

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-01

EMPLOYEE RELATIONS PRINCIPLES

Between the Board and its Employees

The Board as employer realizes that the strength of Albemarle County Government depends directly upon the contribution made by every employee in the organization. It knows that high productivity and efficiency result from individual job satisfaction. It is, therefore, the policy to be frank, fair, and honest with personnel and to respect their rights as employees.

The Board shall continue to strive to achieve mutual respect in its working relationships. It will insist that its supervisors do all in their power to carry out this objective.

Amended: August 4, 1993

PERSONNEL

Employee Relations Principles:

- A. The Board will maintain a staff of competent employees by following the best possible screening procedures through the County Executive/designee.
- B. The Board will observe and follow the established grievance procedure.
- C. The Board will make every effort to maintain reasonable hours of work, good employee benefits, and the best possible working conditions.
- D. Through these and other practices, the Board will encourage employees to increase their growth and productivity with the organization.
- E. Equal employment opportunity will be a guiding principle by which the Board conducts its business with employees.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-02

DEFINITION OF EMPLOYEE STATUS

The County will maintain standard definitions of employment and will classify employees in accordance with these definitions, unless otherwise stated by policy or the Code of Virginia.

- A. At-Will Employees – All County employees and Partner Agency employees who are bound to this policy and/or other employment related County policies are employees at-will and may be dismissed from employment at any time for any lawful reason or for no reason in the absence of a written employment contract signed by the County Executive or on authority from the Board of Supervisors expressly contradicting the at-will status. Neither this policy nor any other County or administrative policy shall be construed to constitute a contract. All such policies are subject to change at any time.
- B. Appointees – Those officers, directors, and department heads appointed by the Board and serving under a contract of employment.
- C. Board Members – Elected officials serving on the County’s Board of Supervisors. Board Members are not considered employees of the County.
- D. Classified Employees – County employees being paid according to the County’s classified pay scale or pay range. Classified employees are normally paid on the County classified pay scale or other approved pay scale. Exceptions must be approved by the Director of Human Resources/designee.
- E. Essential Personnel – To ensure efficient business operations, certain staff may be required to report to their job sites during periods of building closure and delay. Employees who are regularly expected to work during building closures are designated as essential personnel in the job description. Supervisors should ensure that employees are aware of their appropriate reporting schedules for different situations. If an employee designated as essential in the job description is not required by the supervisor to report to work for the building closure, he/she is considered non-essential personnel on that day.
- F. Partner Agency - A Partner Agency is a public agency/organization which uses and relies upon the Albemarle County financial systems, including payroll, and has agreed in writing to follow some or all County and/or Albemarle County Public Schools policies. Employees of Partner Agencies remain employees of their respective Partner Agencies. They are not employees of the County or Albemarle County Public Schools and are not entitled to any of the rights, privileges, or benefits related to employment with either unless otherwise agreed upon in writing by the Board/designee or expressly provided by policy.
- G. Temporary Employees - Temporary employees are those hired for a specific period of time or for the duration of a specific project, activity, or group of assignments not to exceed one year. Temporary employment is not indefinite and will not continue for more than one year without renewal in writing. Employees working as substitutes in the absence of incumbents for regular positions are also considered temporary employees. Pay is based upon an established or agreed-upon rate exclusive of any approved pay scale. Unless specified by an Employment Agreement establishing terms and conditions of employment and any benefits provided or by policy, temporary employees are not granted the rights, privileges, or benefits of regular employees.

PERSONNEL

Definition of Employee Status (continued)

- H. Volunteers – Those who provide services to the County without compensation from the County. Volunteers are not employees and are not granted the rights, privileges, or benefits of employment. However, they may be paid expenses, reasonable benefits, a nominal fee, or any combination thereof without losing their status as volunteers. Volunteers may be required to follow some Board policies as determined by the County Executive/designee and/or the Department of Human Resources. County employees may provide volunteer services, but only if such services are i) provided freely and without pressure or coercion from a supervisor or superior and ii) not the same type of service for which they are employed as determined by the department head/designee in consultation with the Department of Human Resources and County Attorney.

PERSONNEL

Procedure for Compliance

A. Terms of Employment

1. Regular/Permanent: Employment in an approved, budgeted, non-temporary, full-time or part-time position that is part of the regular County work force. The terms “permanent” and “regular” have the same meaning and are used interchangeably throughout Board policies. Regular and Permanent Employment includes Appointees and Classified Employees. The use of the term “permanent” does not confer any right, privilege, or benefit of employment beyond that provided by Board of Supervisors policy or written contract of employment and does not impose any obligation, burden, or contract of continued employment, implied or otherwise, on behalf of the Board of Supervisors.
 - a. Full-Time: Employment in an established position that meets the requisite hours per workweek and weeks per fiscal year for that position.
 - b. Part-Time: Employment in an established position requiring less than the hours designated as full-time for that particular position.
 - c. Probationary: Newly hired regular employees. Probationary periods are established based upon the position. Probationary employees are ineligible to use grievance procedures.
 - d. Non-probationary: Regular employees who have successfully completed the prescribed probationary period.
2. Temporary: Employment of a definite term not exceeding one year. Temporary employment is at-will and not subject to grievance procedures.

B. Months Worked

The following designations shall apply. Exceptions must be approved by the Director of Human Resources/designee.

1. 10-month Employees – Regular employees whose days worked per fiscal year is generally 210 or fewer, but may extend to 219. While actual work may be performed in July and August, these are not considered months worked for benefits and payroll calendar purposes.
2. 11-month Employees - Regular employees whose days worked per fiscal year is generally 220 to 240, but may extend to 259. While actual work may be performed in July, it is not considered a month worked for benefits and payroll calendar purposes.
3. 12-month Employees - Regular employees who are not designated as 10-month or 11-month employees

PERSONNEL

Procedure for Compliance (continued)

C. Extent of Participation in Benefits

1. Employee Status

- a. Regular Full-Time: Regular Full-time employees are eligible for all employment benefits available under Board of Supervisors policy.
- b. Regular Part-Time: Must be at least half-time (50% of the full-time equivalency [FTE] for that position) to be eligible to participate in prorated medical and dental benefits, leave benefits, and applicable retirement and life insurance programs. If less than half-time, employees are not benefits eligible. Employees hired prior to the implementation of this policy (i.e. October, 1985) and who received benefits will not lose such benefits.

When an employee holds two or more regular part-time positions, the positions' FTEs may be combined to determine eligibility for medical and dental benefits, leave benefits, and applicable retirement and life insurance programs. However, an employee must be regular full-time in a single position to participate in the Virginia Retirement System (VRS.)

The Board of Supervisors may extend certain benefits to groups of part-time employees at rates established for full-time employees.

- c. Temporary: Temporary employees are not benefits eligible unless approved by the Director of Human Resources/designee.

2. Eligibility for Insurance Benefits

- a. New regular employees who are benefits eligible are eligible for medical and dental insurance coverage the first of the month following the month in which they are hired. Additional payment or credit is not provided to employees who do not elect medical or dental coverage.

Except as provided under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) or other applicable law, medical and dental insurance coverage ceases on last calendar day of the month for which the premium was paid.

- b. County Spouses
Benefits-eligible employees who are married to other benefits-eligible employees of the County, Albemarle County Public Schools, or Partner Agencies who participate in Albemarle County insurance plans are eligible for discounted medical and dental insurance. It is the responsibility of the employee to notify the Department of Human Resources of this situation and, upon notification, the change in contribution will be made for the next payroll. The Board of Supervisors is not responsible for and will not retroactively compensate employees who fail to provide this notification. In the event such married employees legally divorce, it is the responsibility of those employees to notify

PERSONNEL

Procedure for Compliance (continued)

Human Resources immediately of the effective date of the divorce. Employees who fail to provide timely notice of the divorce will be required to reimburse the County or Albemarle County Public Schools for any benefits received or premiums required for the period during which they were no longer eligible for dual contributions. This benefit may be extended to Partner Agencies per agreement.

- c. Board Members are eligible to participate in all medical and dental insurance programs. Elected/appointed officials on the Planning Commission and Board of Elections are also eligible to participate in all medical and dental insurance programs.
- d. Volunteers are not eligible for benefits, unless approved by the Director of Human Resources/designee.

D. Continuous Service

1. Continuous Service means a period of regular employment with the County or Albemarle County Public Schools with no break in service.
2. Break in Service means the separation from regular employment with the County or Albemarle County Public Schools for any reason, including resignation, voluntary termination, and involuntary termination.
3. When agreed upon in writing by the County Executive/designee, regular employees moving between certain Partner Agencies and the County or Albemarle County Public Schools are considered continuously employed so long as they do not have some other break in service.
4. A transfer directly to a different position of regular employment with no work time missed is not a break in service. 10-month or 11-month employees do not have a break in service if they fulfill the preceding year's employment period/contract and are provided a new position/contract by the time the new position would begin for the next year. This includes contracts/employment for 12-month positions. The Director of Human Resources/designee may approve exceptions for transfers, promotions, and demotions when a break in service may cause an undue (or unfair) hardship, particularly with contracted employees. Employees are responsible for any applicable insurance premiums when changing positions and/or months worked.

**ALBEMARLE COUNTY
ADMINISTRATIVE POLICIES AND PROCEDURES**

Department: Human Resources
Subject: Employee Grievance Procedure

Policy Number: P-03
Date Adopted: January 3, 2007

I. Objective

The purpose of the Albemarle County Grievance Procedure is to afford an immediate and impartial method for the resolution of disputes that may arise between the County government and employees in County service.

II. Coverage of Grievance Procedure

A. This procedure applies to all non-probationary employees in regular full-time and regular part-time positions in:

1. Albemarle County Local Government;
2. The Department of Social Services of Albemarle County, in accordance with Virginia Code § 15.2-1507(A)(4);
3. The Charlottesville-Albemarle-University of Virginia Emergency Communications Center; and
4. The Commission on Children and Families.

B. This procedure shall not apply to the following employees:

1. Appointees of the Board of Supervisors;
2. Officials and employees who by law serve at the will or pleasure of the Board of Supervisors or the County Executive;
3. Deputies and Assistants to the County Executive;
4. Department and agency heads;
5. Employees whose terms of employment are limited by law;
6. Employees in temporary, on-call or seasonal positions;
7. Probationary employees;
8. Any law enforcement officer whose grievance is subject to the provisions of the Law Enforcement Officers Procedural Guarantee Act, Virginia Code § 9.1-500 et seq., and who has elected to proceed pursuant to such provisions in the resolution of his or her grievance; or
9. Any other employee who elects to proceed pursuant to any other existing procedure in the resolution of his or her grievance.

C. The County Executive or his designee shall determine the officers and employees excluded from the grievance procedure, pursuant to section II(B) above, and shall be responsible for maintaining an up-to-date list of the affected positions (See Appendix to the Grievance Procedure, Positions Not Covered by the Grievance Procedure).

III. Definitions

County Attorney shall mean either the County Attorney or his designee.

County Executive shall mean either the County Executive or his designee.

Grievance shall mean a complaint or dispute by an employee eligible to use this procedure relating to his or her employment, including but not limited to:

- (a) disciplinary actions, including dismissals, demotions and suspensions, provided that dismissals shall be grievable whenever resulting from formal discipline or unsatisfactory job performance;
- (b) the application of personnel policies, procedures, rules and regulations;
- (c) acts of retaliation as the result of using the grievance procedure or of participation in the grievance of another Albemarle County employee;
- (d) acts of retaliation because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, has sought any change in law before the Congress of the United States or the General Assembly, or has reported an incidence of fraud, abuse, or gross mismanagement; and
- (e) complaints of discrimination on the basis of race, gender, religion, political affiliation, age, disability or national origin.

Grievant shall mean an eligible employee who has filed a complaint under this procedure.

Human Resources Director shall mean either the Human Resources Director or his designee.

