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**TORRANCE COUNTY PERSONNEL POLICY MANUAL**

**An ordinance establishing Torrance County Personnel Policies  
Adopted by the Torrance County Commission**

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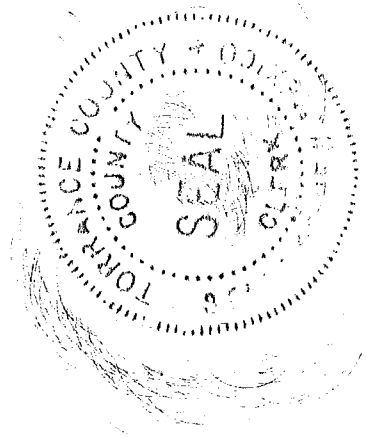
STATE OF NEW MEXICO

County of Torrance

I hereby certify that this instrument was  
filed for record on the 10 day  
of Jan A.D. 19 94  
at 9:53 o'clock A M. and duly  
recorded in book 268 at page 1108-1150

Witness my hand and Seal of office

Carla Clayton  
County Clerk, Torrance Co., N.M.  
Carla Pacheco Deputy



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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 Torrance County and its employees. This personnel policy manual further establishes the formal grievance procedure available to regular employees to hear grievances with respect to demotions, dismissals and suspensions, and provides the method by which a personnel hearing officer is chosen to hear formal grievances. The provisions of this personnel governing merit and the grievance of disciplinary actions do not apply to employees appointed by elected officials who serve at the discretion of the elected official.

**1.2. SCOPE.** Definite rules and regulations cannot be readily formulated for every possible problem and situation. This ordinance serves as a general basis and guide for the proper, efficient, and effective administration of personnel matters of the employees of Torrance County. The Personnel Rules contained herein replace and supersede all previously issued Personnel Rules and Regulations applicable to employees of Torrance County, including but not limited to the Torrance County Personnel Policy Manual adopted February 24, 1981, 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 which 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.** The Payroll Department 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 handicap or medical condition, in consideration for employment, duration of employment, compensation, terms conditions, or privileges of employment by Torrance County. Torrance County has committed itself to comply with the Americans with Disabilities Act which protects qualified individuals with disabilities from discrimination in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions and privileges of employment.

**1.6. ADMINISTRATION BY COUNTY MANAGER.** The County Manager is delegated the authority to administer the personnel system and the terms of this personnel policy manual and its amendments, and all future approved personnel policies and operating procedures.

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

**SECTION 2. DEFINITIONS**

2.1. **ADMINISTRATIVE LEAVE WITH PAY.** Leave with pay granted at the department head's discretion for good cause.

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

2.3. **ANNUAL LEAVE.** Leave with pay granted to a regular or qualified appointed employee after accrual at a specific rate.

2.4. **APPEAL.** Written request that a decision of 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 in the county service.

2.6. **APPOINTED EMPLOYEE.** Appointed employees include: the Chief Deputy employed by the County Assessor, Clerk, and Treasurer; the Undersheriff and the Executive Secretary to the Sheriff; the County Manager to the County Commission; the Road Superintendent, the Emergency Services Manager and Senior Citizen Coordinator.

2.7. **CASUAL EMPLOYEE.** An employee paid by the hour who may be called on short notice and/or on an occasional basis.

2.8. **COMPENSATORY TIME.** Those hours granted in lieu of overtime pay to a nonexempt employee as defined by the Fair Labor Standards Act, on the basis of one and one-half (1 1/2 ) hours compensatory time for each hour of overtime worked in excess of forty (40) hours in one work week.

2.9. **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.

2.10. **DEMOTION.** A personnel action which reduces the employee's responsibilities and pay. Demotions may be voluntary or may be the result of disciplinary actions.

2.11. **DEPARTMENT HEAD.** The elected official or appointee of the County Commission who has responsibility for supervising and administering a department of county government as determined and designated by the County Commission.

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**2.12. DISMISSAL.** An action, which terminates an individual's employment with the county.

**2.13. 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.

**2.14. 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, and Probate Judge.)

**2.15. EXEMPT EMPLOYEES.** All 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.

**2.16. FULL-TIME.** All employees, other than those employed in the road department and sheriffs department, who work thirty-two (32) hours per week, and all road department employees who work thirty-six (36) hours per week, and sheriff's department employees who work forty (40) hours per week, are considered full-time employees.

**2.17. GRIEVANCE.** A complaint of an employee concerning actions taken by management which result in loss of pay to the employee or which results from dissatisfaction with the working conditions or relationships.

**2.18. INSUBORDINATION.** The conduct of an employee constituting defiance, disobedience, dissention, rebelliousness, or resistance to supervision, which will be the subject of disciplinary action.

**2.19. LAYOFF.** (Reduction in Force) The involuntary separation of an employee from the county service without fault on the part of the employee, due to reorganization, lack of work, or lack of funds.

**2.20. 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 condition.

**2.21. NONEXEMPT EMPLOYEES.** All employees who are not exempt employees as defined in Department of Labor regulations relating to the Fair Labors Standards Act. Nonexempt employees shall receive overtime pay or compensatory time off for actual hours worked in excess of forty (40) hour per work week.

**2.22. PART-TIME EMPLOYEE.** A position in which the employee works twenty (20) or more hours, but less than thirty-two (32) per work week for all positions other than those in

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the road department and the sheriff's department, a part-time employee is one who works twenty (20) or more hours per week, but less than thirty-six to forty (36/40) hours per week.

**2.23. PERFORMANCE EVALUATION.** The written objective review made by the employee's supervisor of an employee's performance relating to the employee's assigned duties.

**2.24. PERSONNEL BOARD.** The Torrance County Personnel Board consisting of five (5) voting members: two (2) citizens appointed by the County Commission; three (3) employees elected by classified employees, all pursuant to regulations to be promulgated. Also serving are three (3) ex-officio, non-voting members, two (2) of whom shall be elected officials and the third the County Manager. All of the members and ex-officios shall be for a term of four (4) years with the exception of one of the employee members who shall be elected by the board and remain for two (2) additional years. This position shall than be filled by vote of employees for four (4) years and will establish the staggered position on each new board.

**2.25. POST-DISCIPLINARY HEARING.** A formal hearing conducted by a hearing officer at the request of a employee who is grieving a suspension or demotion, or a former employee who is grieving a dismissal, held after the county has imposed the disciplinary action as set forth in this personnel policy manual.

**2.26. PRE-DISCIPLINARY HEARING.** A hearing conducted by the County Manager before the imposition of the disciplinary actions of suspension, demotion, or dismissal.

**2.27. PROBATIONARY EMPLOYEE.** A full-time or part-time employee hired to fill a regular position who has not yet completed the one (1) year probationary period of employment during which time the employee is terminable-at-will.

