Ordinance No. 49

Lea County Board of Commissioners

Effective February 8, 2002
LEA COUNTY PERSONNEL ORDINANCE

WHEREAS, the Board of County Commissioners of Lea County, New Mexico, is empowered by statute to adopt rules, regulations, policies and procedures pertaining to the terms and conditions of employment of all county employees; and

WHEREAS, the Board of County Commissioners of Lea County desires to implement a system of personnel management to encourage a quality work environment that will promote quality people and quality service to the people of Lea County;

NOW THEREFORE, the Board of County Commissioners of Lea County, New Mexico, does hereby adopt the following Ordinance to meet the needs of the citizens and employees of Lea County for quality personnel management.

REPEAL AND SEVERABILITY. Lea County Ordinance Number 42, adopted March 19, 1998, be and is hereby repealed as are any inconsistent provisions of any other Ordinance.

If any part of this Ordinance is held to be unconstitutional, invalid or otherwise in conflict with the laws of the State of New Mexico or the United States of America, the validity of the remaining portions of this Ordinance shall not be affected.
Lea County Ordinance No. 49

An Ordinance establishing Lea County personnel policies as adopted on this 8th day of January, 2002, by the Lea County Board of County Commissioners.
# LEA COUNTY PERSONNEL POLICY MANUAL

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SECTION 1 - GENERAL PROVISIONS

1.1 - PURPOSE.

The purpose of this personnel policy manual is to establish consistent, basic policies and practices concerning relations between Lea County and its employees.

The provisions of this personnel policy manual shall apply to all county employees, with the exception that the provisions governing merit and the grievance of disciplinary actions do not apply to appointed employees who serve at the discretion of elected officials or the County Manager.

1.2 - SCOPE.

Definite rules and regulations cannot be readily formulated for every possible problem and/or situation. This ordinance serves as a general basis and guide for the proper, efficient and effective administration of personnel matters of the employees of Lea County.

The personnel rules contained herein replace and supersede all previously issued personnel rules, policies and regulations applicable to employees of Lea County, including but not limited to the Lea County Personnel Policy Manual adopted March 19, 1998, and all amendments and regulations related thereto.

1.3 - AMENDMENT OF POLICY.

There shall be no Resolution or other action of the Board of County Commissioners or other county officials that is inconsistent with this policy, except by amendment of this Ordinance as required by law. The Board of County Commissioners reserves the right to amend this personnel policy manual at its discretion.

1.4 - EMPLOYEE KNOWLEDGE AND INFORMATION OF POLICY.

Department heads shall provide a copy of this policy to present employees and to all new employees with instructions to read and know of all provisions of these rules. Employees shall sign for the copy upon receipt.

1.5 - EQUAL EMPLOYMENT OPPORTUNITY POLICY.

Individuals will not be discriminated against on the basis of race, age, religion, color, national origin, ancestry, sex, physical or mental disability or medical condition, in consideration for employment, duration of employment, compensation, terms, conditions or privileges of employment by Lea County.
Exceptions will be noted in this policy.

1.6 - AFFIRMATIVE ACTION.

Lea County is committed to affirmative action and the recruitment, selection, evaluation, training, discipline, and promotion of qualified minority applicants.

Lea County will annually review all hiring practices to ensure that minority representation is proportionally related to the demographics of the county. Any deficiencies found on an annual basis will be addressed.

The County Manager or designee of the County Commission shall be responsible for implementation of the Equal Employment Opportunity - Affirmative Action program. All department heads and elected officials share in this responsibility and shall be held accountable for achieving goals and timetables formulated to address any documented deficiencies or underutilization of protected groups. Nothing within this section shall be construed to require the use of quotas in any employment practice.

1.7 - ADMINISTRATION OF POLICY.

The County Manager or designees shall administer the personnel system, the terms of this personnel policy, and its amendments and all future approved personnel policies and operating procedures.

1.8 - USE OF PRONOUNS.

All pronouns used in this Personnel Policy Manual shall include the masculine, feminine and neuter genders, the singular and plural, and the context of this policy shall be read accordingly.

SECTION 2 - DEFINITIONS

2.1 - ADMINISTRATIVE LEAVE WITH PAY.

Leave with pay granted for good cause.

2.2 - ANNIVERSARY DATE.

A day twelve (12) months, or a multiple of twelve months, from an employee's date of hire or other employment action.
2.3 - **ANNUAL LEAVE.**

Leave with pay granted to a regular or appointed employee, after accrual at a specific rate, to be used by an employee with the approval of the department head.

2.4 - **APPEAL.**

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

2.5 - **APPLICANT.**

A person who has made formal application on an official county personnel application form for a position with the county.

2.6 - **APPOINTED EMPLOYEE.**

Appointed (at will) employees are those employees appointed by elected officials or the County Manager, who serve at the discretion of those officials. Appointed employees shall be terminable at will and may not grieve disciplinary actions.

2.7 - **APPOINTED POSITION**

An appointed position is one that is filled by appointment of an elected official or the County Manager. Appointed positions may or may not be advertised and are not subject to other recruitment criteria, with the exception of Equal Employment Opportunity criteria. Appointed positions may be governed by the county’s classified compensation system for compensation purposes only, or may be salaried.

2.8 - **CASUAL EMPLOYEE.**

An employee paid by the hour who may be called on short notice and/or on an occasional basis. A casual employee may also be one who regularly works less than twenty (20) hours per week. A casual employee is not eligible for county benefits, is terminable at will, and may not grieve disciplinary actions. (See also Section 3.3.D.)

2.9 - **CLASSIFIED POSITION**

A position governed by the county’s classified compensation system and not filled by means of an elected official’s or County Manager’s appointment. Available classified positions must be advertised and are subject to recruitment criteria as defined in Section 4 of this Ordinance.

2.10 - **COMPENSATORY TIME.**
Those hours granted in lieu of overtime pay to a nonexempt employee as defined by the Fair Labor Standards Act.

2.11 - **COUNTY BUSINESS.**

The performance of duties of a county position at an employee's normal work station or at a location authorized by the county.

2.12 - **COUNTY MANAGER.**

The Lea County Manager, who shall act as the Personnel Director and enforcement officer for the Lea County Personnel Ordinance. Under special circumstances, the Board may designate another county official to act in the capacity of Personnel Director.

2.13 - **DEMOTION.**

A personnel action that reduces the employee's responsibilities and pay. Demotions may be voluntary or may be the result of disciplinary actions or business necessity.

2.14 - **DEPARTMENT HEAD.**

The elected official or appointed employee who has responsibility for supervising and administering a department of county government as determined and designated by the County Commission.

2.15 - **DISMISSAL.**

An action, approved by the department head for whom the employee works and by the County Manager, that terminates an individual's employment with the county.

2.16 - **DUE PROCESS.**

The right granted to a full-time or part-time regular employee who has completed the probationary period to pre and post disciplinary hearings, for actions of suspension, demotion or dismissal.

2.17 - **ELECTED OFFICIAL.**

An individual elected by popular vote or appointed to fill vacancies in elective office (i.e., County Commissioner, County Clerk, County Treasurer, County Sheriff, County Assessor or Probate Judge).

2.18 - **EXEMPT EMPLOYEES.**
Executive, administrative and professional employees as defined in Department of Labor regulations relating to the Fair Labor Standards Act and whose compensation is based on a fixed annual salary. Exempt employees are not eligible for overtime pay or compensatory time.

2.19 - **FLEX TIME.**

An hour-for-hour exchange of work time and time off within a work week or other designated work period as defined by the Fair Labor Standards Act.

2.20 - **FULL TIME EQUIVALENT (FTE).**

Positions are expressed in FTE. A full time position is 1.00 FTE, forty (40) hours per week. In the case of a law enforcement position as defined under Section 207(k) of the Fair Labor Standards Act, an FTE denotes a work schedule of 14 days/86 hours or 28 days/171 hours, as applicable.

2.21 - **GOOD STANDING.**

A former employee who voluntarily terminates employment with Lea County without the threat of disciplinary action or unpaid financial claims, and who has given two weeks notice, shall be eligible for rehire. Rehire is not mandatory.

2.22 - **GRIEVANCE.**

A complaint of an employee concerning actions taken by management that result in loss of pay to the employee or a complaint that arises from dissatisfaction with the working conditions or relationships.

2.23 - **LAYOFFS - REDUCTION IN FORCE.**

The involuntary separation of an employee from county service without fault on the part of the employee, due to reorganization, lack of work, lack of funds, or lack of appropriation of funds.

2.24 - **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 physical or mental disability or other medical condition.

2.25 - **NON-EXEMPT EMPLOYEES.**

Employees who are not exempt employees as defined in Department of Labor
regulations relating to the Fair Labor Standards Act. Non-exempt employees shall receive overtime pay or compensatory time off for actual hours worked in excess of the work week or work period as defined by F.L.S.A.

2.26 - **PART-TIME EMPLOYEE.**

An employee who regularly works twenty (20) or more hours, but less than forty (40) hours per week. A part time employee is eligible for PERA and group insurance benefits, and may participate in the county’s grievance process. A part time employee does not accrue paid leave.