Management shall mean the Board of Supervisors and its designees who establish policy for Albemarle County.

IV. Management Responsibilities

Management retains the exclusive right to manage the affairs and operations of County government. Accordingly, the following complaints are nongrievable:

- (a) establishment and revision of wages or salaries, position classification or general benefits;
- (b) work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content;
- (c) the contents of ordinances, statutes or established personnel policies, procedures, rules and regulations;
- (d) failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly;
- (e) the methods, means and personnel by which or by whom work activities are to be carried out;

- (f) termination, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition, except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance;
- (g) the hiring, promotion, transfer, assignment and retention of employees within the County; and
- (h) the relief of employees from duties of the County in emergencies.

In any grievance brought under the exception to Section IV(f) above, the County's action shall be upheld upon a showing by the County that: (i) there was a valid business reason for the action, and (ii) the employee was notified of the reason in writing prior to the effective date of the action.

V. Human Resources Department Responsibilities

The County Human Resources Department ("Human Resources") shall serve as an impartial administrator of this process. Upon the filing of a grievance, Human Resources shall do the following:

- (a) open a file and assign a number to the grievance;
- (b) ensure that all parties are aware of the process;
- (c) provide access to and copies of grievance forms;
- (d) monitor procedures and time frames;
- (e) notify either party of noncompliance;
- (f) be informed of the status of the grievance by both parties at each step;
- (g) maintain appropriate documentation; and
- (h) perform all other responsibilities as specified in this Procedure.

VI. Grievance Procedure Generally

A. For purposes of this procedure, "days" shall be defined as calendar days and time periods shall begin to run on the day following that on which any action is taken or report rendered, without regard to weekends or County-observed holidays. If a time period specified in this procedure ends on a weekend or holiday, the last day of the time period shall be the end of the first business day following the weekend or holiday. For example, a written grievance under Step 1 must be presented to the grievant's immediate supervisor within five (5) days of the supervisor's verbal reply to the informal grievance. The five (5) days shall begin to run on the day after receipt of the supervisor's verbal reply and shall terminate on the fifth day following. If the fifth day is a weekend or holiday, the time period shall terminate at the end of the next full business day.

B. Time limits established under this procedure are intended to be strictly construed and enforced. However, in the interests of fairness, such time limits may be extended if both parties agree to such extensions in writing.

C. All stages of this procedure beyond Step 1 shall be reduced to writing on forms supplied by Human Resources. At Step 3 and above, the grievant may, at his option, choose to have a representative of his choice, including legal counsel. If the grievant is represented by legal counsel or other person(s), the County likewise has the option of being represented by legal counsel, provided that a person may not serve as both a witness and a representative at any Step under this procedure.

D. The grievant shall bear any and all costs involved in employing representation and preparing his case at all steps of this procedure, including but not limited to attorneys' fees and expenses and any costs of judicial filings or appeals.

E. After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of this procedure, without just cause, shall result in a decision in favor of the other party on any grievable issue, provided that the noncomplying party fails to correct the noncompliance within five (5) days of receipt of written notification by the other party of the compliance violation. However, the right of the grievant to correct compliance violations shall not apply to any determinations under Steps 1 through 3, or to grievability determinations, provided that the grievant has previously received written notice of the applicable deadlines for appealing such determinations at the time the determination was rendered but has failed to respond in a timely fashion.

F. The County Executive may require a clear written explanation of the basis for any requests for just cause extensions or exceptions, and shall determine all compliance issues. Such determinations by the County Executive are subject to appeal by the grievant by filing a petition with the Circuit Court of Albemarle County within thirty (30) days of the compliance determination. The grievant shall be solely responsible for filing such petition.

VII. Grievability

A. The County Executive retains sole authority to render decisions regarding grievability, including the question of access to this procedure. In the event that a question regarding grievability arises at any stage of this procedure, the County Executive shall be notified by Human Resources so that a proper decision regarding grievability can be made. A copy of the County Executive's decision concerning grievability shall be sent to the grievant, to the department head and/or immediate supervisor and to Human Resources.

B. Decisions by the County Executive that an issue or complaint is not grievable may be appealed by the grievant to the Circuit Court of Albemarle County for a hearing de novo on the issue of grievability as provided in Virginia Code § 15.2-1507(A)(9). Proceedings for the review of the County Executive's decision regarding grievability shall be instituted by filing a notice of appeal with the County Executive within ten (10) days from the date of receipt of the decision and giving a copy thereof to all other parties. Within ten (10) days thereafter, the County Executive shall transmit to the

Clerk of the Circuit Court of Albemarle County a copy of his decision, a copy of the notice of appeal, and any exhibits that may have been provided in connection with the resolution of the issue of grievability. A list of the evidence furnished to the court shall also be furnished to the grievant.

C. The failure of the County Executive to transmit the record shall not prejudice the rights of the grievant. If the County Executive fails to transmit the record within the time required, the Circuit Court, on motion of the grievant, may issue a writ of certiorari requiring the County Executive to transmit the record on or before a certain date.

D. Within thirty (30) days of receipt of such records by the clerk, the Circuit Court, sitting without a jury, shall hear the appeal on the record transmitted by the County Executive and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The Court, in its discretion, may receive such other evidence as the ends of justice require. The Court may affirm, reverse or modify the decision of the County Executive. The decision of the Court shall be rendered no later than the fifteenth (15th) day from the date of the conclusion of the hearing. The decision of the Court is final and is not appealable.

E. The issue of grievability may be raised at any step of the Grievance Procedure prior to the hearing officer hearing provided in Section XII of this procedure, or it shall be deemed waived by all parties. Once raised, the issue shall be resolved before further processing of the complaint. A request that grievability be determined shall toll the time limits under this procedure. Time limits shall begin to run again the day after the decision on grievability is made by the County Executive or the Circuit Court.

F. The classification of a complaint as nongrievable by either the County Executive or the Circuit Court of Albemarle County shall not be construed to restrict any employee's right to seek, or management's right to provide, customary administrative review of complaints outside the scope of the Grievance Procedure.

VIII. Consolidation of Grievances

If more than one grievance is filed arising from the same factual circumstances, the County Executive may, at any time prior to a hearing officer hearing, consolidate those grievances for joint processing, including grievability determinations. If consolidation occurs, all time limits set forth in this procedure shall thereafter be calculated from the date of the last filed grievance. Once consolidated, the grievances shall all be processed as a single matter pursuant to this procedure.

IX. Step 1 Procedure: Immediate Supervisor Level

A. No later than twenty (20) days after the occurrence or condition giving rise to the grievance, the employee affected shall identify the grievance verbally to his immediate

supervisor. Within five (5) days of such identification, the immediate supervisor shall give his response to the employee with respect to the particular grievance. The failure of an employee to identify the grievance within the time specified above shall constitute a forfeiture and a waiver of any rights to proceed further and shall terminate the grievance.

B. If a satisfactory resolution is not reached by this informal process, the grievant shall notify Human Resources of the intent to file a grievance and shall obtain a copy of Grievance Form A from Human Resources. The grievant shall reduce the grievance to writing on Grievance Form A, identifying specifically and in detail the nature of the grievance and the requested remedy. Such written grievance shall be presented to the immediate supervisor within five (5) days of the supervisor's verbal reply to the oral grievance. The supervisor shall promptly notify and supply a copy of the written grievance to Human Resources. The supervisor shall reply to the employee in writing in response to the written grievance within five (5) days of receiving it.

C. If the grievant's supervisor is also his department/agency head, or if the department/agency head decided the matter that is the subject of the grievance, the grievant shall pass by Step 2 of this procedure and proceed immediately to Step 3. If the grievant's supervisor is the County Executive, he shall pass by Step 3 and proceed immediately to Step 4.

X. Step 2 Procedure: Department/Agency Head

If a satisfactory resolution is not reached at the conclusion of Step 1 as outlined above in Section IX, the grievant shall have the right to appeal as follows. Within five (5) days following receipt of the Step 1(B) written reply, the grievant shall notify his department/agency head and the Human Resources Department in writing on Grievance Form A that resolution has not occurred and shall supply the reasons why the grievant believes that resolution has not occurred. The department/agency head shall schedule and hold a meeting with the grievant to review the grievance within five (5) days of receipt of such submission, or on such other date as the parties may mutually agree. The only persons who may be present at this meeting are the grievant and the department/agency head. The meeting may be adjourned to another time or place by agreement of the parties. A written reply to the grievance shall be provided to the grievant (with a copy to Human Resources) within five (5) days after the meeting.

XI. Step 3 Procedure: County Executive Level

A. If a satisfactory resolution is not reached at the termination of Step 2 as outlined above in Section X, the grievant shall notify Human Resources, indicate on Grievance Form A that resolution has not occurred and submit the grievance to the County Executive within five (5) days following receipt of the Step 2 reply. The County Executive shall schedule and hold a meeting with the grievant to review the grievance within ten (10) days of receipt of such submission, or on such other date as the parties may mutually agree.

B. The grievant may have legal representation or another representative present at the Step 3 meeting. If the grievant is represented by legal counsel or another representative, the County Executive may also have legal counsel or another representative present. The grievant shall inform the County in writing of the name of his legal counsel or other representative at least two (2) days prior to the Step 3 meeting. Either party may call appropriate witnesses, who shall be present only while actually providing testimony. The County Executive shall, in his sole discretion, determine whether the testimony of witnesses is relevant or, if witnesses have testified, whether additional testimony by other witnesses is necessary.

C. A written reply to the grievance shall be provided to the grievant (with a copy to Human Resources) within five (5) days after the Step 3 meeting, or on such other date as the parties may mutually agree.

XII. Step 4 Procedure: Grievance Hearing

A. If a satisfactory resolution is not reached at the termination of Step 3 as outlined above in Section XI, the grievant shall notify Human Resources, indicate on Grievance Form A that resolution has not occurred and request a hearing before an administrative hearing officer ("hearing officer"). The request shall be submitted to Human Resources within five (5) days following receipt of the Step 3 reply.

B. Upon receipt of the request for a grievance hearing, Human Resources shall contact the County Attorney and request that he initiate a request to the Supreme Court of Virginia for appointment of a hearing officer to hear and preside over the grievance hearing. The hearing officer shall be appointed by the Executive Secretary of the Supreme Court of Virginia. The appointment shall be made from the list of administrative hearing officers maintained by the Executive Secretary pursuant to the Code of Virginia. In the alternative, the County Attorney may request the appointment of a hearing officer from the Virginia Department of Employment Dispute Resolution. The County shall bear all expenses associated with the hearing officer's services.

C. Human Resources and/or the County Attorney shall provide the hearing officer prior to the hearing with a copy of the grievance record and all other documentation relied upon by the County in rendering the decision or action being grieved, and shall provide the grievant with a list of documents furnished to the hearing officer. At least ten (10) days prior to the hearing, the grievant and his attorney or other representative shall be allowed to inspect and copy all documentation supplied by the County to the hearing officer. At least five (5) days prior to the hearing, the grievant and the county shall exchange lists of witnesses and exhibits to be called or introduced at the proceeding. Witnesses or exhibits not disclosed in a timely manner as required by this section shall not be allowed or introduced at the hearing, unless the hearing officer finds good cause shown.

XIII. Conduct of Grievance Hearing

A. The role of the hearing officer is limited to a determination of whether a grievance filed by an employee is substantiated and what remedy, if any, should be provided. The hearing officer may not formulate or change county policy, rules or procedures. The hearing officer shall determine whether the grievant has demonstrated, by a preponderance of the evidence, that the action complained of was without cause, or done in violation of a law, rule, regulation or other policy. The hearing officer shall not otherwise substitute his or her judgment for that of management.