**2.28. PROMOTION.** Transfer to a position requiring higher responsibilities and salary.

**2.29. REGULAR EMPLOYEE.** A full or part-time employee who has completed the probationary period, who shall be disciplined only for cause, and who is entitled to all the rights and benefits of the Torrance County Personnel Policy Manual. A regular employee must be specifically designated as such on a personnel action form which will be made part of the employee's personnel file.

**2.30. SICK LEAVE.** Leave with pay granted to a regular or qualified appointed employee, after accrual at a specific rate, when personal illness or quarantine keeps the employee from performing the duties of the position or when an employee's relative, who is related by marriage or blood, or where a relationship is established by judicial decree, is ill.

**2.31. SICK LEAVE ABUSE.** Use of accrued sick leave for non-medical problems. Employees abusing sick leave may be disciplined up to and including dismissal.



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**2.32. SUSPENSION.** An enforced leave of absence without pay, not to exceed 10 working days , for disciplinary reasons, or pending determination of the grievance procedure.

**2.33. TEMPORARY POSITION.** A temporary employee is hired on either a full-time or part-time basis to a seasonal position or to a position established for a period of no more than four(4) months.

**2.34. TERMINABLE-AT-WILL.** A terminable-at-will employee is one who fills an appointed, temporary, or casual position, or is one who has not completed his probationary period. A terminable-at-will employee serves at the discretion of the county, and his employment can be terminated without cause. A terminable-at-will employee cannot grieve suspension, demotion, dismissal, or other disciplinary actions.

**2.35. TRANSFER.** The transfer of an employee from one department or office to another department or office in the county service, or to a position in another geographic location or to a position having the same salary.

**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 the number of hours set forth in paragraph 2.16. 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 the number of hours set forth in paragraph 2.22. Part-time regular employees are eligible for the same insurance benefits as full-time employees.

**3.3. OTHER CLASSES OF EMPLOYEES**

**A. Appointees of Elected Officials**

The appointees of elected officials are as follows: the County Manager to the County Commission, the Emergency Services Manager, Senior Citizen Coordinator, the Road Superintendent, the Undersheriff and Executive Secretary to the Sheriff, and the Chief Deputies to the County Assessor, Clerk, and Treasurer. Appointees of Elected Officials shall receive a salary set by the County Commission. 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 provided.

**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 position who has not yet completed the one (1) year probationary period of employment during which time he is terminable-at-will, and may not avail himself of the grievance procedure set forth herein, but is entitled to all other county benefits provided herein.

- i. To determine whether an employee has satisfactorily completed the probationary period, the employee's department head will evaluate the employee's performance and the employee's ability to work with the public, peers, supervisors, and management. A probationary employee shall be evaluated at the end of the probationary period, and be evaluated at any other time during the probationary period.
- ii. During the one-year probationary period, an employee hired to fill a law enforcement position shall obtain the statutorily required certification for the position. Failure to obtain such certification within the one (1) year period bars the employee from becoming a regular employee and shall result in the employee's dismissal.
- iii. If an 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 Attorney and County Manager.
- iv. An employee who fills a temporary position and is subsequently hired to fill a regular position shall serve the required probationary period. The beginning date of the probationary period is the date the employee changes from temporary to probationary status.
- v. A former Torrance County employee rehired more than six (6) months after termination, or rehired at any time to fill a different position, shall serve the required probationary period.
- vi. If the employee is hired to a full-time or part-time regular position the first day of work in that position shall be used in computing the beginning of the probationary period.

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**C. Temporary Employee**

A temporary employee is hired on either a full-time or part-time basis to a seasonal position or to a position established for a period of no more than four (4) months. The temporary employment may be extended with the approval of the County Commission for a period of not more than thirty (30) days provided the action is not in violation of the Procurement Code. A temporary employee who is terminable-at-will, is not entitled to grieve personnel actions, does not receive county benefits, and does not accrue leave.

**D. Casual Employee**

A casual employee is an employee paid by the hour who may be called on short notice, on an emergency basis or on an occasional or irregular basis. A casual employee is terminable-at-will, is not entitled to grieve personnel actions, does not receive benefits, and does not accrue leave.

**SECTION 4. RECRUITMENT AND SELECTION**

**4.1. RECRUITMENT POSTING PROCEDURE.** The vacancy will be posted in the County Courthouse in each department for five (5) days and if not filled will be advertised in the local newspaper at least once.

**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 casual basis.

**4.3. PERMISSION 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 to disciplinary action, permission to apply for a job vacancy in any other county office or department for which the employee is qualified.

**4.4. APPLICANT RESPONSIBILITY.**

**A. Submission of Applications**

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

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**B. Proof of Qualification**

The applicant is responsible for furnishing proof of qualifications or possession of any license, certification, 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. Certification**

The applicant is responsible for signing the employment application and certifying as to the truth of all statements made in the application.

**E. Referral to Department Head**

The County Manager will refer applications to the department heads.

**4.5. SELECTION.** Selection shall be made by the department head and will be based on the following: skills, educational background, experience, personal interview, references, and results of pre-employment examinations when required.

**A. Employment Reference Checks**

References provided by the applicant shall 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. Physical Examinations and Drug Testing**

Applicants to whom positions have been offered shall be required to undergo medical examinations which may include urinalysis, blood testing, and radiographic examination. Drug testing will be done for all new hires. Pre-employment medical examinations must be completed and reviewed before actual employment begins. Offers of employment are contingent upon the physician's statement that the individual can perform the assigned duties and tasks of that position and is drug free, where drug testing has been conducted. Pre-employment medical examinations will be paid for by the county.

**4.6. INELIGIBILITY FOR HIRE AND REHIRE.** An applicant shall be considered ineligible for hire or rehire by Torrance County if the applicant has:

1. Made any false statement or omission on the employment application.
2. Not met the requirements of the position.
3. Failed to complete pre-employment examinations or other requirements as directed by the county.
4. Not met the criteria for insurance or bonding as required by County or State law.
5. Been dismissed from county service as a disciplinary measure.
6. Not been certified by a physician that the applicant can perform the physical requirements of the position.
7. Been convicted of a felony or a misdemeanor as described in NMSA 1978, 28-2-1, et seq. (1987 Repl. Pamp.) or convicted of a felony or infamous crime as defined in NMSA 1978, 10-1-3 (1987 Repl. Pamp.). The above list is not necessarily exhaustive, and may not include all of the reasons which would make an applicant ineligible for hire or rehire.

**4.7. INELIGIBILITY OF APPLICANTS FOR DEPUTY SHERIFF.** No person under indictment, or a convicted felon etc., shall be eligible to serve as a deputy sheriff.