2.27 - **PROMOTION.**

Transfer to a position with a higher classification, with eligibility for increased compensation further defined in the Classification and Compensation Plan.

2.28 - **REGULAR EMPLOYEE.**

A regular employee is one who has completed the probationary period.

2.29 - **TEMPORARY EMPLOYEE.**

A temporary employee is hired on either a full-time or part-time basis to a seasonal position not to exceed four (4) months duration. A temporary employee is not eligible for county benefits or for the grievance process. (See also Section 3.3.C)

2.30 - **TERM EMPLOYEE.**

An employee hired from one fiscal year to the next, subject to the availability and appropriation of funds, or for the life of a project. A term employee is not eligible for benefits or for the grievance process.

**SECTION 3 - EMPLOYMENT STATUS**

3.1 - **FULL-TIME REGULAR EMPLOYEE.**

A full-time regular employee is one who has completed the probationary period and who normally is scheduled to work a minimum of 40 hours per week. A full-time regular employee is eligible for all rights and benefits provided by the County.

3.2 - **PART-TIME REGULAR EMPLOYEE.**
A part-time regular employee is an employee who has completed the probationary period, who works 20 or more but less than 40 hours per week. A part-time regular employee is eligible for PERA and group insurance benefits, and may participate in the county’s grievance process. A part-time regular employee does not accrue paid leave.

3.3 - OTHER CLASSES OF EMPLOYEES

A. Appointed Employees:

The appointees of elected officials are as follows: the County Manager; the undersheriff and executive secretary to the sheriff; the chief deputies to the county assessor, clerk and treasurer; bureau of elections administrator; chief appraiser; and others designated by job description approved subsequent to this ordinance by the County Commission.

Department heads and unclassified administrative staff who report to the County Manager shall be appointed by the County Manager with the concurrence and ratification of the County Commission.

Appointed employees shall, unless otherwise defined through job description, receive a salary set by the County Commission based on the recommendation of the County Manager. Appointed employees are terminable-at-will and cannot avail themselves of the grievance procedure set forth herein, but are entitled to all other benefits provided by the county unless otherwise excepted.

B. Probationary Employee:

The purpose of the probationary period is to evaluate the employee’s ability, potential and performance. A full-time or part-time probationary employee is one who is hired to fill a regular, established position and who has not yet completed the probationary period of employment.

A probationary employee may be terminated with or without cause at any time during the probationary period, and may not avail himself of the grievance procedure set forth herein, but is entitled to all other county benefits provided herein.

The probationary period will be designated in the job description, and shall be six (6) months, except in the case of law enforcement, detention, and non-appointed supervisory personnel, when it shall be one year.

1. An employee hired to a full-time or part-time established position shall begin serving the probationary period on the first day of work in that position.

2. A probationary employee accrues annual and sick leave, but may not use
accrued annual leave until the probationary period is completed, or six (6) months of employment is completed, whichever comes first. Use of sick leave during the probationary period shall be approved by the employee’s department head on a day by day basis.

3. To determine whether an employee has satisfactorily completed the probationary period, the employee’s department head will complete a written evaluation of the employee’s performance as provided in Section 6.1.A.

4. An employee hired on the condition that he or she obtains a specific certification shall obtain the certification during the probationary period except as otherwise provided for in the job description for the appropriate position. Failure to obtain such certification within the period bars the employee from becoming a regular employee and shall result in the employee’s dismissal.

5. An employee who is temporarily assigned to a vacant position and is subsequently hired to fill that position shall serve the required probationary period. The beginning date of the probationary period is the date the employee began filling the position on a temporary basis. An employee may not be temporarily assigned to a vacant position for more than six (6) months.

6. A regular employee who is promoted or transferred to another position shall be subject to a probationary period. That probationary period shall be six (6) months, except in the case of law enforcement, detention and supervisory personnel not appointed by an elected official, in which case it shall be one year. During the probationary period following promotion or transfer, a regular employee shall be allowed to use both accrued sick leave and annual leave as approved by the appropriate department head on a day by day basis.

7. A former Lea County employee rehired to the same position more than six (6) months after termination, or rehired at any time to fill a different position, shall serve the required probationary period.

8. If a newly-hired employee does not satisfactorily complete the probationary period, the employee will be dismissed. Proposed dismissal of a probationary employee must be discussed with the County Manager.

9. If a regular employee, having already completed one probationary period when originally hired, is promoted or transferred and does not satisfactorily complete the probationary period following that change of status, the employee may -- with the approval of the appropriate department head(s) and the County Manager, be returned to the former position or a comparable position, if such a position is available. If such a position is not available, the employee will be dismissed. Such demotion or dismissal is subject to the county’s grievance procedure.

C. Temporary Employee:
A temporary employee is hired on either a full-time or a part-time basis to a seasonal position not to exceed four (4) months duration. A temporary employee is not eligible for county benefits or for the grievance process. Temporary employment includes no guarantee of a minimum number of hours.

If an employee hired on a temporary basis works more than four (4) months, the employee shall be reclassified as a regular part time or regular full time employee and shall be eligible for the appropriate benefits. The employee’s probationary period shall be counted from the first day worked following the expiration of the initial four-month period.

Temporary employees shall be subject to the same competitive hiring process as full-time regular and part-time regular employees. Allowing an employee to work beyond the designated four-month period – thus triggering reclassification as a regular employee – is not considered an appropriate means of increasing staff in a department. (See also Section 4.1.)

D. Casual Employee:

A casual employee is an employee paid by the hour who may be called on short notice and/or on an occasional basis. A casual employee may also be one who regularly works less than twenty (20) hours per week.

A casual employee is terminable-at-will, is not entitled to grieve personnel actions, does not receive benefits, does not accrue leave and is not guaranteed any minimum number of working hours.

If an employee hired on a casual basis works more than twenty (20) hours per week on more than a few isolated occasions, the employee shall be reclassified as a regular part time employee and shall be eligible for the benefits appropriate to that classification. Allowing a casual employee to work beyond the designated number of hours on more than a few occasions – thus triggering reclassification – is not considered an appropriate means of increasing staff in a department. (See also Section 4.1.)

SECTION 4 - RECRUITMENT AND SELECTION

4.1 - RECRUITMENT AND POSTING PROCEDURE.
A vacant position may be filled either by transfer from another county department or by the hiring of a new employee. Vacancies may be filled from among current county employees after internal posting of job notice and without public advertisement.

Interdepartmental transfer should be based on qualifications, experience and overall suitability for the position. There is no automatic preference for in-house applicants; department heads and elected officials are not required to approve a requested transfer if the applicant does not meet the posted qualifications, experience and overall suitability requirements.

Positions not filled from among current county employees shall be advertised at least once in a local newspaper. The notice will allow an adequate number of working days for receiving applications. Posting may occur simultaneously with advertising.

The County Commission may set reasonable restrictions on the filling of vacancies, but shall generally allow filling of any vacancy absent budgetary or legal restraints.

4.2 - EXCEPTIONS TO POSTING.

Posting is waived, with the approval of the County Manager, when an applicant is authorized to perform the duties of a position on a temporary or casual basis, or when an emergency appointment has been approved.

4.3 - EMERGENCY APPOINTMENTS.

Emergency appointments of persons not already employed by the County, not to exceed sixty (60) days, may be made without advertising when the Board of County Commissioners determines such action is necessary to protect the public, meet statutory deadlines, or avoid untenable disruption or delay in service to the public.

Should the emergency be expected to extend beyond sixty (60) days, this period shall be used to fill the needed position by competitive procedures as provided in Sections 4.1, 4.4 and 4.5 of this Ordinance.

Emergency appointments shall not be extended for an individual or made consecutively to another individual to avoid filling the position by competitive procedures. Any person hired under emergency appointment shall not be transferred, reassigned, demoted, promoted, or by any method placed in a classified position except through the competitive procedures, or by special permission of the Board of Commissioners in exceptional circumstances.

4.4 - REQUEST FOR TRANSFER.
No county employee or department head can deny another county employee who has completed the probationary period and who is not the subject of disciplinary action, permission to apply for a job vacancy in any other county office or department for which the employee is qualified.

Any final transfer action must be approved by both department heads, but will not be withheld unreasonably, as determined by the Board of County Commissioners.

4.5 - **APPLICANT RESPONSIBILITY**

A. **Submission of Applications:**

Applications for employment shall be accepted in the County Manager's office during normal business hours.

Applications may also be accepted at the New Mexico Department of Labor in Hobbs, and at other locations designated by the County Manager, to be forwarded to the County Manager's office.

Applicants shall be considered for positions for which they have applied and are qualified.

Applications must be submitted on the employment application form provided by the County.

B. **Proof of Qualification:**

The applicant is responsible for furnishing proof of qualifications or possession of any license, certificate, or degree when these requirements are necessary and set forth in the job description.