B. The hearing officer shall conduct the hearing as follows:

1. At the request of either party, the hearing shall be private and limited to the grievant, the hearing officer, the legal counsel or other representative of the grievant and the county, appropriate witnesses as they testify, and any court reporters or other official recorders of the hearing. At the request of either party, witnesses shall be separated from the hearing room and allowed to be present only during the time that they actually testify.

2. The hearing officer shall consider the grievance without regard to any proposed disposition (including offers of settlement) by any lower authority, unless the grievant and the County Executive shall agree in writing that the issue(s) shall be so limited. In all other cases, the hearing officer shall consider the matter as if presented to it in the first instance.

3. The hearing officer may at any time ask the parties or their representatives for statements clarifying the issues involved in the grievance.

4. Exhibits, when offered by the grievant or the County, may be received as evidence by the hearing officer, and when so received shall be marked and made a part of the record.

5. Both parties shall have the right to make opening statements, starting with the grievant. After opening statements, the order of the hearing shall be as follows: the grievant shall proceed first, and shall bear the ultimate burden of persuasion. At the conclusion of the grievant's evidence, the County shall have the opportunity to present its evidence. At the conclusion of the County's presentation, the hearing officer shall specifically inquire of all parties whether they have any further evidence to offer or witnesses to be heard. Upon receiving a negative response, the hearing officer shall permit the parties to summarize their cases (beginning with the grievant) and shall then declare the hearing closed.

6. Both parties have the right to offer evidence and cross-examine witnesses, and shall produce such additional evidence as the hearing officer deems necessary for understanding and ruling upon the dispute. There shall be no formal rules of evidence at the hearing; however, the hearing officer shall have the right to determine

the relevancy of any evidence offered. All evidence shall be taken in the presence of the hearing officer and the parties, except by mutual consent of the parties.

7. The hearing may be reopened by the hearing officer on his own motion or upon application of either party for good cause shown at any time before a final decision is made.

8. Upon the request of the hearing officer, the County or the grievant, the Human Resources Director shall insure that a verbatim record of the hearing is made and retained for not less than 12 months. The record may be in writing or by a taped recording. The party requesting the record shall bear the costs of preparation and transcription, including any costs associated with attendance of a court reporter. If both the grievant and the County request such a record, they shall share equally in all costs incurred.

9. The Human Resources Director or designee may be called upon by the hearing officer or either party as a witness at any time to provide specific policy interpretation or clarification of applicable County policy and these procedures.

10. In any matters not covered by this section, the hearing officer shall determine the applicable procedures to be followed.

XIV. Decision of Administrative Hearing Officer

A. The hearing officer shall provide a written decision to the County Executive and the grievant, with copies to Human Resources and the County Attorney, no later than twenty (20) calendar days after the completion of the hearing. The decision shall summarize the grievance and the evidence, shall make specific findings of fact, and shall state in full the reasons for the decision, and the remedy (if any) to be granted. The decision of the hearing officer shall be consistent with law and written policy, and as such shall be considered final and binding.

B. The question of whether the relief granted by the hearing officer is consistent with applicable law and written policy shall be determined by the County Executive, unless such person has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the Commonwealth's Attorney of Albemarle County. The County Executive or Commonwealth's Attorney shall request the hearing officer to reconsider any decision which in his judgment is inconsistent with the laws or written policy applicable to the specific grievance at issue.

C. If the hearing officer determines that the grievant prevails on any grievable complaint or dispute, he may remedy that complaint or dispute by ordering that the grievant be reinstated to a former position; awarding back pay; or ordering expungement of information contained in the grievant's personnel file(s) maintained by Human Resources or individual department; or rendering opinions specifying the application or interpretation of County personnel policies and procedures as they may relate to the

specific facts of the grievance. The grievant shall not, however, be entitled to any relief that he has not specifically requested in the original written grievance form, unless the parties have mutually agreed otherwise as to alternative relief.

D. If, in response to a grievable complaint or dispute, the hearing officer finds that a department head or other County official failed to follow established procedures governing promotion, demotion, transfer, hiring or layoff, the hearing officer shall remand the grievance back to the department head or official with instructions that the actions taken be rescinded, and proper procedures be followed for the matter at issue. In connection with such remand, the hearing officer may make appropriate provisional orders concerning the case.

XV. Implementation of Hearing Officer Decision

A. The County Executive shall implement any remedy that may be ordered by the hearing officer, provided that such remedy is consistent with applicable law and County personnel policies. If the County Executive determines that the hearing officer decision is not consistent with applicable law or County personnel policies, the following steps shall be taken:

1. The County Executive shall inform the hearing officer and the grievant of his determination within ten (10) days of his receipt of the hearing officer's written decision; and,
2. The County Executive shall not implement the decision of the hearing officer.

B. Either party may petition the Albemarle County Circuit Court for a decision regarding implementation of the hearing officer decision. The review of the Circuit Court shall be limited to the question of whether the hearing officer's decision is consistent with provisions of law and written County policy.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-04

PERSONNEL RECORDS

Present and past employees shall have access to their personnel files and records, exclusive of those items made confidential by law, which are maintained by the County of Albemarle. No separate files shall be maintained regarding an employee which is not available for that employee's inspection.

Information determined to be unfounded after a reasonable administrative review shall not be maintained in any employee personnel file, but may be retained in a separate, sealed file by the administration if such information alleges civil or criminal offenses.

If information relative to employment is requested by banks or other establishments, written permission from the employee to release such information is required.

PERSONNEL

Personnel Records (continued)

- A. The official personnel file shall be defined as the employment file containing personal information relevant to the individual's employment which is maintained in the County Human Resources Office.

The official personnel file shall be the only file which is to be considered official and complete. Matters related to wage and salary, employee selection, evaluation, letters of reprimand or commendation, or placement of employees shall be contained in this file. Supervisors are responsible for forwarding all such documents to the Director of Human Resources for inclusion in the official file.

- B. Confidentiality of Files

The Human Resources Office shall protect the confidentiality of personnel files, personnel references, academic credits and other similar documents. It shall establish no separate file that is not available for the employee's inspection.

- C. File Contents

Subsequent to the date of employment, no material derogatory to an employee's conduct, service, character, or personality shall be placed in his or her personnel file unless the employee has had an opportunity to review the material. The employee shall be given the opportunity to acknowledge that he or she has reviewed the material by affixing his or her signature. A statement will be included on the document stating, "this signature in no way indicates agreement with the contents of this document, but only that I have received a copy of it." If the employee refuses to sign the document, the supervisor shall have someone witness the fact that the document was given to the employee and sign a statement attesting to their witnessing. The document should then be forwarded to the Human Resources Office. The employee also shall have the right to submit a written answer to such material, and the Director of Human Resources shall review the answer and shall attach it to the file copy. In no instance should employees be asked to sign documents which are incomplete.

References, transcripts, placement folders and other materials that are received on the basis of pledged confidentiality as a part of the pre-employment procedure, shall not be considered as part of the file material for purposes of this section and section D which follows.

- D. Review of Contents

An employee shall have the right, upon request, to review the contents of his or her personnel file.

Personnel Files (continued)E. Access to Personnel Files

The Director of Human Resources will be held responsible for assuring that only authorized individuals have access to the personnel files. The following individuals shall have general access to the files: (1) County Executive or designee; (2) Director of Human Resources and Human Resources staff. The following individuals shall be designated as having regular access to a limited number of official personnel files: (1) Individual employees or former employees after demonstrating identity; (2) Immediate supervisors shall have access to files of employees under their authority only.

The Board, at its request, may review the personnel file of an employee in executive session at a Board meeting. In such instances, either the County Executive or Director of Human Resources will deliver the file to the Board.

There shall be no access to or dissemination of material from the official personnel files to any individual or organization not having regular access unless a Voluntary Release of Information Form has been signed by the employee and requesting individual or organization.

- F. Only the County Executive/Designee in conjunction with the Director of Human Resources shall have the authority to remove a document from a personnel file. After a period of five (5) years from the date on which a document was placed in a personnel file has elapsed, requests for removal of a document from an individual's file may be made in writing through the Director of Human Resources, who will consult with the County Executive on the request.

A decision will be rendered in writing to the employee and, if removal of the document is approved, the document will be forwarded to the employee.

Legal Reference:

Code of VA., §2.1-340—2.1-346. Virginia Freedom of Information Act. See §2.1-342 (b) (3). Official records to be open to inspection; exceptions.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-05

EFFECT OF CRIMINAL CONVICTION OR ARREST

It is the County's policy not to employ or to continue the employment of any employee who may be deemed unsuitable for employment by reason of arrest and criminal conviction or information appearing in the registry of founded cases of child abuse and neglect maintained by the Department of Social Services. While an arrest or conviction of a crime, in and of itself, may not be an automatic bar to employment, if an arrest or conviction relates to the individual's suitability to perform duties in a particular position, such person may be denied employment or, in the case of current employees, may face disciplinary action up to and including termination. The County shall have the sole discretion to determine whether any conviction is related to the duties of the position for which application is made or whether it affects the fitness of the applicant to work for the County.

I. Applicants for Employment

A. Criminal Convictions

Individuals applying for employment with Albemarle County for any position shall be required to disclose prior criminal convictions and any criminal charges that have not been dismissed or finalized, other than minor traffic violations or juvenile offenses. Information provided by applicants may be verified by work history, personal reference, or criminal record inquiries to determine the applicant's suitability for employment. Where a prior conviction is ascertained, the County will consider at a minimum the nature and seriousness of the offense, the date of the offense, and the relationship between the offense and the position for which application is sought. An applicant's or employee's misrepresentation or willful omission of fact regarding prior criminal history shall be sufficient cause for disqualification of the applicant or termination of employment.

As a condition of employment, any applicant who is offered or accepts employment with the County shall submit to a background check and provide personal descriptive information. Employment may be delayed until satisfactory results have been received by the Department of Human Resources.

An offer of employment may be rescinded based on the results of a background check. If an applicant is denied employment because of information appearing on the applicant's criminal history record, the County shall provide a copy of the information to the applicant.

PERSONNEL

Effect of Criminal Conviction or Arrest (continued)B. Founded Cases of Child Abuse and Neglect

Applicants may also be required to disclose being the subject of a founded case of child abuse and neglect. The County requires, as a condition of employment for certain positions, that any applicant who is offered or accepts employment provide written consent and the necessary personal information for the County to obtain a search of the registry of founded cases of child abuse and neglect. The County shall ensure that all such searches are requested in conformance with the regulations of the Department of Social Services.

If the information obtained in the aforementioned search indicates that the applicant is the subject of a founded case of child abuse and neglect, such applicant shall be denied employment or the offer of employment shall be rescinded and the employment terminated if already commenced.

If an applicant is denied employment because of information appearing on the registry, the County shall provide a copy of the information obtained from the registry to the applicant. The information shall be confidential and shall not be disseminated otherwise by the County.

II. Employee Charges and Convictions

A. Criminal Proceedings

It is the policy of the County not to employ or to terminate the employment of any person who the County deems to be unsuitable for employment by reason of criminal conviction. While evidence that a person has been convicted of a crime may not be, in and of itself, an automatic bar to employment, the County shall retain its sole discretion to determine whether such evidence renders the person unsuitable for employment or whether, in the case of an existing employee, termination of employment is warranted.

In the event that any employee is arrested, he/she must report such arrest promptly to his/her supervisor or department head within one (1) business day unless mitigating circumstances exist. Arrested means arrested, charged by a magistrate, served with an arrest warrant, or summonsed by a law enforcement officer for a crime of any kind, whether misdemeanor or felony. This reporting requirement applies to arrests occurring on-duty or off-duty. This reporting requirement also applies to employees while on leave or between temporary assignments. Failure to comply with this reporting requirement shall be grounds for disciplinary action, up to and including termination.

PERSONNEL

Effect of Criminal Conviction or Arrest (continued)

Supervisors or department heads shall contact the Director of Human Resources/designee upon receiving notification that an employee has been arrested.