## **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 for which they qualify.

**5.2. DEMOTION.** An employee may be demoted to a vacant position for which the employee is qualified when the employee would otherwise be terminated because the employee's position is being abolished due to the lack of funds or lack of work and there are no appropriate vacancies at the same level; when the employee does not possess the necessary ability to render satisfactory performances in the position presently held; or when 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.** Employees may be moved from one position to another at the same rate of pay either voluntarily or involuntarily. An employee may be transferred if it is in the best interest of the county.

**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

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for a period of three (3) consecutive, regularly scheduled working days may be considered a voluntary resignation.

**5.5. REDUCTION-IN-FORCE.** If it is necessary for the county to reduce the number of county employees because of lack of funds or lack of work, the department head shall make the determination of the necessity for layoffs. The reduction will occur in the following manner:

- A. Casual, temporary, and probationary employees will be laid off before full or part-time employees unless they are filling positions which require specific skills and knowledge.
- B. Lay off of regular employees shall be determined by department head, based on the employees suitability for the jobs remaining, ability to perform available work, past job performance, and length of service with the county.
- C. Employees to be laid off shall be notified at any time during 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 final day of employment.
- E. An employee on permanent layoff must reapply to be considered for future employment.
- F. A laid-off 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.** The department heads shall have the authority to recommend the dismissal of regular employees for just cause, which shall include, but not limited to, unsatisfactory performance, illegal activity, unacceptable conduct or insubordination on the job. Employees other than regular employees serve at the discretion of the Elected Official under whom they are employed and may be dismissed with or without cause. All dismissals must be discussed with the County Manager and County Attorney before any action is taken.

## SECTION 6. CONDITIONS OF EMPLOYMENT

### 6.1. PERFORMANCE EVALUATION

#### A. Probationary Period Evaluations

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The department head shall discuss performance with the employee during the probationary period. The employee must receive a performance evaluation of satisfactory or better at the end of the probationary period before the employees can become a regular employee entitled to all of the rights and benefits of that status. See also paragraph 3.3 (B).

**B. Other Evaluations**

Other employees may be evaluated upon the following conditions:

- i. A change of status.
- ii. Recommendation of any type of salary increase.
- iii. Demotion or suspension.
- iv. 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. The performance evaluation shall state areas of responsibilities and standards of performance.

**D. Employee rebuttal**

The employee may submit a 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.

**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 as to specific areas of deficient performance and steps for improvement, and 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 re-evaluated within ninety (90) days, and, if performance remains unsatisfactory, shall be dismissed pursuant to the procedures in these rules.

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## 6.2. PROHIBITED POLITICAL ACTIVITIES

All employees are prohibited from:

- A. Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose.
- B. Directly or indirectly coercing, attempting to coerce, commanding or advising a state or 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 while on duty or campaigning on county property

## 6.3. NEPOTISM

### 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 employees near relative. For purposes of this nepotism policy, near-relatives are defined as the employee's spouse, children, parents, siblings, grandparents, grandchildren, aunts, uncles, first cousins, and all like- relations of the employees spouse, and any former spouse (s), or unrelated persons sharing a spousal relationship. 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 which requires supervision by a near-relative. Neither shall any Elected Official or county employee give employment as clerk, deputy, or assistant, or other class of departmental employee to any near relative when that person's compensation is six hundred (\$600.00) dollars or more per year. NMSA 1978, 10-1-10 (1987 Repl. Pamp.). Any exceptions to this rule must be approved by the County Commission.



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#### 6.4. CONFLICTS

##### A. Conflict Ban

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

##### B. Termination of Outside Employment

Upon the request of the department head, no employee shall continue in supplementary / outside employment if such employment has a negative impact on the employee's job performance, or creates a liability exposure to the county.

#### 6.5. SEXUAL HARASSMENT

##### A. Prohibition of Sexual Harassment

Employees of Torrance County are prohibited from sexually harassing any other county employee (s). Sexual harassment is any unwanted sexual attention or such attention when submission to such conduct is made, either explicitly or implicitly, a term of an individual's employment; submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or such conduct has the purpose of affecting or unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

##### B. Policy Regarding Sexual Harassment

Torrance County is committed to enforcing a policy prohibiting sexual harassment that:

- i. Provides for a work environment free from all forms of sexual harassment.
- ii. Applies to the actions of all county employees, elected and appointed officials, and volunteers.
- iii. Ensures that appropriate corrective measures, up to and including dismissal and appropriate legal action, will be taken if this policy is violated.

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- iv. Establishes a complaint procedure that is fair and confidential, and protects against retaliation for filing, or testifying as a witness to a complaint.
- v. Ensures that all complaints are investigated promptly, thoroughly, and fairly.
- vi. Ensures that all elected officials, department heads, and supervisors are fully aware of their responsibilities under this policy.

**C. Sexual Harassment Complaint Procedures**

- i. Employees of Torrance County are encouraged to resolve complaints of sexual harassment by reporting them to the County Manager or Administrative Assistant or the County Attorney. The County Manager, Administrative Assistant, or County Attorney shall document the complaint and provide a copy to the complaining employee. All such complaints shall be kept in a confidential file.
- ii. The County Manager or Administrative Assistant or County Attorney shall meet with the alleged harasser immediately and in no event more than three (3) working days from the filing of the complaint. The purpose of the meeting will be to investigate the matter and, if necessary, take prompt corrective action. The investigation shall be complete, confidential, and well documented. The principles of progressive discipline, up to and including dismissal from county employment, shall be followed by the supervisor for a person who is determined to have violated the sexual harassment policy. The discipline will vary depending on the nature of the activity of which was complained.
- iii. Nothing in these procedures shall prohibit the employee from filing a complaint directly with the Federal Equal Employment Opportunity office or the New Mexico Human Rights Division. This avenue should be used when the employee feels that the employee cannot obtain appropriate relief within the steps as explained above. However, employees are encouraged to seek consultation with the County Manager or Administrative Assistant or County Attorney before filing a formal sexual harassment complaint.

**6.6. DRUG TESTING POLICY.** Torrance County is committed to a goal of a drug-free work place in compliance with the Drug-Free Work Place Act of 1988.

**A. Illegal Use of Drugs or Alcohol**

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The use of controlled substances, drugs or alcohol, prescribed and non-prescribed, is a concern to Torrance County when it interferes with job performance, conduct, attendance, safety, or when it is violation of the law. The unlawful manufacture, distribution, possession or use of a controlled substance or alcohol by an employee while on county premises or while on county business is prohibited. Conducting county business, which includes driving county vehicles or operating county equipment, while under the influence of alcohol or other drugs is also prohibited. Engaging in any of these prohibited activities may result in disciplinary action up to and including termination from employment.