C. **Immigration Act Compliance:**

The applicant is responsible for furnishing proof of identification and right to work in accordance with the Immigration Reform and Control Act of 1986.

D. **Referral to Department Head:**

The County Manager or designee will refer applicants who have met the qualifications to the department head for consideration.

4.6 - **SELECTION.**

Selection shall be made based on the following: skills, educational background,
experience, personal interview, references, and results of pre-employment examinations when required.

Department heads reporting to the County Manager shall submit to the County Manager in writing their recommendations for hiring. The County Manager shall have final approval of nominees submitted to the County Commission. The County Commission shall approve the hiring of all new non-appointed employees in departments reporting to the County Manager.

The commission may review appointments in elected offices, and may reject appointees not meeting the minimum requirements or appointments made not in compliance with existing hiring practices and procedures.

A. Employment Reference Checks:

References provided by the applicant may be checked. Applicants will be asked by the county to sign a written authorization for the county to check references. Only those applicants who sign this written authorization will be considered for the position for which they have applied.

B. Credit Checks:

Applicant credit records will be checked where job-appropriate. Applicants will be asked by the county to sign a written authorization for the county to check credit records.

C. Physical Examinations or Other Testing:

Post-offer physical examinations and other testing will be employed as identified in job descriptions, within the limits of applicable state and federal law, and the Lea County Alcohol and Substance Abuse Procedures and Regulations.

These post-offer screening tests shall be at the County's expense. Any further testing or treatment recommended to an applicant by any of the testing practitioners may be at the applicant's own expense. The applicant shall be notified in writing concerning the provisions of this subparagraph.

4.7 - INELIGIBILITY FOR HIRE AND REHIRE.

An applicant shall be considered ineligible for hire or rehire by Lea County if the applicant has:

A. Made any false statement or deliberate omission on the employment application.

B. Not met the requirements of the position.
C. Failed to complete or pass the most recent post-offer examinations or other requirements as directed by the county.

D. Not met the criteria for insurance or bonding as required by county policy or state law.

E. Been certified by an appropriate licensed professional that the applicant cannot perform the essential functions of the position.

F. Been convicted of a felony or a misdemeanor as described in NMSA 1978, Section 28-2-1, et seq., (1991 Repl. pamp.) or convicted of a felony or infamous crime as defined in NMSA 1978, Section 10-1-3 (1991 Repl. pamp.).

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

4.8 - INELIGIBILITY OF APPLICANTS FOR DEPUTY SHERIFF AND DETENTION OFFICER.

No person under indictment, or 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.

SECTION 5 - CHANGES IN EMPLOYMENT STATUS

5.1 - PROMOTION.

County employees are encouraged to take advantage of promotional opportunities and apply for higher paying positions, which require more responsibility, for which they qualify. Failure to promote is not a grievable action.

5.2 - DEMOTION.

An employee may be demoted to a vacant position for which the employee is qualified when:

A. The employee would otherwise be laid off because the employee's position is being abolished due to a lack of funds or lack of work and there are no appropriate vacancies at the same level;

B. The employee does not possess the necessary ability to render satisfactory performance in the position presently held; or,
C. The employee voluntarily requests such a demotion.

Demoted employees will receive a reduction in pay.

Only a regular employee demoted due to an inability to render satisfactory performance in the position presently held is entitled to grievance proceedings.

5.3 - TRANSFER.

An employee may be transferred from one position to another either voluntarily or involuntarily if it is in the best interest of the county.

Transfers may include changes in classification and rate of pay as specified in the Lea County Compensation and Classification Plan.

Involuntary transfers that do not involve a demotion are not grievable.

5.4 - RESIGNATION.

An employee voluntarily resigning shall submit, in writing, a two week notice of resignation. Failure to provide written two week notice of resignation may be grounds for refusal of future employment with the county.

Unauthorized absence from work for a period of three (3) consecutive, regularly scheduled working days may, at the sole discretion of the County Manager, be considered a voluntary resignation.

5.5 - REDUCTION IN FORCE.

If it becomes necessary for the county to reduce the number of county employees because of the lack of availability or appropriation of funds or the lack of work, the County Commission and its designees shall make the determination of the necessity for layoffs.

The reduction will occur in the following manner, and shall be approved by the County Commission. Reductions in force are not grievable.

A. Casual, temporary, and probationary employees will be laid off before full or part-time regular employees unless they are filling positions that require specific skills and knowledge.

B. Lay-off of regular employees shall be determined by department head, based on the employee’s suitability for the jobs remaining.

C. Employees to be laid off shall be notified at any time during a pay period and
shall be allowed to work through the end of that regular pay period or receive pay to the end of that period.

D. Accrued annual leave shall be paid on the next regular payday.

E. A laid-off employee must reapply to be considered for future employment.

F. A laid-off full-time regular employee returning to county employment within six months of lay-off will not serve a probationary period if hired to the same position.

5.6 - DISMISSAL.

Department heads shall have the authority to dismiss regular employees for cause, which shall include, but not be limited to, unsatisfactory performance or illegal activity or misconduct on the job.

Appointed employees serve at the discretion of the official under whom they are employed and may be dismissed with or without cause.

All dismissals must be discussed with the County Manager or designee of the County Commission before any action is taken.

SECTION 6 - CONDITIONS OF EMPLOYMENT

6.1 - RESIDENCY REQUIREMENT.

Effective April 18, 1998, anyone hired to a Lea County employment position must be a resident of Lea County at the time of hire, or must establish residence in the county within 90 days of hire, and maintain residence in the county for the duration of employment. Individuals hired prior to April 18, 1998, and who lived outside Lea County at that time, will not be required to conform.

6.2 - NEPOTISM.

No elected official or appointed official shall give employment as clerk, deputy, or assistant, or other class of departmental employee whose compensation is to be paid out of public funds and is six hundred ($600) dollars or more per year, to any person related by blood or marriage within the third degree to the person giving such employment. NMSA 1978, Section 10-1-10 (1992 Repl. pamp.) or as amended. Any exceptions to this rule must be approved by the County Commission.

In addition to the restrictions imposed under State Statute, Lea County personnel practices shall be governed by the following definition and policy:
A. **Definition of Nepotism:**

Nepotism, for purposes of this personnel policy manual, is defined as the practice of giving preferential treatment in areas of employment including, but not limited to selection, benefits, pay, promotion, and discipline, to an employee's near relatives.

For purposes of this nepotism policy, near relatives are defined as the employee's spouse, children, parents, siblings, grandparents, grandchildren, and all like-relations of the employee's spouse. This definition is to cover any person related to the employee by birth, adoption, or marriage.

B. **Prohibited Practices:**

The practice or appearance of nepotism is prohibited. Near-relatives shall not work in the same department when there is a supervisory relationship between them. Any problems arising from such a situation should be referred to the County Manager for review. Near-relatives cannot fill or be promoted into a position that requires supervision by a near relative.

6.3 - **CONFLICTS.**

A. **Conflict Ban:**

No employee shall engage in any business or transaction -- including self-employment -- or accept private employment or other public employment that is incompatible with the proper discharge of the employee's responsibilities, in the judgment of the department head, or which gives the appearance of impropriety.

All employees shall be required to report outside employment through their department heads to the County Commission, through the personnel office, immediately upon hire to a county position, or upon acquisition of outside employment, whichever comes first. Outside employment status shall be updated annually in January.

In addition, the County Commission or the appropriate elected official shall review, and may disapprove, any outside employment by any employee that is determined to be in conflict with county operations.

B. **Termination of Outside Employment:**

A determination by a department head, appropriate elected official or the County Commission that supplementary/outside employment has a negative impact on an employee's job performance cannot be grieved.

6.4 - **PERFORMANCE EVALUATION.**
Evaluation forms and training on use of performance evaluations will be provided by the County Manager.

A. Probationary Period Evaluations:

The department head will discuss performance with the employee during the probationary period, and a written performance evaluation will be done at mid-term and again before the end of the probationary period.

The employee must receive a performance evaluation of satisfactory or better at the end of the probationary period before the employee can become a regular employee entitled to all of the rights and benefits of that status. See also Section 3.3 (B).

B. Other Evaluations:

Employees may also be evaluated upon the following conditions:

1. A change of status.
2. Recommendation of any type of salary increase, including merit increases if available.
3. Demotion or suspension.
4. Any other time that a department head or immediate supervisor wishes to make the particularly good or bad performance of an employee a matter of record.

C. Contents of Evaluation:

A performance evaluation shall contain an overall appraisal of the employee's performance such as satisfactory, outstanding or unsatisfactory. Narrative summary of performance is encouraged.

D. Employee Rebuttal:

The employee may submit a written rebuttal statement to the performance evaluation which will be attached to and become a part of the performance evaluation. The rebuttal shall be submitted within 10 days of the evaluation. Performance evaluations are not grievable.

E. Unsatisfactory Evaluation:

In the event a regular employee receives an overall evaluation of unsatisfactory,
the employee shall be provided with written information in the evaluation covering specific areas of deficient performance and steps for improvement.