An employee who is charged by summons, warrant, or indictment which would bar continued employment in the employee's current position if convicted may be placed on administrative leave in accordance with Policy § P-22, Employee Discipline. The County reserves the right to determine appropriate disciplinary action in such cases, up to and including termination, depending upon the facts and circumstances surrounding the situation.

B. Founded Cases of Child Abuse and Neglect

It is the policy of the County not to employ or to terminate the employment of any person who the County deems to be unsuitable for employment by reason of being the subject of a founded case of child abuse and neglect. While evidence that a person is the subject of a founded case of child abuse and neglect may not be, in and of itself, an automatic bar to employment, the County shall retain its sole discretion to determine whether such evidence renders the person unsuitable for employment or whether, in the case of an existing employee, termination of employment is warranted.

An employee in certain relevant positions may be dismissed if the employee is or becomes the subject of a founded cases of child abuse and neglect after all rights of appeal provided by Virginia Code § 63.2-1526 have been exhausted. An employee who is the subject of a Social Services investigation for child abuse and neglect which would bar continued employment in the employee's current position if founded may be placed on administrative leave in accordance with Policy § P-22, Employee Discipline.

III. Court Ordered Probation

For purposes of this policy, a court's placing an individual on pre-conviction probation pursuant to Virginia Code § 18.2-251 or Virginia Code § 18.2-57.3 is treated as a conviction and as a finding of guilt.

Amended: August 4, 1993; June 1, 2005; February 6, 2019

Legal Reference: Code of Virginia, 1950, as amended, Chapter 23, Sec. 19.2-389 (7)

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-06

ALCOHOL / DRUG FREE WORKPLACE

Albemarle County has a vital interest in maintaining a safe, healthful, and productive environment for its employees. The use of alcohol or illegal drugs, or unlawful use of prescription drugs undermines the quality of job performance, endangers co-workers and brings discredit to the County.

The County will not tolerate the possession or use of illegal drugs, alcohol, or the unlawful use of prescription drugs by its employees in any job-related context and is committed to the eradication of such substances from the workplace. This policy is not intended to prevent employees from participating in social functions outside of County facilities where alcohol may be served. The improper use of alcohol or the use of illegal drugs, or the unauthorized use of prescription drugs undermines the quality of job performance, endangers co-workers and brings discredit to the County. For purposes of this regulation, "illegal drugs" shall mean any controlled substance, or imitation controlled substance, whose unauthorized manufacture, distribution, dispensing, possession, consumption, use, or sale is prohibited by federal or state law. "Unauthorized use of prescription drugs" means use of a drug by anyone other than the person for whom the drug was prescribed, or in any manner that is prohibited by federal or state laws.

Any County employee determined to have violated this policy will be subject to disciplinary action up to and including dismissal.

All County employees shall be responsible for reporting any evidence of the use of drugs or alcohol by staff to their department head. All such reports shall be thoroughly investigated and reported to the County Executive or designee and appropriate action will be taken as necessary.

The Board will not tolerate any violation of the law and, in accordance with the law, will fully support any employee who, in good faith and with probable cause acts to report the activities of other employees as they relate to the use of alcohol or drugs on County property.

In order to comply with federal laws:

- a) Under the Drug Free Workplace Act of 1988, the County requires that an employee notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction. Failure to notify the County of drug related convictions is grounds for dismissal. The County must notify any federal contracting agency within ten (10) days of having received notice that an employee engaged in the performance of such contract has had any criminal drug statute conviction for a violation occurring in the workplace. The County will impose a sanction on any employee who is so convicted.
- b) Under the U.S. Department of Transportation final rules implementing the Omnibus Transportation Employee Testing Act of 1991, Albemarle County is required to establish a program to conduct pre-employment/pre-duty, reasonable suspicion, random and post-accident alcohol and controlled substances testing of each applicant for employment or employee who is required to obtain a commercial driver's license (CDL). The effective date of this program is January 1, 1996.

Amended: August 4, 1993; May 1, 1996

PERSONNEL

DUTIES, RESPONSIBILITIES, AND RIGHTS OF EMPLOYEES

I. PURPOSE

To provide guidelines for establishment of an alcohol and drug-free workplace and to set out the County's drug and alcohol testing program.

II. APPLICABILITY

This regulation applies to all employees. Federal law provides standards for creating a workplace free of illegal drugs with the passage of the Drug Free Workplace Act of 1988. In addition, required standardized tests have been established by the government with the passage of the Omnibus transportation Employee Testing Act of 1991 (Omnibus Act) for employees who are drivers of commercial motor vehicles. The County has exceeded these minimum requirements to establish and maintain a drug-free workplace for all employees.

III. DEFINITIONS

Commercial Motor Vehicle (CMV): A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle (1) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; (2) has a gross vehicle weight rating of 26,001 or more pounds; (3) is designed to transport 16 or more passengers, including the driver; or, (4) is of any size and is used in the transportation of hazardous materials requiring placards. This includes all qualifying vehicles in all departments.

Confirmation Test: A second alcohol test, following a screening test to detect alcohol in an individual's system, that provides quantitative data of alcohol concentration. For controlled substances, confirmation testing means a second analytical procedure to identify the presence of a specific drug or metabolite. Confirmatory drug testing is independent of the screen test and uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.

Driver (CMV/CDL): Any person who operates a commercial motor vehicle (CMV) requiring a commercial drivers license (CDL) or is in a position which requires a CDL as an eligibility criteria because they must drive or be on call and ready to drive if necessary. This includes full-time, part-time, and temporary personnel. In every position requiring a CDL, the employee is either driving or in a state of readiness on call if required to drive. Drivers are subject to drug and alcohol testing under both federal law and Albemarle County policy. For purposes of pre-employment/pre-duty testing only, the term "driver" includes a person applying to Albemarle County to drive a commercial motor vehicle.

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

Duties, Responsibilities, and Rights of Employees (continued)

Omnibus Transportation Employees Testing Act of 1991: The federal law that requires drug and alcohol testing of drivers in various industries. By the authority of this act, the Office of the Secretary of Transportation, U.S. Department of Transportation (DOT) on February 15, 1994, has published rules requiring employers to test each applicant for employment or employee who is required to obtain a CDL for the illegal use of alcohol and controlled substances. For the Albemarle County General Government, compliance with the law commences January 1, 1996.

Safety-Sensitive Function: An employee is performing a safety-sensitive function whenever he/she is engaged in driving a commercial motor vehicle (CDL required) or working in any employment capacity which could affect the safe operation of the vehicle and the safety and welfare of others. This includes any period in which the employee is actually performing, ready to perform or immediately available to perform any safety-sensitive functions.

Screening Test: Also known as an initial test. In alcohol testing, an analytical procedure to determine whether an individual has a prohibited concentration of alcohol in his or her system. In controlled substances testing, an immunoassay test on urine specimens to eliminate "negative" specimens from further testing.

Split Sample Testing: Division of the urine specimen in controlled substance testing into two separate containers, the primary specimen used for the screening test and the split specimen used if the employee requests a second test after being informed of a verified positive screening test.

IV. GUIDELINES

All employees are expected to adhere to the following guidelines as a condition of their employment with the County, and any violation of this regulation, including a first offense, may subject the employee to discipline, up to and including dismissal from employment.

The manufacture, distribution, dispensing, possession, consumption, use, transportation, or sale of illegal drugs at any time and anywhere on County property, at a County-sponsored function or event, or in any other manner while performing duties or obligations incident to County employment is strictly prohibited.

No employee shall report to work, perform assigned duties, or otherwise engage in County business in the community, with detectable amounts of alcohol, illegal drugs, unauthorized prescription drugs, or illegal drug metabolites in his or her system. Whether the employee has alcohol, illegal drugs, unauthorized prescription drugs, or illegal drug metabolites in his or her system shall be determined in accordance with medically established standards for detectable amounts of these substances.

The only limited exception to the foregoing pertains to employees who are not on an official on-call roster and who are called in to work outside their normal duty hours to perform emergency or unscheduled work. No such employee will be disciplined for off-duty consumption of alcohol that results in reporting to duty with alcohol in his or her system so long as the employee first reports that consumption of alcohol to the supervisor making the work request prior to the commencement of any work activity.

Duties, Responsibilities, and Rights of Employees (continued)

V. EMPLOYEE ASSISTANCE

Early recognition and treatment of alcohol and drug abuse are essential to successful rehabilitation. The County maintains an employee assistance program known as Employee Assistance Program (EAP) to assist employees with alcohol and drug abuse problems as well as with other personal problems. The EAP will assist employees with alcohol and drug abuse problems as well as with other personal problems. The EAP will assist employees with these problems and will also make referrals to appropriate treatment programs.

Employees voluntarily seeking assistance for a substance abuse problem through the EAP or a medical source, will not be disciplined as a result of their disclosure of prior drug or alcohol use, and treatment by the EAP or another source will be handled in confidence. An employee may not avoid discipline for violation of this regulation by participating in a treatment program unless he or she does the following:

1. Volunteers for such treatment prior to being confronted by a manager or supervisor with the violation of this regulation.
2. Successfully adheres to requirements of and completes the prescribed treatment program.
3. Does not thereafter engage in conduct violating this regulation regarding use of alcohol, illegal drugs, and unauthorized prescription drugs.

In the case of employees returning to work after successful completion of a treatment program, the County reserves the right to test for drug and/or alcohol use, on a random or periodic basis in accordance with procedures for return to duty testing in section VIII.B.2. of this regulation. The County shall establish a drug-free awareness program to inform all employees about the dangers of drug abuse in the workplace and that the maintenance of a drug-free workplace is the County's goal. The awareness program shall identify counseling and rehabilitation programs and shall emphasize the penalties for employee's violating this policy and its administrative procedures.

VI. ALCOHOL

A. Reporting for Duty – All Employees

No employee shall report for duty or remain on duty while having detectable amounts of alcohol of 0.02 breath alcohol content (BAC) or higher in his or her system. Albemarle County will test for alcohol using an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration (NHTSA). Any supervisor who has actual knowledge that an employee has violated this regulation and permits the employee to work will be in violation of this regulation except in reference to section V, paragraph five.

Duties, Responsibilities, and Rights of Employees (continued)

B. Testing Procedure

Upon entering the test location, the employee will be asked to provide positive identification with photograph (example: driver's license or employer identification badge) to the breath alcohol technician (BAT). The employee and the BAT will complete the Breath Testing Form distributed at the test site and follow required testing procedures. Providing incomplete information (except a social security number), engaging in conduct that obstructs the testing process or failing to sign the required certifications may be regarded as a refusal to take the alcohol test and may constitute just cause for dismissal from employment. At the completion of the screening test, the results will be shown to the employee. If the result of the screening test shows evidence of detectable alcohol concentration, a confirmation test will be performed within specified time limits. If detectable amounts of alcohol of 0.02 BAC or higher are verified in the confirmation test, the employee will be in violation of this regulation. An individual with a verified positive confirmation test may not leave the test site without approval from the attending physician or designee.

If a screening or confirmation test cannot be completed, or an event occurs that would invalidate the test, the BAT will conduct a new screening or confirmation test, as applicable. In the event that an employee attempts and fails to provide an adequate amount of breath, the employee will be required to submit to a blood test.

At the conclusion of testing, copies of the Breath Alcohol Testing form will be retained by the testing location, provided to the employee, and transmitted in a confidential manner to the Director of Human Resources, or designee. If the test results are positive, the results will be reviewed by the Director of Human Resources who will in turn notify the employing department head/designee to determine what action would be appropriate.

VII. CONTROLLED SUBSTANCES

A. Reporting for Duty – All Employees

No employee shall report for duty or remain on duty having used controlled substances except when the use is authorized as prescribed medicine by the attending licensed physician who has advised the employee that the substance does not adversely affect the employee's work performance. Any supervisor who has actual knowledge that an employee has used an illegal drug and permits the employee to work will be in violation of this regulation.