**B. Pre-employment Drug Testing**

A successful employment applicant for any county position including casual and temporary employees, shall be tested for alcohol or drugs when he reports for his medical examination. A confirmed positive test result shall be grounds for rejecting the applicant.

**C. Reasonable Suspicion Testing**

Any Torrance County employee shall be tested for alcohol and drugs if the department head and either the County Manager or County Attorney has reasonable grounds to suspect that the employee is engaging in the use of drugs or alcohol on the job or is reporting to work under the influence of drugs or alcohol. Reasonable suspicion includes, but not limited to, the following:

- i. Job accidents requiring medical treatment and/or damage to property including county property, where the employee is a contributing factor to the accident.
- ii. Evidence of alcohol or drugs or paraphernalia discovered at the employee's work place.
- iii. Any employee showing signs of erratic behavior, changes in mood, altered appearance or speech patterns, smell of alcohol on breath and person, an increase in absenteeism, tardiness, and deterioration of work performance.

**6.7. REFUSAL TO SUBMIT TO DRUG TESTING.** Refusal by the employee to submit to drug testing based on reasonable suspicion shall be grounds for disciplinary action, up to and including dismissal.

**6.8. POSITIVE RESULTS OF ALCOHOL AND DRUG TESTING.** The guidelines established by the National Institute of Drug Abuse will be used to determine whether an employee tests positive. If an employee tests positive for drugs or alcohol, the employee will

be suspended from employment without pay. To avoid dismissal the employee will be required to successfully complete an approved drug rehabilitation program. The employee shall be responsible for paying the cost of the rehabilitation program unless the employee has insurance coverage for such treatment. Upon the employee's return to work after completion of the drug rehabilitation program, the employee shall be required to test for drugs for a period of two (2) years. If the employee tests positive during this testing period, the employee shall be subject to disciplinary action, up to and including, dismissal. If the employee successfully completes this two (2) year testing period, all records of the previous tests and related case documents shall be destroyed after three (3) years from the initial positive test.

**6.9. RETESTING.** An employee who tests positive on a drug test may elect to have, at the employee's expense, a retest of the original sample at a drug testing laboratory of the employee's choosing, provided the request is made in writing within twenty-four (24) hours of the employee receiving notice of a positive test result. The county shall pay for the retest if the retest is negative.

**6.10. CONFIDENTIALITY.** No laboratory reports or test results shall appear in the employment personnel file unless they are a part of a disciplinary action, but shall be placed in a special locked file.

## **SECTION 7. EMPLOYEE DISCIPLINE**

### **7.1. BASIS FOR EMPLOYEE DISCIPLINE**

#### **A. Just Cause Discipline**

Disciplinary actions for regular employees are based on just cause in order to promote the efficiency of the services rendered by the county and the operation of its respective departments and offices. Disciplinary actions 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 handicap or medical condition. No employee will be disciplined for refusing to perform an unlawful act.

#### **B. Definition of Just Cause**

Just cause is defined as any conduct, action or inaction arising from, or directly connected with, the employee's work which is inconsistent with the employee's obligation to the county and reflects the employee's disregard of the county's interest. Just cause includes, but is not limited to, inefficiency, incompetence, misconduct, negligence, insubordination, performance which continues to be inadequate after reasonable efforts have been made to correct the performance problems, or conviction of a felony or misdemeanor as described in NMSA 1978, 28-2-1 et seq.

**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 to the County Clerk's office for placement in the employee's file with the signature of the recipient acknowledging receipt of the action.

**D. Consultation with County Manager and County Attorney**

Dismissal, involuntary demotion, and suspension require consultation with the County Manager and County Attorney before implementation. Whenever such consultation is not practical because of urgent circumstances, necessary action may be taken and the situations reviewed with the County Manager and County Attorney as soon as practical.

**7.2. 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 County Manager, in writing, and advise whether or not the employee will participate in the pre-disciplinary hearing. The time, place and date of the pre-disciplinary hearing can be rescheduled upon the written agreement of the parties.

**B. Pre-disciplinary Hearing Procedure**

The Board of County Commissioners shall meet with the employee and the employee's department head at a meeting of the County Commission during executive session. The County Manager shall also attend this meeting. At this pre-disciplinary hearing, the employee shall have the opportunity to respond to the proposed disciplinary action. The County Attorney may be present at the pre-disciplinary hearing.

**C. Pre-disciplinary Hearing Decision**

The County Commission 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.

**D. Effect of the Decision**

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

**7.3 POST-DISCIPLINARY HEARINGS APPEALS TO THE PERSONNEL HEARING OFFICER**

**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 attorney of the grievant's intent to pursue a post-disciplinary hearing.

**B. Post-Disciplinary Hearing Scheduled**

The post-disciplinary hearing must be held within sixty (60) days of the receipt of notification of intent to pursue a post-disciplinary hearing by the county attorney. The parties must agree in writing to any postponement of the grievance hearing beyond sixty (60) days. At this 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.

**C. Appointment of Hearing Officer**

Within five (5) calendar days of the grievant's notification of intent to pursue a post-disciplinary hearing, the County Manager will provide the grievant a list of three (3) proposed hearing officers. Within five (5) calendar days of receipt of the notification of the proposed hearing officers, the grievant will notify the County Manager of the acceptance of a proposed hearing officer or submit a name of a proposed hearing officer of the grievant's choice. If the County Manager does not agree with the grievant's proposed hearing officer, the County Manager and the grievant or his representative shall meet to designate a mutually acceptable hearing officer.

**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 officers shall be verified by the County Manager's office. The hearing officer need not reside in Torrance County.

**7.4 POST-DISCIPLINARY HEARING PROCEDURES**

**A. Rules of Procedure**

- i. The hearing officer will determine the date and time of the post-disciplinary hearing and any continuances. Such hearings will be conducted at a time and place which is mutually convenient to all parties concerned. 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.
- ii. Post-disciplinary hearings shall be conducted as open meetings with notice given to the public pursuant to the New Mexico Open Meetings Act, unless the grievant requests a closed hearing in writing.
- iii. The hearing officer shall:
  - a. Make rulings on procedural and substantive issues of the hearing.
  - b. Determine the admissibility of evidence and testimony, all of which must have a direct bearing on the issue before the hearing officer.
  - c. Follow the evidentiary standard for administrative agencies.
  - d. Issue a written ruling, including findings of fact and conclusions of law.
- iv. The following persons are required to be present at all grievance proceedings unless otherwise excused by the hearing officer or by agreement of the parties: the grievant, grievant's representative (if any), and the department's designated representative, and the county attorney.
- v. The parties shall stipulate to the facts and issues to the greatest extent possible prior to the hearing.
- vi. Prior to the hearing, representatives shall prepare copies of all exhibits and evidence which are expected to be presented. Representatives shall stipulate to exhibits to the extent possible and bring to the hearing adequate copies for the hearing officer as well as the opposing representative.