The employee also shall be warned that failure to meet reasonable performance standards of the position within a set time period (not to exceed ninety (90) days) shall result in dismissal.

An employee who receives an overall evaluation of unsatisfactory shall be reevaluated within ninety (90) days, and, if performance remains unsatisfactory, may be dismissed pursuant to the procedures in these rules.

6.5 - PROHIBITED POLITICAL ACTIVITIES.

All employees are prohibited from the following:

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 county officer 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-raising events and similar events, advising employees to take part in political activity and matters of a similar nature.

D. Engaging in political activity, wearing or displaying campaign material, or campaigning on county property while on duty, or while in a county vehicle.

6.6 - SEXUAL HARASSMENT

A. Purpose of Policy Regarding Sexual Harassment:

Sexual harassment of employees in the workplace, as well as retaliation against employees who file a complaint or a report of sexual harassment, is illegal, unacceptable, and will not be tolerated. Anyone to whom this policy is applicable and who violates it will be subject to discipline up to and including dismissal.

B. Applicability of Policy:

This policy is applicable to all employees of Lea County. For the purpose of this policy, the term “employees” means all temporary, probationary, term, casual,
appointed and regular classified and unclassified employees, elected officials, non-employee volunteers and others whose work is subject to the direct control of the county.

C. Definition:

Sexual harassment is behavior of a sexual nature that is unwelcome and personally offensive to its recipient. Such behavior may come from Lea County employees as well as from non-employees.

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexually harassing behavior may include, but is not limited to: physical contact; jokes or remarks of a sexual nature; lewd language; sexually oriented propositions, put-downs, innuendos, cornering or double entendres; displaying sexually suggestive objects, pictures, magazines or cartoons; eye contact and body language that may be offensive; and persistent requests for dates.

D. Provisions:

1. All employees of Lea County are expected to abide by the sexual harassment policy and to avoid any behavior or conduct toward any other employee or individual that could be interpreted as sexual harassment.
2. Employees who complain of sexual harassment or report knowledge of its occurrence shall not be subject to retaliation for making such complaints or reports.
3. Any employee who violates this policy will be subject to discipline up to and including dismissal, in accordance with the provisions of this ordinance.
4. Each elected or appointed official, manager and supervisor shall take the steps needed to establish and maintain a work environment that is free of sexual harassment from employees and non-employees of the county.
E. Sexual Harassment Complaint Procedures:

1. Any employee who believes that he or she has been the victim of sexual harassment is encouraged, if comfortable doing so, to inform the harassing individual that the behavior is offensive and that it should stop. Whether or not the harassing individual is confronted directly about his or her behavior, the employee should immediately notify his or her supervisor – unless the supervisor is the individual doing the harassing – and the supervisor will immediately notify the County Manager, the County Attorney or the County Personnel Administrator.

2. If the supervisor is the individual harassing the employee, the employee should go directly to the County Manager, County Attorney or County Personnel Administrator.

3. Any elected or appointed official, manager, supervisor or employee who observes or becomes aware of any possible sexual harassment shall immediately report it to the County Manager, County Attorney or County Personnel Administrator.

4. The County Manager, County Attorney or their designee shall promptly investigate the complaint and, if the report of harassment is substantiated, advise the person against whom the complaint is made that the behavior complained of is inappropriate and will not be tolerated.

5. If the reported harassment is substantiated, prompt corrective action will be taken. Such action may include discipline up to and including dismissal of the offending employee or employees, depending on the nature of the violation.

6. The charging party shall be advised of the results of the investigation and whether any action has been taken. The exact nature of the action taken may not be subject to disclosure because of privacy considerations.

7. The investigation shall be kept as confidential as possible, and shall be well documented.

8. Employees who file sexual harassment complaints or initiate, conduct or participate in the investigation of sexual harassment complaints may not be retaliated against, and such retaliation in and of itself may be grounds for disciplinary action.

9. The County Manager shall advise the County Commission of all ongoing sexual harassment complaints and investigations.

6.7 - DRUG TESTING POLICY.
Lea County is committed to the goal of a drug-free work place in compliance with the Drug-Free Work Place Act of 1988. The Lea County drug testing policy will be regulated by resolution.

SECTION 7 - EMPLOYEE DISCIPLINE

7.1 - BASIS FOR EMPLOYEE DISCIPLINE

A. **Discipline:**

Disciplinary actions for regular full and part time employees are based on showing of cause.

Disciplinary actions will be consistent with governing laws and regulations and will be taken without regard to race, age, religion, color, national origin, ancestry, sex, physical or mental disability or medical condition.

No employee will be disciplined for refusing to perform an unlawful act.

B. **Definition of “For Cause”:**

Cause is defined as any conduct, action or inaction arising from, or directly connected with, the employee's obligation to the county and reflecting the employee's disregard of the county's interest.

Cause includes, but is not limited to, inefficiency, incompetence, misconduct, negligence, insubordination, performance that continues to be inadequate after reasonable efforts have been made to correct the performance problems, violation of county policies, or conviction of a crime.

C. **Disciplinary Action:**

Any department head may take disciplinary action against an employee under the department head's authority, consistent with departmental policies and this personnel policy manual.

Copies of any documented disciplinary action must be furnished within five working days to the County Manager's office for placement in the employee's personnel file with the signature of the recipient acknowledging receipt of the action.

D. **Consultation with County Manager:**

Dismissal, involuntary demotion, and suspension require consultation with the County Manager, County Attorney or County Personnel Administrator.
7.2 – COUNSELING SESSION.

The purpose of counseling is to provide guidance and direction to personnel in an attempt to make corrections to behaviors or actions that, if repeated or unchanged, could lead to disciplinary action. A counseling session will not therefore be viewed as a disciplinary action. A supervisor taking disciplinary action in the future, however, will take into account any previous counseling session for the same or similar type of behavior or action. A written notation of a counseling session should be made by the supervisor and initialed or signed at the time by the supervisor and the employee. That notation should be kept in the employee’s departmental personnel file for future reference if needed. Documentation of counseling will not be placed in the employee’s official county personnel file unless or until it becomes part of a future employment action.

7.3 - PROGRESSIVE DISCIPLINE.

A regular full or part time employee shall be progressively disciplined whenever possible.

Each case of inadequate performance or act of misconduct shall be judged individually. The step 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 dismissal.

A. Oral Reprimand:

An oral reprimand is used for minor infractions, i.e., informing the employee that his actions, behavior or conduct needs to change.

Supervisors will keep written notations of oral reprimands, and a statement that oral counseling took place will be placed in the employee’s personnel file.

An oral reprimand is not grievable.

Causes of oral reprimands include, but are not limited to:

1. Substandard work performance
2. Repeated absence or tardiness

B. Written Reprimand:
An employee shall receive a written reprimand because the deficiency or infraction is of a greater degree than that for which an oral reprimand may be used or if an oral reminder was not effective.

Causes for written reprimands include, but are not limited to:

1. The causes listed for oral reprimands
2. Insubordination
3. Sleeping on the job
4. Campaigning as or for a candidate for an elected office in violation of the provisions of this Ordinance.
5. Recurrent conduct by an employee or associates of an employee that disturbs, disrupts or interferes with normal employment duties.
6. Chronic display of hostile or abrasive attitude rendering the workplace unpleasant or uncomfortable for other employees or for persons conducting business with the county.

Written reprimands shall be placed in the employee's personnel file by the employee's supervisor after providing the employee with a copy of the statement. The employee will be asked to acknowledge having read the comments by signing the statement. The employee may respond by noting on the reprimand that he does not agree or with a written rebuttal which shall be placed in the employee's personnel file.

The placement of a written reprimand in an employee's file is not grievable.

At the employee's request and with the approval of the County Manager, the written reprimand may be removed from the employee's personnel file twenty-four (24) months after the employee received the reprimand, provided the employee has not received another oral or written reprimand or other disciplinary action during the twenty-four (24) month period. The department head or supervisor who issued the reprimand shall be notified of its removal.

C. Suspension:

FLSA-exempt employees may not be suspended for less than one working week, except in the case of a major safety violation.

An FLSA-non-exempt 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 (30) working days.

Suspension of a regular employee is subject to the formal grievance procedures.

D. Involuntary Demotion:

An employee may be demoted for continued inadequate job performance after previous attempt(s) to correct the conduct have failed.

The demotion of a regular employee is subject to the formal grievance procedures.

E. Dismissal:

Dismissal may be the final consequence when progressive discipline has failed to change unacceptable behavior or performance. Dismissal is also appropriate when the employee has engaged in behavior that is of a serious nature which is unacceptable for county employees even though the employee has not been previously disciplined.

The dismissal of a regular employee is subject to the formal grievance procedure.