A finding that an employee has a positive drug test results when the initial screen test and a confirmation test provide evidence of one or more of the following substances in the system: cocaine, marijuana, opiates, amphetamines, and phencyclidine.

B. Reporting for Duty – Drivers (CMV/CDL)

In addition to the requirements in Section VIII.A., drivers of commercial motor vehicles taking over-the-counter or prescribed medications shall be responsible for knowing the effects of such medication. They shall not drive or perform other duties under the influence of prescribed or over-the-counter drugs that could impair their ability to perform their duties safely. They shall be responsible for not working when under prescribed or over-the-counter medication that might impair their ability to perform their duties safely.

C. Testing Procedure – All Employees

For controlled substances testing, employees report to a specified test location where a urine sample is collected and subject to the split sample testing procedure. If the employee is unable to provide the specified quantity of urine, the employee will be instructed to drink not more than 24 ounces of fluid and wait up to two hours to provide another sample. If a complete sample still cannot be provided, the Medical Review Officer (MRO) will refer the employee for a medical evaluation to determine if the inability to provide a specimen is genuine or constitutes a refusal to test and then report the findings in writing to the Department of Human Resources.

Strict chain of custody procedures will be followed as the samples are forwarded to the laboratory. If the primary specimen is verified positive, the MRO will notify the employee who can request that the split specimen be tested at the employee's expenses at a different Department of Health and Human Services verified laboratory. The employee must make the request within 72 hours of notification by the MRO. If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the original test results and the cost of the split sample test will be borne by the employer. Upon learning that the MRO is attempting to contact the employee, the employee must respond by calling the MRO within 24 hours of receipt of notification to call or be in violation of this regulation.

If the employee does not contact the MRO within 72 hours as required, the employee may present information to the MRO documenting a legitimate explanation for the employee's failure to contact the MRO within the 72 hours. The MRO may determine to honor the employee's request to test the split specimen. The MRO's decision to permit further testing is final. Test results shall be confidential and will be reported directly to the employee, the Director of Human Resources, or designee, and upon request, to the U.S. Department of Transportation in the case of drivers of commercial motor vehicles. If the test results are positive, the results will be reviewed by the Director of Human Resources who will in turn notify the employing department head/designee to determine what action would be appropriate.

VIII. TESTS REQUIRED

Testing shall be conducted by personnel designated by the County. In general, the County shall pay the cost of required drug and alcohol testing, including screening and confirmation tests for alcohol and primary specimen tests for drugs. The County shall not pay if the employee's initial testing indicates the need for further examinations or consultation on a problem other than drug or alcohol use, in which case the employee shall pay the cost of the additional tests or examination.

PERSONNEL

Duties, Responsibilities, and Rights of Employees (continued)

- A. For safety-related position, including Drivers (CMV/CDL) pursuant to federal law and its own authority, Albemarle County will test personnel in safety-related positions under the following circumstances:

1. Pre-Employment / Pre-Duty

Prior to the first time a new hire or current employee is placed into a safety-related position, (including placement by way of lateral transfer or promotion into a safety-related position for a current employee), the person shall be tested for alcohol and controlled substances and must be found to be in compliance with section VI and VII, as well as other applicable requirements of this policy.

Applicants offered positions requiring CDLs, as a condition of employment, give written consent to permit Albemarle County to contact all previous employers over the past two years to confirm that the applicant's work history was free of substance abuse, alcohol abuse, and positive drug or alcohol test results. In addition, applicants offered positions shall, as a condition of employment, provide written consent for post-accident testing and release of test(s) results to the County.

2. Post-Accident – For Drivers (CMV/CDL)

While on duty, a driver of a commercial motor vehicle who is involved in an accident must be tested for alcohol and controlled substances as soon as practicable following the accident and found to be in compliance with sections VI. and VII. of this regulation. Post-accident testing will be required if (a) there is a fatality, and/or (b) one or more persons requires medical treatment away from the accident scene, and/or (c) one of the vehicles must be towed from the scene, and/or (d) the driver receives a citation arising from the accident. Every reasonable effort will be made to administer alcohol tests within two (2) hours of the accident. If a test has not been performed within eight (8) hours following the accident, efforts to test will stop. Controlled substance testing will stop if not performed within 32 hours following the accident. Supervisors are responsible to provide and forward written documentation to the Department of Human Resources any time alcohol testing is not performed within two hours and drug testing is not performed within 32 hours. Written documentation should include the amount of time taken between the accident and testing and the reason for the delay.

A driver who is subject to post-accident testing shall remain readily available at the accident scene for testing following the accident until he/she undergoes testing or he/she will be deemed to have refused to submit to testing. The only exception to this requirement applies when the driver leaves temporarily to obtain assistance in responding to the accident, to obtain necessary medical care or is detained by law enforcement personnel. Without supervisor approval, an employee may not ingest food or drink during the period prior to testing. Testing conducted by federal, state, or local officials at the scene of the accident having independent authority to conduct tests for alcohol or controlled substances shall meet the requirement for post-accident testing. Employees will be required to consent to testing by such officials, and to release the results of such tests to the County.

PERSONNEL

Duties, Responsibilities, and Rights of Employees (continued)

3. Random

Alcohol and controlled substance tests will be conducted periodically on an unannounced basis throughout the calendar year. Employees will be randomly identified using a scientifically validated method and notified to report for testing during the work year. Under this selection process, each driver shall have an equal chance of being tested each time selections are made. Employees identified to be tested will report directly and immediately to the test site when notified by their supervisor. Otherwise, refusal to, or delay in, reporting immediately and directly to the test site will be considered a refusal to test and grounds for dismissal. If a driver is off work due to illness, vacations, leave of absence, layoff, injury, or for any other reason, for more than 30 calendar days, his or her name will be removed from the random pool, and prior to returning to driving the pre-duty testing provision of this regulation shall apply.

For random alcohol testing, the minimum annual percentage rate shall be 25 percent of all the commercial motor vehicle drivers. This percent may increase or decrease in any given year depending on the violation rate as determined annually for each industry by the Federal Highway Administration (FHWA) in accordance with DOT guidelines. Drivers will only be tested for alcohol just before, during, or just after performing safety-sensitive duties.

For random drug testing, the minimum annual percentage rate shall be 50 percent of all the commercial motor vehicle drivers. This rate for controlled substances may change annually similar to the alcohol adjustments. Drivers will be tested for controlled substances within 32 hours of random selection.

B. For All Employees

Albemarle County will also test all employees in the following situations pursuant to its own authority and, with respect to drivers, the drug and alcohol testing regulations issued by DOT and the FHWA.

1. Reasonable Suspicion:

Upon reasonable suspicion of a violation of this regulation, the employee may be tested for alcohol or drugs. Reasonable suspicion may be based upon, but not limited to, the following: specific observation of actual use or possession of alcohol or illegal drugs; physical symptoms of having used those substances such as uncommon speech or body odors; observation of abnormal conduct or erratic behavior; or the receipt of information when the nature of the information suggests that the sources was reliable and credible.

A supervisor trained to recognize signs of alcohol or drug use, shall make the necessary observations and review information provided regarding the reasonable suspicion that the employee may be in violation of this regulation. If any authorized supervisor or authorized representative from the Department of

PERSONNEL

Controlled Substance – Testing Procedure (continued)

Human Resources determines that reasonable suspicion exists, the employee shall be directed to submit to testing and be transported to the test site by the supervisor or his or her designee. Without supervisor approval, an employee will not ingest food or drink during the period prior to testing.

An employee directed to submit to alcohol or drug testing shall be informed of the reason(s) for the test and the fact that refusal to provide the specimen constitutes failure to obey a direct order and is grounds for dismissal. The supervisor and/or personnel representative shall document the information communicated to the employee and the evidence which constituted reasonable suspicion within 24 hours of the observed behavior or report of the incident or before the results of the test are released, whichever is earlier. At the employee's request, a copy of such documentation will be provided to the employee by the Department of Human Resources. All testing at a designated medical facility will be administered by an official in accordance with established medical standards. For example, drug testing will be performed using chain of custody procedures along with confirmation testing and other safeguards.

The alcohol test shall not be performed more than eight (8) hours after the determination of reasonable suspicion. Whenever an alcohol test is not administered within the first two (2) hours upon determination of reasonable suspicion, a record will be maintained which documents the reason(s) for the delay and how long the delay lasted.

2. Return to Duty / and Follow-Up Testing

A former driver (CMV/CDL), and other CDL designated personnel, dismissed for violations of these regulations, who satisfactorily completes a rehabilitation program prescribed, monitored, and certified by a substance abuse professional, may reapply for employment and receive a fair consideration for all positions applied for except those requiring a CDL. If selected, the employee will be subject to a minimum of six random unannounced follow-up alcohol and/or controlled substances tests at County expense during the first twelve (12) months after employment.

In the event Albemarle County allows any other employee to return to duty after engaging in conduct which violates this regulation, he or she will be sent to the EAP, as a condition of employment, and may be required to be evaluated by a substance abuse professional who shall determine the employee needs in resolving problems associated with alcohol misuse and/or controlled substance use. Evaluation criteria used to determine if the employee may return to duty shall include but not be limited to: level of performance, years of service, previous conduct violations, possession of unique skills, knowledge and training, recommendation of a certified substance abuse professional, if available, and the safety-sensitive nature of the position.

Referral to the substance abuse professional will be made through the Employee Assistance Program (EAP). All follow-up testing will comply with procedures as set forth in this regulation.

Duties, Responsibilities, and Rights of Employees (continued)

IX. REMOVAL FROM DUTY

Employees will be removed from duty and placed on administrative leave with pay pending a final decision for disciplinary action. Employees will be advised of their violation, have an opportunity to respond to the charges against them, and be notified in writing of the status of their employment.

The following circumstances, while not necessarily inclusive, require placing the employee on administrative leave pending a final decision on the status of employment:

- a) Refusal to be tested;
- b) Confirmation of a positive test result;
- c) After an accident requiring testing;
- d) When reasonable cause has been established;
- e) When the behavior, speech, and performance indicators of alcohol/drug misuse are impossible to confirm reasonable suspicion with a test.

X. DISCIPLINARY ACTIONS

A. Drivers of commercial motor vehicles (CDL required) and other CDL designated personnel, who engage in any of the following conduct will be terminated in accordance with due process:

1. Violate any of the foregoing rules regarding manufacturing, distributing, dispensing, possessing, consuming, using, or selling drugs or alcohol;
2. Have drugs or alcohol in their systems in violation of this policy/regulation;
3. Refuse to submit to or cooperate with drug and/or alcohol testing which includes, but is not limited to: a) tampering with or attempting to adulterate the specimen or collection procedure; b) not reporting directly and immediately to the collection site; c) not accurately signing in and reporting the arrival and departure times at the test site; and, d) leaving the scene of an accident without a valid reason before the tests have been concluded;
4. Fail to report their consumption of over-the-counter or prescribed medication(s) that could impair their ability to perform their duties safely; or,
5. Fail to report any drug or alcohol conviction or charge as required by this regulation.