- vii. At least seven (7) calendar days prior to the hearing, all parties must submit to the hearing officer: a statement identifying the issues to be heard, a witness list, and a complete list of documents to be admitted as evidence.
- viii. Witnesses in grievance hearings are not admitted into the hearing room until called upon to testify. This ban excludes those individuals listed in Section iv above.
- ix. Notice of the hearing will be sent by certified mail to the grievant and postmarked at least ten (10) days prior to the scheduled hearings. Copies of the hearing notice shall be sent concurrently to all relevant parties.
- x. Either a tape recorded or stenographic record of all post-disciplinary grievance hearings will be made.

**B. Conduct of Hearings**

- i. The grievant, who carries the burden of proof by a preponderance of the evidence, shall present his statements of issues involved in the case, followed by the county. Opening statements are limited to the pertinent issues of fact and law and shall not exceed ten minutes without permission of the hearing officer.
- ii. Order of Presentation
  - a. The grievant will present his case first. Witnesses for the grievant may be called and questioned on their involvement in, or knowledge of, the case. Following each witness' testimony, the county 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. The hearing officer shall restrict his questions to those necessary to clarify the testimony previously given. Follow-up or redirect questioning will be allowed at the discretion of the hearing officer.
  - b. Witnesses for the county may be called and questioned on their involvement in, or knowledge of, the case. Following each witness' testimony, the grievant 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. The hearing officer shall restrict his questions to those necessary to clarify the testimony previously given. Follow-up or redirect questioning will be allowed at the discretion of the hearing officer.

- c. Following presentation of the county's position, the grievant may offer rebuttal testimony. Such testimony shall be brief, and shall address only the issues brought forth in the county's presentation.
- d. 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. The grievant shall have the opportunity to make a final statement, not to exceed five (5) minutes, and which shall be limited to issues brought forth in the county's closing statement.

**C. Communication of Hearing Officer's Decision**

The hearing officer's decision will be issued within twenty (20) calendar days of the hearing and will be signed by the hearing officer and transmitted to the grievant, department head and the County Manager by hand delivery or certified mail. The hearing officer may uphold, modify, or reverse the decision of the department head or County Manager, and may reinstate the employee and award 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. Appeal of Hearing Officer's Decision**

- i. Either party may appeal the hearing officer's decision in the Eight Judicial District Court within thirty (30) days of receipt of the decision by that party.
- ii. The personnel policy manual may be included in the record on appeal at the request of any one of the respective parties at any time before forwarding the record to district court.

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**7.5. MATTERS OF SUBSTANTIVE LAW.** Nothing in these Policies shall prohibit the employee from filing a complaint of discrimination directly with the Federal Equal Employment Opportunity office or the New Mexico Human Rights Division.

**7.6. PROGRESSIVE DISCIPLINE.** A regular employee shall be progressively disciplined whenever possible. Each case of inadequate performance or act of misconduct shall be judged individually. All actions involving substandard work performance, leading up to and including dismissal, require progressive warnings. 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. Verbal Reprimand**

A verbal reprimand is used for minor infractions such as informing the employee that his actions, behavior or conduct needs to change. Supervisors will keep written notations of verbal reprimands, and these will not be placed in the employee's personnel file. A verbal reprimand is not grievable. Causes of verbal reprimands include, but are not limited to:

- i. Substandard work performance
- ii. Unexcused absence or tardiness

**B. Written Reprimand**

- i. An employee shall receive a written reprimand because the deficiency or infraction is of greater degree than that for which a verbal reprimand may be used or if a verbal reminder was not effective. Causes for written reprimands include, but are not limited to:
  - a. the causes listed for verbal reprimands
  - b. refusal to carry out orders
  - c. sleeping on the job
  - d. failure to follow safety rules
  - e. failure to follow other county rules and procedures
  - f. insubordination
- ii. 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

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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.

- iii. At the employee's request, 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 written reprimand or other disciplinary action during the twenty-four (24) month period.

### **C. Suspension**

An employee may be suspended without pay for a single serious offense or for continued inadequate job performance or misconduct after previous attempt(s) to correct the conduct have failed. Such suspension will not exceed the (10) working days. Suspension of a regular employee is subject to the formal grievance procedures. Causes for suspensions include, but are not limited to:

- i. The causes listed for written reprimands
- ii. Continued instances of poor performance
- iii. Negligent damage to property and/or person(s)

### **D. Demotion**

An employee may be demoted for continued inadequate job performance after previous attempt(s) to correct the conduct have failed. Demotion is not an appropriate disciplinary action for an employee who has a record of excessive absences or tardiness.

### **E. Dismissal**

Dismissal is the final consequence when progressive discipline has failed to change unacceptable behavior or performance. Dismissal is also appropriate when the employee has engaged in other behavior that is of a serious nature which is unacceptable for county employees even though the employee has not been previously disciplined. Causes for dismissal shall include, but are not limited to:

- i. All causes listed for the previous three (3) disciplinary actions if continuing after attempts to correct have failed.
- ii. Theft of county property or unapproved use of county property for personal reasons.

- iii. Conviction of a job related felony or misdemeanor as described in the Criminal Offender Employment Act, NMSA 1978, 28-2-1 et seq.
- iv. Serious acts of negligence causing damage to persons or county property.
- v. Conduct unbecoming an employee of Torrance County.
- vi. Deliberate falsification of information on the employee's job application or other county records.
- vii. Unlawful manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on the job or reporting to work under the influence of an unlawful controlled substance or alcohol.
- viii. Intentional abuse or destruction of county equipment.
- ix. Refusal to carry out reasonable orders when a threatening condition exists.
- x. Failure to meet standards of substance abuse rehabilitation programs.

The above examples are typical of the types of infractions sometimes encountered but are not inclusive of all situations which may arise. The county reserves the right to exercise judgment and render disciplinary action or dismissal as determined appropriate based on the circumstances of each case.

**7.7. INFORMAL GRIEVANCE.** The purpose of informal grievance procedures is to provide employees, in an atmosphere of courtesy and cooperation, an equitable solution to certain types of problems or complaints which may affect the employee in the course of their employment with the county. When applicable, the informal grievance procedure allows employees to voice complaints concerning alleged improper actions of supervisors or management.

The following matters are not grievable:

- 1. Disputes as to whether or not an established county practice or policy is good.
- 2. Matters where a method of review is mandated by law.
- 3. Matters where the county is without authority to act or does not have the ability to provide a remedy.