Possible causes for dismissal may include, but are not limited to:

1. All causes listed for the previous disciplinary actions if continuing attempts at correction have failed.

2. Deliberate falsification of information on the employee’s job application or other county records.

3. Theft of county property or unapproved use of county property for personal reasons.

4. Conviction of a felony or criminal misdemeanor.

5. Acts of negligence causing damage to persons or property.

6. Intentional abuse or destruction of county equipment.

7. Insubordination.

8. Discrimination or harassment on the part of a supervisory or non-supervisory employee against any other employee on the basis of age, race, color, sex, national origin, political or religious affiliation or absence thereof, physical or mental disability, veteran status, or personal animosity.
9. Physical or verbal assault or harassment by an employee of any other employee or member of the public.

10. Misappropriation of county funds or property.

11. Falsification of any official report or document.

12. Unauthorized disclosure of any investigation, proposed sale or purchase, or personnel action that is not a public record; breach of confidentiality when such confidentiality is made a condition of a specific employment position or assigned duty.

13. Failure to participate in a county-designated investigation, or lying to a supervisor or to a county-designated investigator.


15. Failure to follow safety rules or building security policies.

16. Violation of county or departmental rules, policies and procedures.

17. Conduct unbecoming an employee of Lea County, i.e., conduct that is counter to the best interests of the county, or of county employees, or of the general public.

The above examples are typical of the types of infractions sometimes encountered but are not inclusive of all situations that would warrant termination without progressive discipline. The county reserves the right to exercise judgment and render disciplinary action or dismissal as determined appropriate based on the circumstances of each case.

7.4 - CONDITIONS OR ACTIONS NOT GRIEVABLE.

The following matters are not grievable:

A. Disputes concerning an established county practice or policy.

B. Matters where 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. Temporary, casual, term or part time employees released prior to or at the end of their anticipated employment period.
E. Probationary employees dismissed prior to the expiration of their probationary period.

F. Appointed employees dismissed at any point during their employment with the county.

G. Performance evaluations, oral reprimands, written reprimands, promotions, transfers, temporary assignments, removal from temporary assignments, and layoffs.

SECTION 8 - FORMAL GRIEVANCE PROCEDURE.

8.1 - INITIAL STEPS IN FORMAL GRIEVANCE PROCEDURE.

This formal grievance procedure applies only to the suspension, involuntary demotion, and dismissal of regular employees.

A. Written Notification:

Written notification of intent to suspend, demote or dismiss shall explain the reasons for the proposed action, explain the employee’s right to a pre-disciplinary hearing before the department head, and contain the scheduled time and place of the pre-disciplinary hearing.

The employee’s department head shall present the employee with such notification at least five (5) working days in advance of the scheduled pre-disciplinary hearing. The notification shall be delivered to the employee, receipt of which shall be acknowledged by the employee.

B. Immediate Suspension:

The employee’s department head, with approval of the County Manager, may place the employee on administrative leave with pay pending the appropriate disciplinary hearing and until a decision is rendered.

8.2 - PRE-DISCIPLINARY HEARINGS.

An employee shall pursue grievances according to the rules contained herein.

A. Request for Pre-disciplinary Hearing:

Within three (3) working days of the receipt of the disciplinary notice, the employee is required to notify the department head, in writing, whether or not the employee...
will participate in the pre-disciplinary hearing.

The time, place, and date of the pre-disciplinary hearing may be rescheduled with the written approval of the department head.

B. Pre-disciplinary Hearing Procedure:

The department head shall determine who may attend the pre-disciplinary hearing, except that legal counsel will not be allowed. The pre-disciplinary hearing shall be informal in nature.

C. Pre-disciplinary Hearing Decision:

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

The employee has a right to appeal the decision to a personnel hearing officer if the action involves demotion, suspension or dismissal.

D. Effect of the Decision:

Disciplinary actions will become effective at the time that the pre-disciplinary decision is issued.

8.3 - POST-DISCIPLINARY HEARINGS

A. Notice of Appeal:

Within ten (10) calendar days of receipt of the written pre-disciplinary decision, the grievant must give written notice to the County Manager of the grievant's intent to pursue a post-disciplinary hearing.

B. Post-disciplinary Hearing:

At the hearing, the grievant shall have an opportunity to present witnesses and physical evidence and cross-examine the county's witnesses before a neutral hearing officer. The grievant and the county may be represented by legal counsel. All attorneys representing a party shall file an Entry of Appearance with the County Manager prior to the day of the hearing.

C. Appointment of Hearing Officer:

Within five (5) days of the notice of appeal, the County Manager will provide the
grievant a list of three (3) proposed hearing officers.

Within five (5) days of receipt of the list of proposed hearing officers, the grievant will notify the County Manager of the acceptance of an officer.

If the grievant does not choose an officer within the time limit, the County Manager shall designate one from the list.

D. Hearing Officer Qualifications:

The hearing officer shall be a personnel professional, or be familiar with public or private personnel systems, or have pertinent experience in the fields of management, education, or law. Qualifications for service as hearing officer shall be verified by the County Manager's office.

The hearing officer need not reside in Lea County.

8.4 - POST-DISCIPLINARY HEARING PROCEDURES.

A. Time of Hearing:

1. The hearing officer will determine the date and time of the post-disciplinary hearing.

   a. The post-disciplinary hearing shall be scheduled within sixty (60) days of the receipt of the notice of appeal. The hearing officer may order the postponement of the hearing upon good cause shown.

   b. Such hearings will be conducted at a time and place that is mutually convenient to all parties concerned.

   c. Requests for continuances of hearings shall be made at least five (5) working days prior to the scheduled hearing, absent extenuating circumstances. Requests for continuances of hearings shall be made in writing directly to the hearing officer with copies to all parties involved.

2. The following persons are required to be present at all post-disciplinary hearings unless otherwise excused by the hearing officer or by agreement of the parties: the grievant, grievant’s representative (if any), the department’s designated representative, and the County Attorney.

3. Witnesses in grievance hearings are not admitted into the hearing room until called upon to testify. This ban excludes those individuals listed in Section 3 above.
4. Either a tape recorded or stenographic record of all post-disciplinary
grievance hearings will be made.

B. Conduct of Hearings

1. Burden of Proof:

The county carries the burden of proof by a preponderance of the
evidence.

2. Order of Presentation:

a. The county shall present an opening 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 (10) minutes
without permission of the hearing officer.

b. The county will present its case first. Witnesses for the county may be
called and questioned on their involvement in, or knowledge of, the case.
Following each witness' testimony, the grievant or the grievant's attorney
will have the opportunity to cross-examine the witness. The hearing officer
will then have the opportunity to question the witness on matters related
only to the witness' testimony.

c. Witnesses for the grievant may be called and questioned on their
involvement in, or knowledge of, the case. Following each witness' testimony,
the County Attorney or his designee will have the opportunity to
cross-examine the witness. The hearing officer will then have the
opportunity to question the witness on matters related to the witness' testimony.

d. Following presentation of the grievant's position, the county may offer
rebuttal testimony. Such testimony shall be brief, and shall address only the
issues brought forth in the grievant's presentation.

e. The grievant's closing statement shall be presented, followed by that of
the county. These statements shall not exceed ten (10) minutes without the
permission of the hearing officer, and at a minimum shall contain a request
for the desired outcome.

3. Rules of Evidence and Procedure:

a. The technical rules of evidence shall not apply, but in ruling on the
admissibility of evidence, the hearing officer may require reasonable
substantiation of statements or records tendered, the accuracy or truth of
which is in reasonable doubt.

b. The Rules of Civil Procedure for the District Courts shall not apply, but the hearing shall be conducted so that both complaints and defenses are amply and fairly presented. To this end, the hearing officer shall hear arguments, permit discovery, entertain and dispose of motions, require written expositions of the case as the circumstances justify and render a decision in accordance with the law and the evidence presented and admitted.

C. Communication of Findings:

The hearing officer's findings of fact and recommendations for discipline will be issued within thirty (30) days of the hearing and will be signed by the hearing officer and transmitted to the grievant, the Lea County Board of County Commissioners, and the County Manager.

The hearing officer may recommend upholding, modifying or reversing the decision of the department head, and may recommend any disciplinary action authorized under this ordinance including reinstating a dismissed employee and awarding back pay and benefits.

The record of the proceedings will be retained by the County Manager's office or the certified court reporter for a period of not less than one (1) year 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 respective parties. The party requesting the transcription shall make arrangements to pay for the transcription.

D. Final Decision:

1. The Lea County Board of County Commissioners will consider the report, findings and recommendations of the hearing officer and may uphold, modify or reverse the recommendations of the hearing officer.

2. The Board shall issue a written decision, which shall include a statement of the factual and legal basis for the decision, within thirty (30) days of the date the hearing officer's report is issued. The Board's decision shall be filed with the official public records of the county, and a copy of the written decision and the requirements for filing an appeal shall be sent to the grievant by certified mail, return receipt requested.

E. Appeal of Board Decision:

1. Either party may petition the state District Court for a Writ of Certiorari within
thirty (30) days of the receipt of the decision.

2. The appeal shall be taken pursuant to Rule 1-075 of the Rules of Civil Procedure for the New Mexico District Courts.

3. This personnel policy manual shall be included in the record on appeal at the request of any one of the respective parties at any time before filing the record with district court.