B. In addition, other employees may be subject to discipline, up to and including discharge, even for a first offense, if they:

1. Violate any of the foregoing rules regarding manufacturing, distributing, dispensing, possessing, consuming, using, or selling drugs or alcohol;
2. Have drugs or alcohol in their systems in violations of this policy/regulation; or,

Duties, Responsibilities, and Rights of Employees (continued)

3. Refuse to submit to or cooperate with drug and/or alcohol testing which includes, but is not limited to: a) tampering with or attempting to adulterate the specimen or collection procedure; and b) not reporting directly and immediately to the collection site.
- C. This regulation shall be administered consistently with the County's obligations under federal, state and local laws/regulations. recommendations for disciplinary actions, including dismissal for violation of this regulation, will be consistent with standard operating procedures to ensure that due process is observed throughout all proceedings. Disciplinary actions affecting employment status shall be reviewed by the County Executive's Office, Director of Human Resources, or designee, before a final decision with respect to continued employment status or disciplinary actions is reached. An employee who is charged with a drug-related felony or convicted of any criminal offense shall notify his or her immediate supervisor who shall report the information to the Director of Human Resources within five (5) days of the charge or arrest or prior to reporting for duty, whichever is earlier. This requirement shall not apply to an alcohol-related offense for employees except for commercial motor vehicle drivers, and other drivers required to maintain a CDL, and employees whose position responsibilities include the operation of a County vehicle:

1. Employees Who Drive as Primary Occupation

If a County employee is charged with or convicted of a motor vehicle offense involving alcohol, illegal drugs or the misuse of legal drugs whether in or outside of the workplace and their position in the County requires driving as a primary responsibility, they will be dismissed from their employment in accordance with due process. Upon being charged by legal authorities, the employee will be suspended without pay until the case is resolved. If the employee is convicted, the employee will be dismissed effective the date he or she was originally suspended. If not convicted, the employee will be reinstated with full pay retroactive to the date of suspension.

2. Other County Employees

County employees whose primary occupation does not involve driving and who are convicted of a motor vehicle violation involving alcohol, illegal drugs or the misuse of legal drugs will be suspended from driving a County Vehicle for one year from the date of conviction. Employees convicted of such offenses must notify their immediate supervisor of the conviction and will be referred to the Employee Assistance Program (EAP) for counseling.

XI. RECORD RETENTION AND CONFIDENTIALITY

All records and data relating to violations of this regulation shall be maintained in a secure location with controlled access by designated representatives in the Department of Human Resources. Testing records for drivers of commercial motor vehicles will be maintained in accordance with rules and regulations of the Federal Highway Administration, U.S. Department of Transportation.

Duties, Responsibilities, and Rights of Employees (continued)

Test results shall be confidential and shall be communicated to individuals other than the employee and the Department of Human Resources staff only on a “need-to-know” basis, and only with the approval of the Director of Human Resources and, in appropriate cases, the employee. An employee is entitled, upon written request, to obtain copies of any records pertaining to the employee’s use of alcohol or controlled substances. Test results for drivers of commercial motor vehicles may also be provided annually to the Department of Transportation in compliance with federal requirements.

XII. NOTIFICATION AND TRAINING

Every employee is expected to be aware of the regulation and its requirements and to abide by the requirements. Directors/Program Managers have the responsibility to ensure that all employees are made aware of this regulation. In addition, Directors/Program Managers should schedule a meeting with their respective staffs on an annual basis to review the provisions and requirements of this regulation. All employees in positions requiring a CDL, will be provided a copy of this regulation and shall sign a statement certifying receipt of such which will be maintained in the employee’s personnel file. Supervisors of employees in positions requiring a CDL, who are responsible for determining if reasonable suspicion exists, will undergo two (2) one-hour training sessions, one each on substance abuse and on alcohol misuse. Training shall include the physical, behavioral, speech, and performance indicators of probably alcohol misuse and use of controlled substances.

XIII. APPEAL PROCEDURE

Employees in positions requiring maintaining a valid CDL who choose to appeal a dismissal decision based on a positive drug or alcohol test result, must appeal to the County Executive via their Department Head.

All employees (including persons in positions requiring the CDL) who test positive based upon reasonable suspicion who choose to appeal a dismissal decision, must appeal to the County

Executive via their Department Head. Violations of these procedures are subject to the grievance procedure outlined in Policy P-03.

XIV. POLICY OR PROCEDURAL INQUIRIES

Questions related to this regulation should be directed to the Director of Human Resources.

XV. This policy states the Board’s current policy and may be changed or modified without notice, consistent with applicable local, state or federal laws and regulations.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-07

PERSONNEL POLICIES AND GOALS

Policies contained in this section set forth provisions for initial and continuous employment of all personnel of Albemarle County. In addition to policies established by the Board, the County shall comply with all applicable State and Federal laws and regulations. In any case in which policy conflicts with State or Federal law, State or Federal law shall control.

These policies shall be administered by the Human Resources Office which shall be responsible for the appropriate recruitment*, staffing, and employee relations of the County and shall maintain a personnel file system for all employees of the County.

The personnel policies shall be reviewed periodically. Personnel Employees or their representatives may be consulted and their suggestions sought in the review and revision of personnel policies. Revisions and additions shall be subject to approval by the Board of Supervisors on the recommendation of the County Executive/Designee.

* Social Services employees are governed under the State of Virginia recruitment procedures.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-08

COMMONALITY IN PERSONNEL PRACTICES

The Albemarle County Board of Supervisors and School Board believe that their employees are all dependent on Albemarle County taxpayers and, thus, should be governed by the same personnel policies, procedures, and practices. To effect this commonality, the Boards have implemented procedures through which communications and decisions regarding personnel matters take place between the local government and the school division.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-08

PERSONNEL PROCEDURES

1. All personnel policies and procedures that are applicable to both local government and school division employees will be approved by both the Board of Supervisors and School Board.
2. A committee comprised of representatives from both divisions will review all proposed personnel policies and procedures that are applicable to both divisions and make recommendations to both the County Executive and Superintendent. Should changes be suggested by either board, the matter will be referred back to the County Executive and Superintendent for resolution subject to final approval by the boards.
3. The County Executive and Superintendent will make joint recommendations regarding salary and benefit adjustments for inclusion in the next year's budget.
4. The Boards will maintain a common salary schedule*, means of assigning positions to pay ranges, and fringe benefit program for employees in both divisions.
5. Whenever a personnel matter occurs that may be applicable to both divisions, it shall be the responsibility of the County Executive and Superintendent to discuss the issue, refer it to an appropriate task force for recommendation or to the boards for approval as necessary.

Through the above procedures, it is anticipated that personnel policies, procedures, and practices affecting local government and school division employees shall, whenever possible, be consistently developed and administered.

*excluding teachers

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-09

THIRD-PARTY COMPLAINTS AGAINST EMPLOYEES

Prior to filing a formal complaint, individuals are encouraged to attempt to resolve their concerns informally by addressing the matter to the person with whom they have the concern. Any individual who wishes to file a formal complaint regarding an employee of Albemarle County, shall complete a Third-Party Complaint Form available from the County Executive/Designee. In each instance where a complaint is filed on the appropriate form, the individual to whom the complaint is made, or who may be specifically designated to handle such complaints, shall hold a conference within 10 calendar days from when the complaint was received with the employee to consider all sides of the issue. Following the conference, a specific memorandum shall be given to the employee indicating the nature of the complaint and any specific action taken within 10 calendar days after the conference. Individuals affected shall acknowledge receipt of the memorandum by signing a statement on the copy to be filed, indicating the memorandum and the original complaint form were received. In instances where the employee does not agree with the facts stated in the memorandum or the action taken, he or she shall be allowed to respond in writing and have the response filed with the memorandum. If, after investigation by the designated individual, the complaint is deemed unsubstantiated, the memorandum shall be destroyed. If the complaint is substantiated, the memorandum shall be placed in the employee's personnel file.

Individuals who utilize the complaint form in lodging a complaint shall be sent a letter noting that the complaint has been filed and is in the process of being investigated. After the investigation is completed, the person who lodged the complaint will be notified whether or not any action was taken.

The complaint must be filed within 30 days after the alleged incident and should be processed after a reasonable period of time, normally within 60 days or less.

- * A separate procedure exists for Third Party Complaints against sworn Police Department Personnel.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-12

FITNESS FOR DUTY

The Board of Supervisors believes that its responsibility is to assure that all of its employees are fit for duty, physically and psychologically, in order to provide the highest level of services possible to the citizens of Albemarle County. In order to effect this assurance, the Board has charged the County Executive with the responsibility of implementing procedures that are fair to the employees involved but that also protect the basic belief that all employees must be of sound mind and body in order to carry out their responsibilities at the highest levels possible.

Adopted: August 4, 1993

PERSONNEL

PROCEDURE FOR COMPLIANCE

FITNESS FOR DUTY

1. All employees will be informed that a minimum responsibility is to maintain their physical and emotional health to a degree required to carry out their responsibilities as employees.
2. All job descriptions will clearly state the minimum physical and emotional health requirements of the particular job. Employees are responsible for familiarizing themselves with these requirements.
3. If a supervisor suspects that an employee is not fit for duty, i.e. is unable to effectively perform his/her responsibilities due to physical or emotional health problems, the supervisor will have the right to refer the employee for a fitness for duty examination through the County physician. When such a referral is made, the supervisor shall explain to the employee the reasons for requiring the fitness for duty examination. The examination shall be at the County's expense and take place on the employee's paid work time.
4. Results of the fitness for duty examination will be shared with the employee. If the fitness for duty examination indicates that the employee requires some treatment prior to resuming their employment responsibilities, the Human Resources Department shall counsel the employee on the services available for this treatment. If the County physician indicates that the employee is not fit for duty on a permanent basis, the employee will also have benefits such as retirement disability explained to him/her.
5. If the fitness for duty examination indicates that the employee could perform their responsibilities with some reasonable accommodation to the job, the County Executive/Superintendent/Designee will determine whether or not such modifications to the job can be made.
6. If the fitness for duty examination indicates that the employee could perform his/her responsibilities by adhering to some medical treatment, it shall remain the responsibilities of the employee to undergo the treatment. Failure to do so may result in dismissal from employment.
7. When employees return to work after hospitalization or prolonged absence for health reasons, the County Executive/Designee may require that the employee be examined by the County physician prior to allowing the employee to return to work.

The above-outlined procedures are designed to assure that employees are fit for duty, or, if problems occur, receive the treatment required in order to be able to perform their responsibilities to the extent required in the position description.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-20

CONDITIONS OF EMPLOYMENT

PERSONNEL FUNDED THROUGH OTHER THAN COUNTY BUDGET

The Board recognizes the fact that additional funding is available for employees through various sources. The Board encourages its administration in the designing of projects which will enhance and stimulate its regular programs. The Board requires that the procedures utilized in employing such personnel will be consistent with policies and procedures in effect for regular County-funded employees.

The Board shall, in all cases, retain control over the employment, fringe benefits and payment of all employees regardless of the source of funding, except where this is superceded by federal or state law.

PERSONNEL

PROCEDURE FOR CONDITIONS OF EMPLOYMENT: PERSONNEL FUNDED
THROUGH OTHER THAN COUNTY BUDGET

- A. All projects or grants involving requests for employment of personnel in Albemarle County shall be brought to the attention of the County Executive and Director of Human Resources.
- B. The Board shall be supplied with information on all projects and grants and such additional personnel employed under these projects and grants.
- C. All employees funded through other than County funds, inclusive of any agency for which the County is the official designated fiscal agent, shall be treated as though they were regular County employees and shall be subject to the same classification system, fringe benefits, and recruitment practices as regular County employees.
- D. All employment of personnel, regardless of the funding source for their salaries, shall be conducted in accordance with procedures established and coordinated under the Director of Human Resources.
- E. Administrators shall, in preparing a grant or project for additional personnel, build into the proposal enough funds to cover the appropriate fringe benefit package for the position(s). The classification of such position(s) will be determined in consultation with the Director of Human Resources.
- F. Under no circumstances shall the Board be held liable for funding fringe benefits for other than County funded employees unless prior approval has been received by the Board.
- G. The performance of employees funded through other sources shall be evaluated the same as that of regular County employees.

Amended: August 4, 1993

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-21 EQUAL EMPLOYMENT OPPORTUNITY, INCLUSION, AND PROHIBITION
AGAINST DISCRIMINATION, HARASSMENT, BULLYING, AND RETALIATION

I. Purpose

Albemarle County is an Equal Opportunity Employer committed to providing an atmosphere of non-discrimination, inclusion, and equal opportunity within the County government. This includes maintaining a workplace that is free from discrimination, harassment, bullying, and retaliation.

