONNEL FILES

Personnel files are the property of Otero County and access to the information they contain is restricted. The County Manager, Elected Officials, Department Heads, and Federal and/or State officials may review information in an individual personnel file that is not their own. Elected Officials and Department Heads may only review files of personnel within their department and/or under their supervision. Federal and/or State officials may only view files if they can produce a current court order or subpoena. Employees who wish to review their own file should contact Human Resources, giving a minimum of two (2) hours notice. Employees may review their own personnel files in Otero County's Administration office and in the presence of an individual appointed by Otero County to maintain the files. Files may not be removed from Otero County Administration at any time.

10.14 EXIT INTERVIEW

The County Manager, Department Head, Elected Official or their designee shall issue a Separation Notice to the terminating employee. In addition, the employee will return all County property including, but not limited to:

- a. Picture Identification Card;
- b. Office keys;
- c. County-issued items such as; cell phones, laptops and/or credit cards;
- d. Company manuals or policy books;

The Separation Notice indicates all equipment and/or county property has been turned in, the reason for termination, evaluates the employee's performance and if rehire action is recommended. The employee will contact Human Resources to schedule an exit interview on his/her last day of employment. An exit interview with Human Resources will not be conducted UNTIL the separation notice has been received by Human Resources. This interview will consist of the following:

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION/RETIREMENT PLAN. All employees will complete a PERA Termination Notice based on their current PERA affiliation to include designating one of the disbursement options (if applicable.)

INSURANCE BENEFITS. Medical, dental, vision and life insurance will normally end on the last day of the month in which the employee's last day of employment occurs. Employee has the right/option to convert to individual insurance benefits in accordance with the Consolidated Omnibus Budget Reconciliation Act ("COBRA") regulations. Human Resources will notify the organization administrating compliance with the Consolidated Omnibus Budget Reconciliation Act ("COBRA") regulations, who in turn contacts the employee.

Retiring employees have the option of continuing insurance coverage under the County's Group Plan (except Life insurance) with all associated costs borne by the retiree.

ADDITIONAL ITEMS: The employee will fill out a questionnaire concerning employment with

Otero County to discuss issues they would like to share prior to termination.

SECTION XI - ORGANIZATION, MANPOWER, PAY, POSITION CLASSIFICATION

11.1 PURPOSE

This Section outlines the provisions for organization, manpower and the County's system of comparing and classifying positions according to their relative equivalence for the purpose of establishing fair and equitable promotion and pay compensation for employees. However, all wages and salaries are approved by the County Commission. Wage and salary increases, when authorized, shall be dependent upon the financial condition of the County.

11.2 APPLICABILITY

The provisions of this section shall apply to all employees except for the following:

- a. Contract Employees - All contract employees are subject to wage increases as negotiated and approved by the County Commission.
- b. Elected Officials - Elected Officials, which include County Commissioners, County Clerk, Treasurer, Assessor, Sheriff, and Probate Judge are subject only to the statutory provisions of law. Chief Deputies - Chief Deputies shall receive 95% of the elected official's salary as their fixed salary.
- c. Appointed Employees - Appointed employees serve at the pleasure of the County Manager and shall receive wage increases as recommended by the County Manager and approved by the County Commission.

11.3 PAY COMPENSATION SYSTEM OVERVIEW

The pay compensation system includes provisions for:

entry level wages;
transfers;
demotions;
cost of living wage increases;
promotion wage increases; and
longevity pay;
performance awards

The pay system includes the following charts:

Chart A – Wage and Compensation Scale
Chart B – Job Title List
Chart C – Organization Chart

The County Commission may at their discretion amend these charts by resolution when appropriate.

11.4 ENTRY LEVEL WAGES

All new employees are normally hired at the entry-level position, Step 1 of the Wage Schedule for the level of position, which has been vacated or otherwise approved for hire by the County Commission. At the discretion of the County Manager, after consulting with the appropriate Elected Official, a vacant position may be filled at a higher rate within the pay scale for that job description where there exists

sufficient information to support such action.

11.5 TRANSFERS

Transfers are lateral movements on the chart. Employees transferring from one position to another do not receive an increase in pay. Refer to Section 4.3b, Transfers Between Departments.

11.6 DEMOTIONS

A demotion is any downward movement on the chart whether voluntary or involuntary. Employees may receive a demotion along the current band for that job specification at the discretion of the County Manager, after consulting with the appropriate Elected Official.

11.7 PROMOTION WAGE INCREASES

Employees may receive an increase along the current band for that job specification at the discretion of the County Manager, after consulting with the appropriate Elected Official.