F. **Time:**

In computing any period of time prescribed or allowed by this ordinance, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not one of the aforementioned days. As used in this ordinance, legal holiday includes any day designated as an official county holiday.

8.5 - **PROCEDURE FOR GRIEVING WORKING CONDITIONS, COMPLAINTS OF DISCRIMINATION, AND OTHER WORK RELATED PROBLEMS.**

With respect to those conditions about which an employee wishes to grieve but which are not subject to the formal grievance procedure set forth in Sections 8.1 through 8.4, the employee shall discuss the problem with the department head in an attempt to work out a solution.

If the employee is not satisfied with the proposed solution, the employee may address the problem to the County Manager, or County Commission designee, whose decision shall be final.

However, the board reserves the right to review other work-related grievances at its discretion, if it determines review is warranted due to exceptional circumstances.

Complaints regarding discrimination based on race, color, religion, sex, age, national origin, physical or mental disability, or medical condition should be brought to the attention of the County Manager for prompt investigation and resolution. Nothing in these procedures shall preclude the employee’s filing a complaint of discrimination directly with the Federal Equal Employment Opportunity office or the New Mexico Human Rights Division.

**SECTION 9 - COMPENSATION AND BENEFIT PROGRAM**
9.1 - HOURS OF WORK.

Employees will work their scheduled hours pursuant to work schedules established by their department heads, subject to review by the County Manager and County Commission. The Lea County work week is defined as 12:01 a.m. Sunday through 12 midnight Saturday.

Employees will be paid for travel time from home to any work site within Lea County or from the work site to home only when they are called out for duty above and beyond their scheduled hours of work, or when their duty begins and ends at home rather than at another designated work site.

Part-time employees are scheduled to work pursuant to scheduling set forth by their department heads.

9.2 – ALTERNATIVE WORK SCHEDULES.

The option to establish alternative work schedules will be administered by department heads where feasible and with the following guidelines:

A. Department heads must establish core periods of work during which maximum staffing is required. Once core periods have been established, employees have the option to request alternative schedules built around the core period. However, for those departments not engaged in shift work, no employee’s work day may begin earlier than 6 a.m. or extend later than 7 p.m. except in unusual circumstances.

B. Alternative schedules must add up to 40 hours per week for regular full time employees, or to the hours per work period defined in Section 207(k) of the Fair Labor Standards Act, where applicable.

C. Employees and department heads are expected to establish a regular, agreed-upon work schedule that can be maintained for a period of weeks or months. Working a different schedule every day at the employee’s own discretion is not a viable option.

D. In those departments where alternative scheduling is feasible, participation is voluntary. There are circumstances – such as shift work and the required presence of employees who are the sole providers of their given service – where alternative scheduling is not feasible.

E. Employees with documented performance problems or with documented patterns of absenteeism and tardiness will not be eligible for alternative scheduling.
unless they can show that the absenteeism or tardiness would be eliminated by an alternative schedule.

F. The option to work an alternative schedule is a privilege, not a right, and can be withdrawn at any time because of business necessity, diminished performance or abuse of the privilege.

G. The chief responsibility of county employees is to provide service to the public. Therefore, alternative scheduling will not be used as a means of avoiding contact with the public or avoiding supervision.

9.3 - BREAKS.

Breaks and lunch periods shall be set by the relevant department head. Supervisors may limit or delay breaks if continuous work is required because of an emergency, unusual conditions, or abuse of breaks.

9.4 - PAY PERIODS.

Employees shall be paid every two weeks or as required by law. Pay days shall be determined by the County Commission.

9.5 - OVERTIME PAY.

Overtime pay shall be paid to FLSA-non-exempt employees only when overtime work is authorized by the department head. Employees working overtime without proper authorization may be subject to disciplinary action.

The rate shall be one and one-half (1-1/2) times regular pay for each hour of overtime actually worked. Holiday, vacation, sick, and other leave hours shall not be considered actual working hours. Fair Labor Standards Act exempt employees shall not receive overtime pay. The FLSA and relevant state law shall govern the administration of overtime.

9.6 - COMPENSATORY TIME.

The use of compensatory time is strongly discouraged because of the difficulties of record keeping. However, if it is used, such use is subject to the following criteria:

A. A non-exempt employee may, at the discretion of the department head and with the employee's prior agreement, accrue compensatory time in lieu of overtime payment at the rate of one and one-half (1-1/2) hours of time for each hour of overtime worked over the actual work hours as specified in Section 9.4 above. Overtime hours worked and compensatory time hours accrued and taken off shall be recorded for each non-exempt employee and submitted to the County
Manager's office each pay period on approved forms.

An employee shall not accrue more than 60 hours of compensatory time, which is a maximum of 40 hours of actual overtime as defined by Section 9.4 above for non-exempt employees.

B. Law enforcement officers will not receive overtime pay or accrue compensatory time until they have worked the number of regular hours allowed under the exemption contained in section 207(k) of the Fair Labor Standards Act (29 C.F.R. Part 553).

9.7 - FINAL PAY CHECK.

An employee who resigns shall receive a final pay check on the first regularly scheduled payday following the employee's effective date of resignation.

Any employee who is dismissed shall receive a final pay check by 5:00 p.m. on the fifth (5th) working day following dismissal or as required by law.

In case of death, final salary and compensation for unused annual leave shall be paid to the employee's named beneficiary, or if unnamed, to the employee's estate, on the next regularly scheduled payday.

9.8 - GRATUITIES.

All employees are prohibited from accepting gifts or other considerations from anyone given with the intent of modifying the employees' performance of duties or encouraging the employees to make purchases from the vendor involved. Employees will maintain the highest moral standards and any attempt to influence an employee's performance by a vendor or other person will be reported to the department head.

9.9 - PER DIEM AND MILEAGE.

All payments of per diem and mileage allowance to county employees will be made pursuant to policies established by the State of New Mexico and the Lea County Commission.

In no event shall any per diem allowances be made for travel by a county employee in connection with the employee's regular job duties within the boundaries of Lea County without the express written consent of the County Manager.

Other requirements and limitation on travel may be promulgated by the Lea County Commission.
9.10 - **TIME SHEETS.**

Time sheets are furnished to each department by the Finance Department or payroll designee. At the end of each pay period and upon approval by the department head, the time sheets for that department will be forwarded to the payroll designee. The County Manager will keep a cumulative record of all leave time accrued and used.

Time sheets will be signed by the employee and by the employee's immediate supervisor. If a time sheet lacks a required signature, the paycheck will be prepared and held until the necessary signature is obtained or special authorization is provided by the department head. Time sheets must be submitted prior to issuance of the paychecks.

9.11 - **PERA BENEFITS.**

All county employees are required to join the Public Employees Retirement Association of New Mexico (PERA), with the following exceptions:

A. Casual, term or temporary employees as defined by this ordinance and by PERA rules and regulations;

B. Employees exempt by statute.

Copies of the latest PERA rules and provisions may be obtained in the office of the County Manager or payroll designee.

9.12 - **INSURANCE BENEFITS.**

Insurance plans may be changed at the discretion of the County Commission. Specific benefits of the current policy may be obtained from the County Manager's office or the payroll designee.

9.13 - **CLASSIFICATION AND COMPENSATION PLAN.**

Salary for non-appointed and select appointed personnel shall be governed by the Lea County Classification Plan, as adopted and amended. Some appointed positions shall have classifications for salary purposes only.

9.14 – **TUITION REIMBURSEMENT POLICY.**

This benefit will be governed by resolution.
SECTION 10 - LEAVE AND HOLIDAYS

10.1 - AUTHORIZED LEAVE.

Leave is any authorized absence, with or without pay, during regularly scheduled work hours, which is approved by the department head. The department head is responsible for the maintenance and transmittal of leave records to the County Manager's office.

10.2 - UNAUTHORIZED LEAVE.

Absence without approved leave is subject to disciplinary action and loss of pay.

10.3 - HOLIDAYS.

Legal holidays will be designated by the Board of County Commissioners in January of each year. The following conditions will apply with respect to holidays and holiday pay:

A. Casual, temporary, term and part time employees are not entitled to holiday pay.

B. When a holiday falls on an employee's day off, the employee's holiday shall be observed on the following work day, work load permitting as determined by the department head.

C. When a holiday falls during an employee's vacation, the day shall be counted as a holiday, and not a vacation day. When a holiday falls while an employee is on sick leave, the day shall be counted as a holiday, not a day of sick leave.

D. In order to receive pay for a designated legal holiday, employees shall be in a work or authorized paid leave status on their scheduled work day immediately preceding and following the holiday, or must have worked on the stated holiday. An employee absent without leave on their scheduled work day before or after a holiday will not receive pay for that holiday.

E. When a holiday falls on a Saturday, it will be observed on the preceding Friday, and if the holiday falls on Sunday, it will be observed on the following Monday.

F. If a non-exempt employee is required to work on a holiday, he or she will be permitted another day off at a later time. Every effort will be made to allow the employee to take the accrued holiday within 90 days of its being earned. Holidays not taken within six (6) months of being earned shall be forfeited.
G. Holiday pay in lieu of time off may be granted by the County Commission.