The Albemarle County Board of Supervisors prohibits discrimination, harassment, bullying, the creation, maintenance, or tolerance of a hostile work environment, and retaliation of any kind. This includes but is not limited to discrimination, harassment, bullying, or retaliation on the basis of race, color, religion, sex, gender identity, sexual orientation, pregnancy, marital status, parental status, national origin, age, disability (physical or mental), family medical history or genetic information, political affiliation, military service, or any non-merit factors. Non-merit-based factors include non-job-related conduct that does not adversely affect the performance or work environment of an employee or job applicant.

These protections extend to all management practices and decisions, including recruitment and hiring practices, appraisal systems, promotions, training, and career development programs. All personnel decisions shall be based on merit and the ability to perform the essential functions of the job with or without reasonable accommodation. The Board has designated the Director of Human Resources to receive all complaints and inquiries regarding the nondiscrimination provisions of Titles VI and VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, the Age Discrimination Act, the Age Discrimination in Employment Act, Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 with respect to any employment issues, and the Virginia Human Rights Act.

All employees of Albemarle County must be tactful in their relationships with their peers and the public and shall treat them with respect and courtesy. Any instances of verbal or physical harassment will be investigated and addressed through appropriate disciplinary action. Instances of physical or verbal harassment will be considered standard of conduct violations subject to discipline up to and including termination of employment.

II. Notice of Policy

The statement, “Albemarle County is an Equal Opportunity Employer,” shall be placed on all employment application forms and shall be disseminated throughout Albemarle County.

III. Accommodations

The County will reasonably accommodate changes to work requirements and conditions for employee who need them for disability or religious reasons as required by law. See also § P-91 Americans with Disabilities Act.

IV. Prohibited Conduct

A. Generally

Physical or verbal conduct, or a combination thereof, which may include use of cell phones, social media, messaging apps, or other internet mediums, is prohibited when it:

- creates an intimidating, hostile, or offensive working environment;
- interferes with another's work;
- constitutes an adverse employment action; or
- otherwise is sufficiently serious to limit another employee's employment opportunities.

Behavior that is not civilly or criminally unlawful or does not constitute illegal or actionable harassment, discrimination, bullying, or retaliation may nevertheless be unacceptable for the workplace. Demeaning, derogatory, offensive, or otherwise harmful actions are prohibited. Such conduct not directed at an employee but performed under circumstances reasonably foreseeable that the employee will overhear, see, witness, or indirectly learn of such conduct is also considered prohibited under this policy.

Aggressive and unwanted behavior that is intended to harm, intimidate or humiliate the victim; involves a real or perceived power imbalance between the aggressor or aggressors and victim; and is repeated over time or causes identifiable/significant emotional trauma/distress is also prohibited and violates this policy.

Whether conduct is prohibited and violates this policy is based upon a reasonable manager/employer standard.

Examples of prohibited conduct which violate this policy include but are not limited to:

- written or graphic material containing offensive language, including offensive material shared via social media, messaging apps, or other digital platforms
- written or graphic material which is posted or circulated and which intimidates or threatens individuals including offensive material shared via social media, messaging apps, or other digital platforms
- name calling, offensive/unwelcome nicknames, demeaning/inappropriate terms, jokes or rumors
- offensive/threatening non-verbal or physical gestures/actions (i.e. slicing a finger across one's own throat, etc.)
- verbal or physical acts of aggression against a person or the person's property, insults, ridicule, acts of intimidation, or abuse
- encouraging others to make inappropriate jokes, comments or advances

- stalking an individual by following them, making repeated telephone calls, etc., whether during or after work hours
- a pattern or practice of offensive behavior (i.e. repeatedly rolling eyes/loud dramatic sighs whenever target of behavior enters a room, “flipping the bird”/showing middle finger, etc.)

Prohibited physical or verbal conduct may occur between any two or more persons; it may occur by or against an employee, contractor or vendor; it may occur at the workplace, or away from the workplace, and may occur during or after work hours. The employee need not suffer any physical injury to have experienced a prohibited action pursuant to this policy.

Violations of this policy may also constitute violations of other policies such as but not limited to § P-25 Standards of Conduct. Conduct brought to a supervisor’s attention pursuant to this policy that does not rise to the level of harassment, bullying, discrimination, or retaliation may be held to violate other policies pertaining to professional behavior and acceptable performance such as but not limited to § P-25 Standards of Conduct.

B. Prohibited Conduct Based on Sex, Sexual Orientation, Gender Identity

Sexual harassment, discrimination, and retaliation are absolutely prohibited. It is deemed to have occurred when physical or verbal conduct, or a combination thereof, meets the general definition above and is of a sexual, sex-based or gender identity-based nature.

Examples of conduct which may constitute sexual harassment include but are not limited to:

- attempts to coerce or force an individual to submit to unwelcome sexual advances, requests for sexual favors, unwelcome pressure to date or engage in sexual activities
- unwelcome verbal, physical, or written conduct of a sexual nature including but not limited to offensive material/conduct shared via social media, messaging apps, or other digital platforms
- unwanted, intentional touching (i.e., patting, massaging, rubbing, hugging or pinching)
- sexual or suggestive remarks about a person’s weight, body, clothing, make-up, appearance, smell, or hairstyle
- subjecting members of one sex or gender identity to disadvantageous terms or conditions of employment to which members of the other sex or gender identity are not subjected
- telling, displaying, or distributing sexually suggestive calendars, magazines, pin-ups, graffiti, pictures, cartoons, posters, software, e-mail or jokes including those with sexual innuendo or comments with a double meaning
- displaying, fondling, or grabbing one’s own intimate parts in another person’s presence

- making facial expressions such as throwing kisses, winking, licking lips or whistling at another person in a sexually suggestive manner
- asking intimate or sexually probing questions
- requesting sexual favors during work
- requesting sexual favors at any time accompanied by implied or overt threats concerning another person's employment status or benefits or promise of preferential treatment with regard to an individual's employment status or benefits

Sexual discrimination occurs when an adverse employment action is taken against a person based upon the person's sex, sexual orientation, or gender identity. Adverse employment actions affect the terms and conditions of employment including, but are not limited to, the failure to hire, termination, demotion, decrease in pay or benefits, loss of job title or supervisory responsibilities, or reduced opportunities for promotion.

Sexual retaliation occurs when an individual engages in an activity protected by County policy or law (i.e. reporting harassment or bullying or filing a claim with the EEOC or a court) and an employee retaliates with harassment or discrimination based on sex, sexual orientation, or gender identity.

Consensual Relationships – Employees involved in consensual relationships, including friendships outside of the workplace, should notify the other party that continued non-work-related contact is unwelcome before filing a complaint.

Supervisor/Subordinate Romantic/Dating Relationships – Supervisors must report to their department head/designee and the Human Resources Director/designee if they wish to pursue a consensual romantic/intimate/dating relationship between the supervisor and a subordinate prior to initiating such a relationship. One or both employees will be transferred to eliminate, or minimize the risk of occurrence if elimination is not reasonably possible, any conflicts that may arise from a supervisory relationship. The County will strive to have any such transfer be to a similar position of equivalent pay and benefits taking into consideration position availability and the transferring employee's knowledge, skills, and abilities. Consensual romantic/intimate/dating relationships that are not properly reported will be treated as non-consensual and will result in disciplinary action against the supervisor.

V. Supervisor Expectations and Duties

A. Generally

Supervisors/department heads are duty bound to create and maintain a safe environment that is free of discrimination, harassment, bullying and retaliation of any kind from other employees, residents, customers, contractors, or vendors.

If a supervisor/department head knows or reasonably should know that such impermissible behavior is occurring, they must take quick and reasonably necessary measures to stop such behavior through this policy and/or the disciplinary process.

Supervisors/department heads ‘reasonably should know’ when reported actions or statements would lead a reasonable supervisor to know or investigate whether impermissible behavior is occurring.

Supervisors/department heads are also required to take appropriate steps even when the reporting employee is from a different department. Supervisors/department heads must report discrimination, harassment, bullying, and retaliation complaints to and consult with their Human Resources Generalist/Human Resources Director/designee for guidance.

B. Additional Liability

In addition to facing disciplinary action from the County, employees who engage in or permit discrimination, harassment, bullying, or retaliation including supervisors who know or reasonably should know that such misconduct is occurring in their workplace and fails to report as required by County policy, may face personal civil liability under federal anti-discrimination laws, such as Title VII of the Civil Rights Act (“Title VII”).

VI. Complaint Procedure

A. Direct the Harasser to Stop

Any person who is being subjected to discrimination, harassment, bullying, or retaliation should direct the offender to stop the behavior. If the employee is not able to direct the offender to stop, if the employee feels uncomfortable directing the offender to stop, or if the conduct reoccurs after the offender has been told to stop, the employee should report the behavior as outlined below.

B. Report to Supervisor or Department Head/Designee

Employees are encouraged to report situations even when resolved on their own to their immediate supervisor/department head/designee so that the supervisor/department head/designee can identify any patterns.

The County supports site-based management and empowers department heads to solve problems at their level of the organization. The department head/designee may take whatever personnel actions are deemed necessary to protect employees, customers, contractors, vendors, and the public and to preserve orderly departmental operations consistent with County objectives. If the complaint indicates a severe or pervasive on-going issue, the department head/designee must take immediate action to protect the aggrieved party and separate or remove the aggressor, which includes using administrative leave during the investigation.

C. Report to Human Resources Department (HR)

Employees are encouraged to report situations even when resolved on their own to their Human Resources Generalist or the Director of Human Resources/designee so that Human Resources can identify any patterns. HR is responsible for notifying the County

Executive's Office as needed to ensure appropriate policy application and maintain consistency across departments.

If an employee is not satisfied that a complaint has been resolved, or if the employee feels uncomfortable reporting the problem to their immediate supervisor or department head/designee, they should report the problem to their Human Resources Generalist or the Director of Human Resources/designee.

The problem should be reported as soon as possible. The County encourages reports to be made within twenty (20) calendar days of the occurrence or lack of resolution to promote and protect employee and customer welfare and safety, to facilitate prompt, thorough, and impartial investigations, and to allow the imposition of immediate and proportionate corrective action if discrimination, harassment, bullying, or retaliation is determined to have occurred.

Reports to HR or appointments to make a report can be made at: 434-296-5827.

If any person covered by this policy is not satisfied that a complaint has been resolved in accordance with the County's personnel policies, the person should report the matter to the County Executive's Office as provided below.

D. Report to County Executive's Office

If the complaint is made against an employee in HR, the person to whom a complaint is made shall contact the County Executive's Office for further action.

Reports to the County Executive's Office or appointments to make a report can be made at: 434-296-5841.

E. Duty to Investigate

HR is primarily responsible to investigate complaints promptly, thoroughly, and impartially subject to its standard operating procedures. HR may utilize other departments' resources to assist in the investigation. The County Executive/designee is authorized to request the County Attorney/designee or procure qualified outside professional organizations to investigate under appropriate circumstances.

The investigation shall be completed as soon as practicable, which generally should be not later than 14 business days after receipt of the complaint by the Human Resources Generalist or the Director of Human Resources/designee. Upon receiving the complaint, the Human Resources Generalist or Director of Human Resources/designee shall acknowledge receipt of the complaint by giving written notice that the complaint has been received to the person complaining of harassment. Also, upon receiving the complaint, HR shall determine whether interim measures should be taken pending the outcome of the investigation. Such interim measures may include, but are not limited to, separating the alleged harasser and the complainant and, in cases involving potential criminal conduct, determining whether law enforcement officials should be notified. If HR determines that more than 14 business days will be required to investigate the

complaint, the complainant shall be notified of the reason for the extended investigation and of the date by which the investigation will be concluded.