11.8 PROMOTION PROBATION

The County Manager, after consulting with the appropriate Elected Official may, at their discretion, place an employee on probation for review and evaluation purposes not to exceed six (6) months prior to promoting an employee permanently to an authorized position.

11.9 JOB DESCRIPTION REQUIREMENTS

Each position within the General Wage & Position Classification Chart has a written Job Description which includes specifications for minimum qualifications, education, experience, abilities, skills, license, or certification requirements, and a description of duties and responsibilities required of the position. Job Descriptions for each position are included as part of this policy by reference and are maintained in a separate document entitled Otero County Job Descriptions.

11.10 EQUIVALENCE

Specifications for positions within each specific level of the General Wage & Position Classification Scale (Chart B) must have similar duties, responsibilities and qualifications.

11.11 GRANDFATHER CLAUSE

Any employee whose job description is revised is not subject to the experience, education, or certification requirements of the new job description.

11.12 EDUCATION OR CERTIFICATION FINANCIAL ASSISTANCE PROVISIONS

Please see Section 8.9 in this Ordinance.

SECTION XII - DEFINITIONS

ADMINISTRATIVE LEAVE WITH PAY - Leave granted with pay at the County Manager or Elected Official's discretion.

ADMINISTRATIVE LEAVE WITHOUT PAY - Leave without pay granted/imposed at the County Manager or Elected Official's discretion.

ANNIVERSARY DATE - A day twelve (12) months from an employee's date of hire.

ANNUAL LEAVE - Leave with pay granted to an employee, after accrual at a specific rate, with approval of the employee's supervisor.

APPEAL - Written request that a decision of a formal grievance be reconsidered at a further stage in the grievance procedure.

APPLICANT - A person who has made formal application on an official county personnel application form for an advertised position within Otero County.

APPOINTED EMPLOYEE - Appointed employees are exempt employees, serve at the will and pleasure of the County Manager and/or Elected Officials. Appointed employees are not entitled to formal grievance procedures.

CHIEF DEPUTY - Chief Deputies are appointed/exempt employees and serve at the will and pleasure of an Elected Official. Chief Deputies are not entitled to formal grievance procedures, holiday, or overtime pay.

UNCLASSIFIED EMPLOYEES - An employee serving under Employment-at-will whom can be terminated at any time without cause; e.g., probationary, temporary, contract, part time and chief deputy. Unclassified employees are not entitled to the formal grievance proceedings.

CONTRACT EMPLOYEES (Commission or Elected Official) - Refer to Section 3.7 on page 11.

COUNTY BUSINESS - The performance of duties of a County employee at an employee's normal workstation or at a location authorized by the County.

DEMOTION - A demotion is any downward movement whether voluntary or involuntary.

DEPARTMENT HEAD - Employee who has the responsibility of supervising and administering a department of county government as determined and designated by the County Manager.

DISCIPLINARY PROBATION - A probationary period for a minimum of 30 days that any employee may be placed on for disciplinary reasons during which time the employee is terminable-at-will.

DUE PROCESS - The right granted to a regular classified employee to pre and post disciplinary hearings for actions of suspension, demotion or termination.

ELECTED OFFICIAL - An individual elected by popular vote to fill vacancies in elective office, e.g., County Commissioner, County Clerk, County Treasurer, County Sheriff, County Assessor, and Probate Judge.

EMPLOYMENT-AT-WILL – Term used to describe employment that can be terminated at any time, by either party, without cause; e.g., probationary, temporary, contract, part time and chief deputy. Employment-at-will employees are not entitled to the formal grievance proceedings

EXEMPT EMPLOYEES - All executive, administrative and professional employees who meet parameters defined in the Department of Labor regulations relating to the Fair Labor Standards Act, and whose compensation is based on a minimum fixed salary.

GRANT FUNDED EMPLOYEE - A contract employee hired to fill a full or part-time position, which exists only upon receipt of grant funds. This position is Employment-at-will. The Grant Funded employee is not entitled to the formal grievance proceedings. Benefits, wages, and all other conditions of employment shall be in accordance with the contractual agreement with the County.

GRIEVANCE - A formal complaint by an employee concerning actions taken by management, which result in loss of pay to the employee.

GRIEVANCE HEARING - A formal hearing conducted at the request of an employee who is grieving a termination, demotion or suspension, as set forth in this personnel policy.

HEARING OFFICER - The individual who is charged with the responsibility of hearing and deciding allegations of improper promotion, post-disciplinary action matters of demotion, suspension and termination.

IMMEDIATE FAMILY - Spouses, children, parents, siblings, grandparents, grandchildren, aunts, uncles, first cousins, former spouses and unrelated persons sharing a spousal or a familial relationship, similar in-laws, and step-relationships are also immediate family.