10.4 - **ANNUAL LEAVE WITH PAY.**

Full-time county employees accrue annual leave according to the following schedule:

First through fifth years: 3.75 hours per pay period  
Sixth through tenth years: 4.75 hours per pay period  
Eleventh through fifteenth years: 5.75 hours per pay period  
Sixteenth and following years: 6.75 hours per pay period

A. An employee does not accrue annual leave for time worked in excess of forty (40) hours per week.

B. An employee may accumulate no more than 30 days or 240 hours of accrued annual leave. If annual leave is not taken after an employee accrues 240 hours it will be forfeited on a per-pay-period basis.

C. Annual leave will not be granted in advance of accrual.

D. Upon termination from county employment, an employee shall be paid for the employee's unused accrued annual leave up to a maximum of 240 hours or 30 days.

E. An employee may take annual leave just before the employee's separation from county employment.

F. Annual leave should be requested and approved in advance. Reasonable effort will be made to accommodate the employee's request, though approval will be subject to advance notification and the needs of the department.

G. A probationary employee -- with the exception of a regular employee serving a probationary period following promotion or transfer -- shall not be able to use accrued annual leave until completion of 6 months of employment, except in the case of unusual conditions as determined by the department head with the approval of the County Manager. However, if a probationary employee resigns, or is dismissed before completing the probationary period, the employee shall be compensated for accrued annual leave time.

H. A casual, temporary, or part time or term employee does not accrue annual leave.

10.5 - **SICK LEAVE WITH PAY.**

Leave with pay is granted to a regular or appointed full time employee when a
medical reason, such as described in Section 10.6 below, keeps the employee from performing the duties of the position.

A. SICK LEAVE. Full-time appointed and non-appointed employees shall accrue sick leave based on length of service, in accordance with the following rate table:

- First through tenth year: 3.75 hours per pay period
- Over ten years: 4.75 hours per pay period

B. An employee may not accumulate sick leave in excess of seven hundred twenty (720) hours. There shall be no pay for sick leave upon separation from employment.

C. Casual, part time, temporary and term employees do not accrue sick leave.

10.6 - SICK LEAVE AUTHORIZATION.

Sick leave shall be authorized by the employee’s supervisor when an employee is unable to perform normal job duties due to medical considerations including, but not limited to, illness, injury, pregnancy and childbirth, prearranged medical or dental examination, quarantine, therapy, counseling, and treatment.

Sick leave shall also be authorized for the same type of medical considerations involving an employee’s household member related by blood or marriage or through judicial decree, and requiring the personal attention of the employee.

Sick leave shall also be authorized for the same type of medical considerations involving an employee’s spouse, parent, or child, regardless of place of residence, if the employee’s personal attention is required. The definitions of spouse, parent and child shall conform to those used in the Family and Medical Leave Act of 1993 or as amended.

Sick leave shall not be used for relief from effects of a second job (moonlighting).

An employee may be dismissed for abusing sick leave. Sick leave abuse is defined as charging sick leave for work absences that do not qualify as such under this section. The following conditions may lead to a review of sick leave use for possible disciplinary action:

A. Excessive leave unless justified by a physician’s certification;

B. Patterns of use, i.e., after pay day, using the same day of the week repeatedly, the day before or after holidays, annual leave, weekends or days off.

C. When attempts to contact an employee who has called in sick uncover the fact that the employee is not home; the employee’s being seen in an activity that
appears inconsistent with the statement of illness;

D. When a review of sick leave use indicates that it is being used at the same rate that it is being accrued;

E. When an employee's supervisor or management has personal knowledge of any drug or substance abuse dependency.

Department heads, with the County Manager's approval, may establish procedures to supplement this section.

10.7 - MEDICAL CERTIFICATION

A. Physician Certificate:

A physician's certificate will be required:

1. When the employee is absent from work for three or more consecutive days; when the employee is absent for four or more days within two consecutive pay periods; or at any time a supervisor deems it appropriate.

2. When sick leave of three or more days is used due to the serious illness of a household member, or of a parent, spouse or child, as defined in 10.6.

3. When a pattern of use of sick leave that may indicate abuse of sick leave is determined to exist.

B. Physical Examination:

The county may request that an employee have a medical examination at the county's expense when it appears to the department head that he cannot perform the essential functions of his position, when a pattern of sick leave develops, or when an employee advises the department head that he cannot perform his job for medical reasons.

10.8 - REPORTING SICK LEAVE.

Policies regarding reporting sick leave may be promulgated by the department head, with the approval of the County Manager. Departmental policies shall be administered equably with regard to all employees in order to avoid disparate treatment.

10.9 - USE OF SICK LEAVE DURING PROBATIONARY PERIOD.

Probationary employees accrue sick leave in the manner set forth in Section 10.5. Use of sick leave shall be approved by the employee's supervisor on a day by day
basis during the probationary period.

10.10 – SICK LEAVE TRANSFER.

Policy regarding the transfer of accrued sick leave from one employee to another will be governed by resolution.

10.11 - BEREAVEMENT LEAVE.

In the event of the death of an employee's spouse, parent, mother-in-law, father-in-law, grandparent, child, son-in-law, daughter-in-law, grandchild, or sibling, the employee shall be entitled to bereavement leave with pay not to exceed five days.

10.12 - ADMINISTRATIVE LEAVE WITH PAY.

Administrative leave with pay may be granted by a department head pending disciplinary action. Administrative leave with pay other than leave related to disciplinary action must be approved by the County Commission.

10.13 - OCCUPATIONAL INJURY TIME/WORKERS' COMPENSATION

A. Workers' Compensation:

Employees injured on the job or suffering from occupational diseases, as defined in the New Mexico Workers' Compensation Statute, shall receive Workers' Compensation benefits as prescribed by law.

B. Pre-existing Injury:

All newly hired employees shall be required to complete a certificate of pre-existing condition form for submittal to the State of New Mexico Superintendent of Insurance.

C. Injury Leave Pay:

An employee injured on the job may use accrued annual or sick leave for each regularly scheduled work day after the injury occurs for all such days not paid by Worker's Compensation. If the employee is on Workers' Compensation time for more than four weeks, and is entitled to compensation for the first seven days and has used accrued annual or sick leave for the first seven 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.

D. Reporting Procedure:

All work-related injuries must be reported to the employee's department head as soon as possible. A First Report of Injury Form must be filed with the County Risk Manager as required by law or as specified by the Risk Manager. The report shall be signed by the employee and the employee's department head. In addition, the department head's accident investigation report must be filed on the first working day following the day the department head receives the employee's first accident report. All accidents shall be reported, however minor. Further regulations may be promulgated by the County Risk Manager or designee.

E. Medical Procedure:

Procedures to be promulgated by the County Risk Manager or designee.

F. Return to Work:

An employee shall return to his former position or be reassigned to a comparable position if a physician certifies that the employee can return to work within six (6) months of injury. Other regulations pertaining to return to work may be implemented by the County Risk Manager.

G. Modified Work Schedule:

1. An employee returning from Workers' Compensation disability may return to light duty if an appropriate position is available and a physician certifies that the employee can return to a modified work schedule.

2. Light duty is defined either as performing the same job as the employee held before the injury -- or as performing the duties of another position for which the employee is qualified -- for fewer than eight (8) hours each day or having reduced physical requirements for the full day or less than the full day.

3. The times and conditions of light duty will be determined by the employee's department head in conjunction with the County Manager, and with the treating physician's recommendation.

H. Re-employment of County Employees Injured on the Job:

If the county is hiring, a regular full-time employee who has received benefits
pursuant to the Workers' Compensation Act and who was unable to return to work
during the six (6) month period for which the county shall hold the employee's
position open, may apply for his pre-injury job. The former employee may also
apply for a modified job similar to the pre-injury job, provided that the employee is
qualified for the job. The county shall rehire the regular full-time employee provided
that the employee's treating health care provider certifies that the employee is fit to
carry out the job without significant risk of injury.

10.14 - CIVIC DUTY LEAVE.

An employee shall be given necessary time off with pay for the following:

A. Jury Duty:

Pay for jury duty shall be authorized for regular full time employees 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 duty if at least four (4) hours of county
duty can be served in that work day. If the employee does not return to work, the
balance of the day will be charged to annual leave or leave without pay.

Jury pay shall be remitted to the county.

B. Court Appearance Time:

Pay for court appearance time shall be authorized when an employee is required
by county duties or subpoenaed to appear before a court, county hearing officer,
public body or County Commission for the purpose of testifying in regard to county
matters.

C. Voting:

For purposes of a national, state, or local election, an employee who is registered
to vote will be granted up to two (2) hours paid leave for voting, between the time
of opening and the time of closing polls. The employee's supervisor may specify
the hours for the leave.

This leave will not be granted to any employee whose work day begins more than
two (2) hours subsequent to the time of the opening of the polls, or ends more than
three (3) hours before the closing of the polls.