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4. Release of temporary employees prior to or at the end of their anticipated employment period.
5. The dismissal of probationary employees prior to the expiration of their probationary period.
6. The dismissal of appointed employees at any point during their employment with the county.
7. Performance evaluations, preferences for employment promotions, transfers, temporary assignments, removal from temporary assignments, and layoffs.

For other matters which are not otherwise subject to the Formal Grievance Procedure, not later than ten (10) days after the occurrence of a problem, an employee must verbally discuss the problem with his/her supervisor. Immediately at the conclusion of that discussion, in the event that the employee is not satisfied with the action proposed to be taken by his/her supervisor, or for any other reason, the employee must put the complaint in writing or request the supervisor or the County Manager to do so, and the employee shall sign in writing to indicate that he/she has read it and that it contains no false statements for which the employee is responsible. The written informal grievance shall be provided to the County Manager within fifteen (15) days of the occurrence of the problem.

### SECTION 8. FORMAL GRIEVANCE PROCEDURES

- 8.1. **GRIEVANCE PROCEDURES DEFINITION.** A grievance is the complaint of an employee concerning alleged improper action or conduct by a supervisor, which results in dismissal, suspension, loss of pay or benefit, inequity of pay or a reprimand.
- 8.2. **PURPOSE.** This grievance and appeals procedure is established for the prompt review, impartial consideration and equitable disposition of grievances presented by any individual.
- 8.3. **APPLICABILITY.** Formal grievance procedures apply to all classified employees.
- 8.4. **REPRESENTATION.** An employee may elect a person of his/her choosing to serve with him/her in the presentation of a grievance.
- 8.5. **INFORMAL APPROACH.** An employee who differs with a decision or action of his/her immediate supervisor should make every reasonable attempt to, ( over a period of five (5) working days ) resolve the difference in a friendly and non-confrontational manner. Resolution using this informal approach shall extend past the immediate supervisor and to the department head if that is applicable during the five-day period.
- 8.6. **GRIEVANCE PROCEDURE.** If it is clear that the informal and friendly discussion has not resolved the matter to the satisfaction of all concerned, then the more formal

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grievance procedure shall begin and be documented in writing step by step by both the employee and the department head. Documentation, once the grievance has become formal, shall include no less than the names of the affected parties, the date of initial complaint, the nature of the complaint, the dates and times of meetings established to resolve the complaint, the employee's expressions of how the conflict directly affects his/her job satisfaction.

- A. Written Report: If the informal procedure (approach) fails to resolve the difference, the employee may within five (5) working days following the expiration of the informal five (5) day period then file a written grievance with his/her immediate supervisor or department head. The immediate supervisor or department head has five (5) working days to furnish the employee with a written response;
- B. Appeal to the County Manager: If the written reply to the employee does not resolve the issue, the employee may within five (5) working days file a written appeal with the Torrance County Manager who then has five (5) working days to respond in writing.
- C. Appeal to the Torrance County Personnel Board: If the written response to the employee by the County Manager is insufficient to resolve the grievance, then the employee has the right to request within five (5) working days, in writing, an appeal to the Torrance County Personnel Board. The Personnel Board must respond within ten (10) working days, in writing, by setting a date and time for the formal appeal, in person, to the Personnel Board sitting in quorum session. At that time the employee has the right to bring with him/her another party of his/her own choosing to assist with the presentation.
- D. The Personnel Board: in quorum session shall, within five (5) working days after hearing the facts, make a decision concerning the grievance and issue an opinion in writing. Beyond that point the employee is at liberty to take the issue into the normal civil court procedures.

**8.7. COMPENSATION GRIEVANCES:** The pay range established for a given class of work and broadly applicable to more than one employee shall not be reason for filing a grievance procedure.

**8.8. POLICY GRIEVANCES:** Policy made by the Torrance County Commission is not grievable.

**8.9. CONFIDENTIALITY:** Any discussion, report, filing of a grievance or other personnel matter involving hiring, firing or promotion of personnel should be closed to the public and to the media.

## 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. Except as otherwise provided, employees will not be paid for travel time from home to the site of their work within Torrance County or from the work site to their home. Actual work periods may fluctuate at the discretion of the department heads. Part-time employees are scheduled to work pursuant to scheduling set forth by their department heads.

Non-exempt Road Department employees who are assigned to work beyond thirty miles from their place of permanent residence shall be allowed a maximum of 1/2 hour per day of paid travel time. Under no circumstances shall an employee be entitled to claim reimbursement for the cost of travel to and from work without specific advance supervisor approval. The allowed travel time shall not be permitted to increase the total time worked per week so as to qualify for overtime pay. Eligible employees shall be at their job sites at the scheduled starting time, and leave may be granted for up to 1/2 hour at the end of the day, in compensation for allowable travel time. Actual travel time in excess of 1/2 hour a day shall not be allowed for compensation as leave time or wages, whether or not the employee is traveling in a county vehicle. All Road Department employees electing to receive the use of a county vehicle for purposes of traveling to and from their home and work shall agree to the following:

- A. The value of the use of the county vehicle shall be treated as taxable income in accordance with the Internal Revenue Code.

**9.2. BREAKS.** Full-time employees take a one (1) hour lunch break. Road department employees take a one-half (1/2) hour lunch break. Non-exempt employees are not entitled to pay for the lunch break. Full-time employees are entitled to two (2) fifteen minute breaks per day; employees working four (4) hours or less per day are entitled to one (1) fifteen minute break per day. Only supervisors may determine that breaks should be limited or delayed because of an emergency or unusual conditions.

**9.3. PAY PERIODS.** Employees shall be paid Bi-weekly, every other Monday.

**9.4. OVERTIME PAY.** Overtime pay shall be paid only when overtime work is authorized by the department head, and only when the departmental needs preclude the employee from taking compensatory leave time off. 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 and such payment shall be made only in cases when a nonexempt employee works over forty (40) "actual work hours" in a normal work week. 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.

**9.5. COMPENSATORY TIME.** Compensatory time is time off for hours worked beyond forty (40) hours of actual work, as overtime is described in 9.4 above. A nonexempt employee may, at the discretion of the department head, 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 9.4 above. Overtime hours

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worked and compensatory time hours accrued and taken off shall be recorded for each nonexempt employee and submitted to the County Clerks office each pay period on approved forms. ( An employee shall not accrue over 60 hours of compensatory time, which is a maximum of 40 hours of actual overtime as defined by 9.4 above for nonexempt employees. Compensatory time shall be accrued only above thirty (30) minutes.)

**9.6. 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 paycheck by 5:00 P.M. on the fifth (5) day following dismissal, and verification that all county items have been returned. Day one begins the day of dismissal and includes Saturday and Sunday. 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.