LAYOFF - The involuntary separation of an employee from County service without fault on the part of the employee, due to the abolition of a position, reorganization, lack of work, or lack of funds.

MEDICAL DISABILITY TERMINATION - The termination of an employee from County employment when the employee is unable to perform the essential functions of the position, due to a medical condition, and when the employee has corroborating documentation of this condition from a licensed physician.

NONEXEMPT EMPLOYEES - All employees who are not exempt employees as defined in Department of Labor regulations relating to the Fair Labor Standards Act.

PART-TIME EMPLOYEE - An unclassified employee paid by the hour who may be called on short notice and/or on an occasional basis. Part-time employee may also be one who works less than twenty (20) hours a week. A part-time employee is paid only for hours worked and does not receive any employment benefits. A part-time employee does not have the right to grieve employment decisions.

PRE-DISCIPLINARY HEARING - A hearing conducted by the Elected Official or County Manager or their designee before the imposition of the disciplinary actions of suspension, demotion or termination.

PROBATIONARY EMPLOYEE - A full-time employee hired to fill a regular classified position that has not yet completed the six (6) month probationary period of employment or an employee who has been placed on probation for disciplinary reasons during which time the employee is terminable-at-will. (See Section III for additional restrictions)

PROMOTION - A promotion is any upward movement on the Otero County Wage and Compensation Scale.

REGULAR CLASSIFIED EMPLOYEE - A full time employee who has successfully completed probation with a work schedule of at least forty (40) hours per week.

RETIREMENT - The withdrawal of an employee from the county work force upon meeting the Public Employees Retirement Association eligibility conditions for normal or disability retirement.

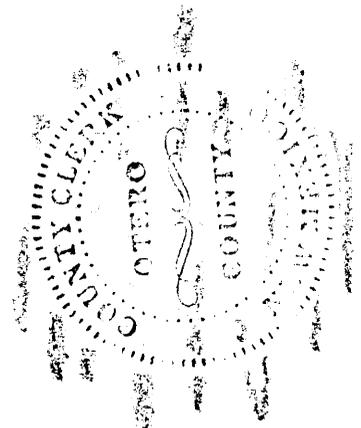
SICK LEAVE - Leave with pay granted to employees, after accrual at a specific rate, when individual or immediate family illness, quarantine, and/or physician appointments keeps the employee from performing the duties of the position.

SUSPENSION - A forced leave of absence, with or without pay, for disciplinary reasons, or pending investigation of allegations made against an employee, or for pending determination of the formal grievance procedure.

TEMPORARY POSITION - A position of an employee to temporarily fill a position that is vacant due to the absence of an employee or for some other requirement. Temporary employment will not exceed a six (6) month period. All temporary employees are terminable-at-will and do not accrue leave. Temporary employee working more than forty (40) hours in a week is entitled to overtime pay but not entitled to employee benefits. Temporary employees are not entitled to the formal grievance proceedings.

TERMINATION - An action which terminates an individual's employment with the County.

TRANSFER - The voluntary or involuntary movement of an employee within a department and/or from one department/office to another within the county.



COMMISSION / ADMINISTRATION
(575) 437-7427
FAX (575) 443-2904



1101 NEW YORK AVE.
ALAMOGORDO, NM 88310-6935

State of New Mexico
County of Otero

OTERO COUNTY
ORDINANCE NO. 14-03

**AN ORDINANCE REPEALING AND AMENDING PROVISIONS
CONTAINED IN THE OTERO COUNTY PERSONNEL ORDINANCE 13-02**

WHEREAS, the Board of County Commissioners of Otero County has adopted Otero County Ordinance No. 13-02; and

WHEREAS, the Board of County Commissioners of Otero County has determined that it is in the best interests of the citizens of Otero County that certain provisions of said ordinance be repealed and that certain other provisions be amended; and

WHEREAS, the Board of County Commissioners of Otero County has determined that the repeal and amendments set forth herein will provide for the safety, preserve the health, promote the prosperity, and improve the working conditions of the employees of Otero County.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Otero County, New Mexico, that Otero County Ordinance 13-02 be amended as attached.

ADOPTED this 16th day of September 2014.

**BOARD OF COUNTY COMMISSIONERS
OTERO COUNTY, STATE OF NEW MEXICO**

Susan Flores
Susan Flores, Chairwoman

Tommie Herrell
Tommie Herrell, Vice-Chairman

ABSTAIN
Ronny Rardin, Member

Attest:

Robyn Holmes
Denise Guerra, County Clerk *Chief Deputy Clerk*
SEAL

Approved as to form and legal sufficiency

Daniel A. Bryant
Daniel A. Bryant, County Attorney