10.15 - MILITARY LEAVE FOR RESERVE OR NATIONAL GUARD DUTIES

A. Paid Military Leave:

Paid military leave is granted for authorized reserve or national guard activities for
a maximum of fifteen (15) working days during a one year period, or as required by
state or federal law.

Military leave must be requested twenty (20) days in advance. The employee must furnish proof of duty orders or other documentation prior to leave being granted unless the leave is for emergency purposes.

B. **Unpaid Military Leave:**

Employees voluntarily or involuntarily serving on active duty for more than fifteen (15) working days shall be placed on leave without pay. The employee taking additional, unpaid military leave may be allowed to use annual leave.

C. **Employees Returning from Unpaid Military Leave:**

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 organized Reserve, and who serves on active duty and is honorably discharged or released from active duty to complete his remaining service in a Reserve component, and who is still qualified to perform the duties of the county position previously held, shall be reemployed in such position or in a position of like seniority, status, and pay. To be reemployed in such position, the employee must make application for reemployment within ninety (90) days after he is relieved from training or duty, or from hospitalization continuing after discharge for a period of not more than one (1) year.

1. The returning employee will be deemed to have accrued seniority and length of service rights as though his employment with the county had been continuous since the date of initial employment.

2. The returning employee shall have all annual and sick leave accrued at the time of his departure for military service restored.

10.16 - **LACK OF WORK AND INCLEMENT WEATHER.**

The county may at its discretion send an employee home when there is no work available as determined by the department head. The county may close offices and send employees home due to inclement weather declared by the County Manager. Employees who are sent home by the county due to inclement weather, or other circumstances not covered in this policy manual, shall not be charged with leave for all normal work hours missed. Hours paid pursuant to this provision shall not be counted as hours worked for the computation of overtime.

10.17 - **LEAVE WITHOUT PAY.**

The department head may grant regular employees leave without pay (LWOP) for a period not to exceed six (6) months, when the department head deems that such
leave without pay is in the best interest of the county. The County Manager shall be consulted on and the Board of County Commissioners shall be notified of any such action.

10.18 - **MEDICAL LEAVE WITHOUT PAY.**

The request for and granting of medical leave without pay shall be governed by the county's Family and Medical Leave Act Policy, dated June 1, 1995, or as amended.

10.19 - **GENERAL PROVISIONS FOR ALL LEAVE WITHOUT PAY.**

A. **Reemployment:**

If an employee returns to work within three (3) months, the employee will be returned to the same position. If the employee is on leave without pay for more than three (3) months, the county will attempt to return the employee to the same or similar position for which the employee is qualified.

The position of an employee on leave without pay for more than three (3) months shall not be guaranteed.

B. **Use of Leave:**

Prior to going on leave without pay, an employee requesting leave without pay shall use all available annual leave, except for those going on military leave without pay. If the employee is seeking medical leave without pay, the employee shall first use all available annual and sick leave.

C. **Benefits at Employee's Expense:**

An employee on approved leave without pay does not accrue leave, nor does the employee receive county benefits (except for employees subject to the benefits provisions of the Family and Medical Leave Act of 1993 or as amended). An employee on approved leave wishing to continue receiving insurance benefits may do so. Employees on unpaid leave will be responsible for timely payment of the total insurance premium.

**SECTION 11 - MISCELLANEOUS**

11.1 - **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.

11.2 - PERSONAL BUSINESS.

Personal business shall not be conducted during work hours except during an employee's approved break time or lunch time. The department head may approve an employee conducting personal business in the case of a medical or family emergency.

11.3 - SAFETY.

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

11.4 – BUILDING SECURITY.

County building security issues and policies will be governed by resolution.

11.5 - USE OF 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 has been given.

11.6 - RETURN OF COUNTY PROPERTY.

At the time that an employee resigns or is involuntarily dismissed, the employee shall return all county property to the appropriate department head, including but not limited to: any keys, vehicles, supplies, equipment, and uniforms that may be in the employee's possession.

11.7 - ELECTRONIC EQUIPMENT/COMMUNICATIONS.

County-owned electronic communications equipment -- including computers, telephones, voice mail, e-mail and Internet access systems -- are county property, as are their contents. They are intended for county business purposes, and their use for personal business is prohibited, with the exception of the very incidental.

The county reserves the right to intercept, monitor, copy, review and download any communications or files created or maintained on these systems.

Use of electronic equipment and communications is held to the same standard as any other business communication, including compliance with anti-discrimination
and anti-harassment policies.

Abuse or improper use of electronic systems and equipment may result in disciplinary action up to and including dismissal.

11.8 - COUNTY VEHICLES.

No county vehicles will be taken out of Lea County without permission of the department head, and employees shall notify the department head of their destinations and itineraries.

County vehicles may be used only for county business and commuting to and from work, if required for a work related purpose. County vehicles shall not be used for personal business except as is incidental in commuting as determined by the employee's department head.

Supplemental rules may be promulgated by the Lea County Commission covering travel and use of county vehicles.

11.9 - PROHIBITION OF WEAPONS.

The possession or use by county employees of weapons -- including firearms, explosives, knives, and other implements capable of inflicting great bodily harm -- is prohibited under any circumstances while on duty, and while on or off duty on county property, at county work sites, and in county vehicles, with the following exceptions:

A. Law enforcement personnel may possess and use such weapons as are permitted by their individual department policies.

B. Possession/use of lock-blade knives with a blade length not exceeding four inches, or specialty tool-type knives, is permitted by employees for job-related purposes only.

11.10 - DRESS AND APPEARANCE.

County employees are constantly in the public eye; consequently it is important that they present the best possible image to the public. Employees should always be clean and neatly dressed in clothing suitable for their work assignments.

Employees in designated positions may be required to wear special clothing or uniforms to perform the job functions of those positions.

The following guidelines apply to employees in all departments:

A. Clothing and personal grooming should project a competent, professional image suitable to the employee's position and job duties.
B. Clothing should be clean, properly pressed if appropriate, and free of tears, fraying and other signs of damage or excessive wear at the beginning of each workday or duty shift.

C. Wearing of hosiery is strongly recommended.

D. Hemlines shorter than six (6) inches above the knee are considered inappropriate.

E. Shirttails should be tucked in unless the garment is designed to be worn outside the waistband.

F. The following items of clothing or styles of dress are considered inappropriate for employees in all departments while on duty:

1. Tee shirts, ball caps or other garments with political statements, foul language, words or pictures promoting illegal activities, use of controlled substances, or violence.

2. Tube tops, clothing that leaves the midriff bare, and clothing that is so tight, transparent, baggy or low-slung as to reveal underclothing or the absence thereof.

Department heads and elected officials shall be responsible for the administration of these guidelines. These individuals may promulgate additional dress and appearance guidelines for their respective departments, so long as the guidelines are reasonable, business-related, and equitably administered.

11.11 - 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 Manager’s office. It is the responsibility of each department head to ensure that the records of the employees are completed and up to date. The file shall contain the following records:

A. The original application form.

B. The originating personnel action showing occupation, date of beginning employment, and salary.

C. Original personnel action forms.

D. Original performance evaluations.
E. Copies of all favorable or unfavorable letters or memorandums such as letters or certificates of appreciation or records of other outstanding achievements regardless of origination.

F. Records or certificates of educational training or orientation achievement completion.

G. Records of disciplinary actions such as reprimand, suspension, demotion, or dismissal.

H. Application for retirement program.

I. Other related actions/forms concerning payroll deductions, insurance payment records, etc.

11.12 - MAINTENANCE OF PERSONNEL FILES.

Such records are not confidential except for performance appraisals, disciplinary actions, and other documentations of personal opinion.

Physical access to an employee’s records shall be in the control of the County Manager. An employee's complete file may be reviewed by the employee, any supervisor in the employee's chain of command, the employee's department head, the department head of the department to which an employee may be transferred, the County Manager, the County Commission, the County Attorney, and the personnel hearing officer. If an employee wishes someone other than those authorized to have access to the employee's file, he must request so in writing.

11.13 - ADDITIONAL RULES.

Employees shall obey all additional rules, directives and requests stated verbally or in writing by their supervisors. Employees are generally required to follow all standards, rules, procedures and policies that are similar or normally expected in the workplace.
Adopted this 8th day of January, 2002, in open meeting, to be effective thirty (30) days after this Ordinance has been recorded in the book kept by the Lea County Clerk for that purpose.

APPROVED: 
BOARD OF COUNTY COMMISSIONERS 
LEA COUNTY, NEW MEXICO

By: 
Dennis M. Holmberg 
County Manager

By: 
Chairman

By: 
Lawrence D. Hanna 
County Attorney

By: 
Vice Chairman

ATTEST:
Melinda Hughes 
County Clerk

By: 
Member

By: 
Member

By: 
Member

STATE OF NEW MEXICO 
COUNTY OF LEA 
FILED

JAN 08 2002

At 2:11 P.M.

and recorded in Book A

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Melinda Hughes, Lea County Clerk
By [Signature]
Deputy