**9.7. PERSONAL SAFETY EQUIPMENT:** An employee in a designated job with the county may be required to wear special equipment or clothing to perform the job function. An employee who requires special equipment or clothing shall be provided the special clothing or protective equipment or an allowance by the county.

**9.8. GRATUITIES.** All employees are prohibited from accepting gifts or other considerations from vendors given with the intent of modifying the employee's 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. In no event shall any per diem allowances and mileage be paid for travel by a county employee in connection with the employee's regular job duties within the boundaries on Torrance County without the express advance approval of the department head.

**9.10. TIME SHEETS.** As frequently as required by the County Clerk, the department head will forward the time sheet for that department to the County Clerks office. The Personnel Clerk will keep a cumulative record of all leave time accrued and used. Bi-weekly 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 may be 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, except casual and temporary employees, are required to join the Public Employees Retirement Association of New Mexico (PERA). Copies of the latest PERA rules and provisions may be obtained in the office of the County Clerk.



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**9.12. INSURANCE BENEFITS.** The county provides medical and life insurance benefits to its regular and qualified appointed employees. The county pays a portion of the premium for such 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 Clerk's office.

**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 Clerk'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 condition will apply with respect to holidays and holiday pay:

- A. Casual and temporary employees are not entitled to holiday pay.
- B. When a holiday falls on an employees 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.
- D. In order to receive pay for a designated legal holiday, employees shall be in a work or 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 a Sunday, it will be observed on the following Monday.

**10.4. ANNUAL LEAVE WITH PAY.** Full-time county employees accrue annual leave according to the following schedule:

| Number of Hours Employee<br>Works Per Week | Accumulation Rate<br>Per Pay Period | Total Annual Leave<br>Per Year |
|--|-------------------------------------|--------------------------------|
|--|-------------------------------------|--------------------------------|

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|    |            |              |
|----|------------|--------------|
| 32 | 4.62 Hours | 120.12 Hours |
| 36 | 5.54 Hours | 144.04 Hours |
| 40 | 6.46 Hours | 167.96 Hours |

No more than 240 hours may be carried over to the next calendar year.

- A. An employee does not accrue annual leave for time worked in excess of forty (40) hours per week.
- B. Annual leave will not be granted in advance of accrual.
- C. Upon termination from county employment, an employee shall be paid for the employee's unused accrued annual leave.
- D. An employee may take annual leave just before the employee's separation from county employment
- E. 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. If vacation time is requested by one or more employee at the same time, seniority will rule. Annual leave is not cumulative beyond one year. If annual leave is not taken within one year, it will be forfeited on a monthly basis. No more than 30 calendar days may be carried over to the next year.
- F. A casual or temporary employee does not accrue annual leave.

**10.5. SICK LEAVE WITH PAY.** Leave with pay is granted to a regular or appointed employee when a medical reason, such as described in 10.6 below, keeps the employee from performing the duties of the position.

- A. All full-time employees shall accrue 3.69 hours per pay period of sick leave.
- B. Accrued sick leave may be accumulated year-to-year up to a total of four hundred eighty (480) hours.
- C. There shall be no sick leave paid upon termination.
- D. Casual/Temporary employees do not accrue sick leave.

**10.6. SICK LEAVE AUTHORIZATION.** Sick leave may 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, prearranged medical

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or dental examination, quarantine, therapy, counseling, and treatment, or when an employee's relative, who is related by marriage or blood, or where a relationship is established by judicial decree, is ill and requires the personal attention of the employee. Authorization is subject to the approval of the department head. An employee may be terminated for abusing sick leave.

**10.7. MEDICAL CERTIFICATION.**

**A. Physician's Certificate**

A physician's certificate may be required when the employee is absent from work for three or more consecutive days, or when sick leave of three or more days is used due to the serious illness of a relative, who is related by marriage or blood, or where the relationship is established by judicial decree.

**B. Physical Examination**

The county may request that an employee have a medical examination 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.** Sick leave shall be reported to the employee's supervisor by the employee or an immediate family member on a daily basis and as soon as possible but no longer than one (1) hour after the beginning on the employee's work shift unless the nature of the illness requires extended leave certified by the employee's physician and of which the employee's supervisor is notified.

**10.9. USE OF SICK LEAVE DURING PROBATIONARY PERIOD.** Probationary employees accrue sick leave in the manner set forth in 10.5 above. Use of sick leave shall be approved by the employee's supervisor on a day by day basis during the probationary period.

**10.10. BEREAVEMENT LEAVE.** In the event of the death of an employee's spouse, parent, grandparent, child, grandchild, or sibling, the employee shall be entitled to bereavement leave with pay not to exceed three days, upon approval of the department head.

**10.11 ADMINISTRATIVE LEAVE WITH PAY.** Leave with pay and travel pay may be authorized by the department head to allow employees to attend meetings of boards and commissions when the employee's attendance is on the behalf of the county and in the best interest of the county. If the employee is paid by the board or commission for his attendance, the county shall pay the employee his regular salary less the amount received by the employee from the board or commission. Administrative leave with pay may also be granted by a department head pending disciplinary action.

**10.12. OCCUPATIONAL INJURY TIME/WORKERS COMPENSATION**

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**A. Workers Compensation**

Employees injured on the job or suffering from occasional diseases, as defined in the New Mexico Worker's Compensation Statute, shall receive Worker's Compensation benefits as prescribed by law. An employee may elect to continue group health coverage, with the employee and the employer paying their respective share of the premium, during an unpaid leave of absence for which worker's compensation is being paid for up to a period of four months, provided however, all other eligibility requirements must continue to be met for the period of continuation of coverage.

**B. Pre-existing Injury**

All newly hired employees shall be required to complete a certificate of pre-existing condition form.

**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 workers 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 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 requiring medical attention must be reported to the employee's department head as soon as possible. A First Report of Injury Form must be filed with the Administrative Assistant within fifteen (15) days of the injury. Failure to report injuries within 15 days, will be grounds for denial of the injury claim. 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 day following the day the department head receives the employee's first accident report. All accidents shall be reported, however minor.

**E. Medical Procedure**

An employee, who incurs a job related injury/illness, must go to the county designated physician, who will treat the employee, or will refer the employee to another physician, depending on the nature of the problem. In circumstances of medical emergency, the employee should go to the nearest medical facility. Treatment

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subsequent to the emergency treatment will be coordinated by the county Administrative Assistant.

**F. Return to Work**

An employee shall return to his former position or be reassigned to a comparable position if the employee's physician certifies that the employee can return to work within six (6) months. If an employee is unable to perform his assigned duties with reasonable accommodations the employee will be medically terminated.

**G. Modified Work Schedule**

1. An employee returning from Worker's Compensation disability may return to light duty if an appropriate position is available and the employee's 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.

**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, a modified job similar to the pre-injury job, or any job that pays less than 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.

**10.13. 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 only for those days that the employee is scheduled to work. If excused by the court during a work day, the employee shall return to duty if at least four (4) hours of county duty can be served in that work day.

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If the employee does not return to work, the balance of the day will be charged to annual leave or leave without pay.

**B. Court Appearance Time**

When required by county duties or subpoenaed to appear before a court, Personnel 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.

**10.14. MILITARY LEAVE FOR RESERVE OR NATIONAL GUARD DUTIES**

**A. Paid Military Leave for Reserve or National Guard Activities**

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. 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 voluntary or involuntary serving in active duty for more than fifteen (15) working days shall be placed on leave without pay. The employee taking military leave will not first be required to exhaust annual and sick 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 re employed in such position or to a position of like seniority, status, and pay. To be re employed in such position, the employee must make application for re employment within ninety (90) days after he is relieved from training or duty, or

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from hospitalization continuing after discharge for a period of not more than one (1) year.

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

**10.15. 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, and 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.

**10.16. LEAVE WITHOUT PAY.** The County Commission 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. Reasons for such a leave may include, but are not limited to: education, medical disability, pregnancy or child birth or adoption of a child, and the need to care for a family member, including a new-born. Leave without pay is subject to the following conditions:

**A. Re employment Upon Return**

If an employee returns to work within twelve (12) weeks, the employee will be returned to the same position. If the employee is on leave without pay for more than twelve (12) weeks, the county will attempt to return an 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 twelve (12) weeks, shall not be guaranteed.

**B. Use of All 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 leave without pay for medical or pregnancy related reasons, the employee shall first use all available annual and sick leave.

**C. Physician's Certificate**

Leave without pay requested because of medical reasons or pregnancy related reasons must be accompanied by a physician's written statement indicating the estimated time of disability or recommended time for post-natal recovery. An employee returning to

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work from leave without pay due to medical or pregnancy related reasons must be released by the employee's physician to return to work. Proof of release must be presented to the employee's department head.

**D. Benefits at Employee's Expense**

An employee on leave without pay does not accrue leave, nor does the employee receive county benefits. An employee wishing to continue receiving insurance benefits may do so at the employee's expense by submitting the employee's and the county's share of the premium to the County Clerk on the regular pay day.

**10.17. FAMILY AND MEDICAL LEAVE.**

- A. In addition to other type leaves, eligible employees are entitled to leave in accordance with the Family and Medical Leave Act (FMLA) of 1993. Employees who have been in the classified service for at least 12 months (which need not be consecutive) and who have worked at least 1250 hours during the 12 month period immediately preceding the start of FMLA leave are eligible employees. In addition, employment in the exempt service or employment in programs transferred into the classified service by legislation or executive order shall count as classified employment. Eligible employees are entitled to a total of 12 weeks of FMLA leave in a 12-month period at the time of a birth or placement of a child or at the time of a serious health condition affecting a family member.
- B. Employees must request FMLA leave 30 days in advance or as soon as practicable, and this request must specify the combination of accrued annual leave, accrued sick leave and/or unpaid leave requested for this purpose. Any unpaid leave designated as FMLA leave shall be accounted for separately and not considered to be leave without pay under Rule 10.16. FMLA leave need not be full time. Only the time actually taken shall be charged against the employee's entitlement to leave.
- C. Husbands and wives employed by the same agency are both eligible for Family and Medical Leave, however, the aggregate number of workweeks of FMLA leave to which both are entitled shall be limited by the agency to 12 weeks in a 12-month period.
- D. Family and Medical Leave is appropriate to care for the employee's spouse, son, daughter, or parent if that family member has a serious health condition or if the employee has a serious health condition. A serious health condition is an illness, injury, impairment or physical or mental condition that involves in-patient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health provider. FMLA leave is not intended to



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cover short-term conditions. A department head may require a certification to support a leave request.

- E. Departments may transfer an employee on FMLA leave to another position which better accommodates the leave requirements provided the employee qualifies for the position and it has the same salary range and status.
- F. No part of FMLA leave shall be considered a break in employment.
- G. FMLA leave shall not be considered as time worked for overtime purposes.
- H. Unpaid FMLA leave shall not change the employee's anniversary date established.
- I. Employees shall accrue annual and sick leave at their appropriate rates while on unpaid FMLA leave.

**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 while on county premises.

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

**11.4. COUNTY PROPERTY.** Employees shall not misuse county property, records, or other material in their care, control or custody. County property, records, or other material shall not be removed from the premises of the county offices unless permission has been given by the department head. Employees shall not use county property, records or equipment for personal use.

**11.5. TERMINATION; RETURN OF COUNTY PROPERTY.** At the time that an employee is voluntarily or involuntarily terminated, 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. The department head shall notify the Administrative Assistant in writing.

**11.6. COUNTY VEHICLES.** No county vehicles will be taken out of Torrance County without permission of the department head and employees shall notify the department head of

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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.

**11.7. DRESS AND APPEARANCE.** Employees are constantly in the public eye; consequently it is important that the employee present the best possible image to the public. Employees should always be clean and neatly dressed in clothing suitable for their work assignments.

**11.8. 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 Clerks office. It is the responsibility of each department head to insure that the records of the employees are completed and up-to-date. The file shall contain the following records:

1. The original application form.
2. The originating personnel action showing occupation, date of beginning employment and salary.
3. Copies of personnel action forms.
4. Copies of all performance evaluations.
5. 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.
6. Records of certificates of educational training or orientation achievement completion.
7. Records of disciplinary actions such as reprimand, suspension, demotion, or termination.
8. Application for retirement program.
9. Other related actions/forms concerning payroll deductions, insurance payment records, etc.

**11.9. MAINTENANCE OF PERSONNEL FILES.** Such records shall be considered confidential and not available for public inspection. Physical access to an employee's records shall be in the control of the County Clerk. An employee's records may be reviewed by the employee, 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

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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.

**11.10. 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 work place.

PASSED, APPROVED AND ADOPTED THIS 10<sup>th</sup> OF January, 1994

BOARD OF COUNTY COMMISSIONERS  
TORRANCE COUNTY, NEW MEXICO


BY *Bill R. Wood*  
Chairman of the Board

*Ron B. Spem*  
Member

*Bill Carter*  
Member

ATTEST

*Carla S. Alton*  
County Clerk

The seal of Torrance County, New Mexico, is circular with a dotted border. The text around the border reads "STATE OF NEW MEXICO \* TORRANCE COUNTY \* NEW MEXICO". In the center, there is a smaller circular emblem with the letters "SEA" and "CO" visible.