VII. Refusal to Disclose

The County is not obligated to force an alleged victim/survivor of discrimination, harassment, bullying, or retaliation to reveal the name of their harasser if the victim refuses to disclose the name because the victim has talked with the harasser, resolved the matter to their satisfaction and represented in writing that they do not want the County to further investigate the incident. However, the way the County handles these situations will be determined only after interviewing the victim and analyzing the facts and circumstances of each case. If the County concludes the circumstances are serious, aggravated, or present as a potentially continued risk to the safety and welfare of its workforce or customers, then the County may require disclosure of the harasser’s identity.

VIII. Duty to Cooperate

All County employees are required to cooperate fully in investigations. Impeding an investigation or otherwise covering up a violation is prohibited. Refusal to cooperate, whether by act or omission, is subject to disciplinary action.

IX. Confidentiality

To promote an impartial, accurate, and thorough investigation, all participants in the investigation, including the complainant, the alleged harasser, and witnesses must keep the details and results of any investigation confidential to the extent possible, or unless otherwise directed. Communications with personal legal counsel or communications that are otherwise legally protected as a privileged communication are permitted. Communications protected under state or federal law are also permitted.

X. Prohibition Against Retaliation

Albemarle County does not tolerate retaliation, which includes any adverse employment action, harassment, reprisal, punishment, or other form of retaliation against an employee because that employee filed a complaint of discrimination or harassment, participated in a complaint-related investigation, are perceived to have participated in a complaint-related investigation, or otherwise opposed discrimination, harassment, bullying, or retaliation. Employees who believe they have been subject to retaliation in violation of this policy should immediately contact their Human Resources Generalist or the Director of Human Resources/designee. Any employee, including any member of management, who violates this policy will be subject to discipline, up to and including termination of employment.

XI. Right to Legal Remedies

Nothing in this policy shall deny the right of any individual to pursue other avenues of recourse to address concerns relating to prohibited discrimination, harassment, bullying,

or retaliation including initiating civil action, filing a complaint with outside agencies or seeking redress under state or federal law. This may include but is not limited to the employee contacting and communicating with the federal Equal Employment Opportunity Commission or the state Virginia Division of Human Rights.

XII. False Charges

Employees who knowingly, maliciously, or recklessly make false charges of discrimination, harassment, bullying, or retaliation shall be subject to discipline up to an including termination of employment.

XIII. Prevention and Notice of Policy

Training to prevent discrimination, harassment, bullying, and retaliation are included in new employee orientation as well as continuing employee in-service training.

The ultimate responsibility for compliance with this policy rests with the County Executive as the chief administrative officer of the County. Responsibility for administration and dissemination of the Policy is delegated to the Director of Human Resources.

To assist the Director of Human Resources, each department head will be responsible for ensuring that the Equal Employment Opportunity and Inclusion Policy is carried out within their respective department.

This responsibility will include, but not be limited to, the following:

- Train and counsel management concerning the need for their personal attention to the requirements of this policy to create, provide, and maintain non-discrimination, inclusion, and equal opportunity within the County government.
- Undertake efforts to recruit, appoint and retain qualified diversity at all levels of employment.

Legal References:

Civil Rights Act of 1964, as amended in 1972, Title VI, Title VII; 42 U.S.C. 2000e-z, 29 C.F.R. 1604.11 (1987); Executive Order 11246, 1965, as amended by E.O. 11375; Equal Employment Opportunity Act of 1972, Title VII; Education Amendments of 1872, Title IX (P.L. 92-318); 45 C.F.R., Parts 81, 86 (Federal Register June 4, 1975, August 11, 1975); rehabilitation Act of 1973; Age Discrimination in Employment Act, P.L. 95-256; Constitution of Virginia

Amended: August 4, 1993; January 3, 2007; August 5, 2020

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-22

EMPLOYEE DISCIPLINE

The Board recognizes its continuing responsibility to develop and administer necessary policies and regulations in a fair and consistent manner. The Board also recognizes the obligations of all employees to conform to these policies and regulations.

The Board seeks to establish and maintain appropriate administrative policies which will provide the most efficient operation of the Albemarle County Local Government and to provide for proper disciplinary action whenever an employee fails to observe such policies and regulations.

PROCEDURE FOR ENFORCEMENT OF ADMINISTRATIVE REGULATIONS

- A. All employees shall comply with County and departmental expectations of behavior and performance. Employees who are non-compliant with these expectation may be subject to official disciplinary action up to and including discharge.
- B. Disciplinary action will be taken in private by the employee's supervisor(s) and will normally be progressive consistent with the severity of the infraction:

The normal course will be:

- 1. Oral reprimand
- 2. Written reprimand
- 3. Suspension with or without pay:

All pay and benefits may be suspended concurrently if suspension without pay is utilized.

- 4. Dismissal

Dismissal is also governed by Policy § P-26.

- C. Additionally, the County reserves the right to demote an employee as a disciplinary action.
- D. All official disciplinary action must be recorded and forwarded to the Human Resources Department for inclusion in the employee's personnel file, with a copy provided to the employee.
- E. The department head or designee has the right to utilize any or all of the steps in the disciplinary process. However, the department head must be consulted on all disciplinary actions that result in a written reprimand, suspension, demotion, or dismissal.

PERSONNEL

Employee Discipline (continued)

- F. All disciplinary complaints are subject to the approved grievance procedure. If an appeal is made of any disciplinary action, the appealing employee should recognize that at each level of the process, a new hearing on the matter will be held at each level of the process and the disciplinary action rendered at subsequent levels may be either more or less stringent.
- G. The department head or designee must consult with the Director of Human Resources and/or the County Attorney's Office prior to utilizing demotion, suspension, or dismissal.
- H. Administrative leave with or without pay may be utilized for purposes of conducting an investigation and pending a determination of guilt in a criminal case. Employees who are reinstated to their former position may be granted back pay. The department director may take whatever personnel actions are deemed necessary to protect the County and promote the objectives of the department, even if there is a finding made of not guilty in a criminal case or if the case is otherwise dismissed or nolle prossed or a finding of "not founded" occurs in a child abuse or neglect administrative proceeding.

Amended: August 7, 1996, May 3, 2017

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-23

PERFORMANCE REVIEW

The Board believes that the primary purpose of a performance review is to inform employees about their abilities, contributions, and level of performance, and to offer constructive help as to how they might improve.

The Board endorses a regular system of performance reviews and recognizes that this system is designed to:

- A. Maintain or improve each employee's job satisfaction by showing an interest in his/her development.
- B. Serve as a systematic guide in planning further improvement in job performance.
- C. Assure a considered opinion of an employee's performance.
- D. Assist in determining and recording special talents, skills, and/or deficiencies.
- E. Provide an opportunity for each employee to discuss concerns about his/her job.
- F. Assemble data for use as a guide for such purposes as wage adjustments, promotions, training opportunities, disciplinary action, reassignment, and dismissal.

PERSONNEL

§P-23 PROCEDURE FOR COMPLIANCE FOR PERFORMANCE REVIEW

- A. Probationary Terms – The probationary term is a six-month period of continuous employment in one position during which every new employee shall demonstrate his/her ability to perform the job. Police Officers who have no previous experience in Virginia Law Enforcement, Firefighters, and Communication Officers and Supervisors of the Emergency Operations center serve a twelve-month probationary period. If this performance is not satisfactory, the employee may be released without further obligation. During the probationary period, the supervisor will meet with the new employee at the end of the third and sixth month in order to provide input about the employee's progress. The probationary performance review must be of an overall satisfactory rating for an employee to become a permanent staff member.

At the supervisor's request (made to the Director of Human Resources), an employee's probationary period may be extended if he misses 10% or more of the available work time, due to an illness or temporary disability, during the probationary period. This extension shall be for no more than the number of work days the employee was absent.

Employees who are promoted into positions in higher pay ranges may be required, by the supervisor, to serve an additional probationary period. If unsuccessful in completing this probationary period, the employee will be considered for any vacancies that occur in his previous job classification.

Likewise, an employee who has moved voluntarily to a lower pay grade, may be required by his supervisor to complete an additional probationary period. If unsuccessful in completing this subsequent probationary period, the employee will be considered for any vacancies for which he is qualified.

Employees who are promoted into positions in higher pay ranges, or who voluntarily move to positions in lower pay ranges, shall not be entitled, upon successful completion of a subsequent probationary period, to a salary increase at that time.

- B. Each permanent employee shall receive an annual performance review by June 1st of each year unless specific reasons are given to the employee, in writing, for an extension. The performance review will be conducted by the department head or designee. Reviews of performance may be conducted on a more frequent basis when desirable. However, in no case will the review be held less frequently than once a year.
- C. Unsatisfactory Evaluation – A classified employee who receives an overall unsatisfactory evaluation will be re-evaluated in three months in order to assess progress shown by the employee. An employee who receives two consecutive overall ratings of unsatisfactory may be subject to dismissal. It shall remain the responsibility of the department head/designee to point out in writing specific areas of weakness and to suggest constructive ways to improve job performance.
- D. Performance reviews will be made on forms provided by the Human Resources Department, and a signed copy will be included in the employee's personnel file. A copy will also be given to the employee.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-24

RECRUITMENT AND SELECTION OF EMPLOYEES

It is the County's policy to recruit and select candidates who best exemplify the ability to achieve the County's goals and visions for positions based upon established criteria. Recruitment and selection of employees will be conducted in an affirmative manner to ensure open competition and to yield the best possible candidates for each position. The entire recruitment and selection process shall be consistent with approved procedures and in accordance with all applicable federal, state, and local employment laws and regulations. Additionally, the recruitment and selection process will be balanced to provide open, competitive, entry-level opportunities, as well as advancement opportunities through promotion.

It is the County's policy to obtain criminal conviction information on applicants prior to their employment. The Department of Human Resources will determine on a case-by-case basis whether a criminal conviction will disqualify an applicant from employment based upon, at a minimum, the nature of the position applied for, the seriousness and nature of the offense(s), any applicable state or federal law, the relevance of the crime(s) to the job, the amount of time passed since the conviction, and the honesty of the applicant in completing the application form.

PERSONNEL

Procedure for Compliance for Recruitment and Selection of Employees

When a vacancy occurs, the department head/designee will be responsible for forwarding a job requisition, including the job title and specific requirements for the position to the Department of Human Resources, unless alternative procedures have been established by the Department of Human Resources.

Department heads/designees shall ensure that all persons involved in interviewing candidates have received current training in the legal aspects of interviewing and are fully aware of the job description and duties of the vacant position.

A. Recruitment

1. The Department of Human Resources shall develop and conduct an active recruitment program designed to meet current and projected County needs. Recruitment will be tailored to the various classes of positions to be filled and will be directed to sources likely to yield candidates who meet the minimum job qualifications.
2. Job Announcement and Publicity – In order to attract a sufficient pool of candidates for present or anticipated vacancies, the Department of Human Resources will issue job announcements and publicize vacancies through advertising and social media as is deemed appropriate for each vacancy. Job announcements will be clear and readable and include the job title, a pay rate/range, minimum qualification requirements, and other pertinent information. Publicity for job vacancies shall be conducted for a sufficient amount of time to ensure a reasonable opportunity for persons to apply and be considered for employment. Job vacancies shall be formally announced via posting of the vacancy at least ten (10) business days prior to the closing date for filing applications. In case of emergency need, exceptions to this time limit may be authorized by the Director of Human Resources/designee.
3. Application Form – All applications for employment shall be submitted using prescribed forms and processes. All applications must be signed. The Department of Human Resources may require proof of statements made on the application(s).
4. Rejection of Applications – The Director of Human Resources/designee may reject any application that indicates that the applicant does not meet the minimum qualifications established for the position. Applications may also be rejected if the applicant:
 - a. Has deliberately falsified his/her application;
 - b. Is physically, mentally, or otherwise unable to perform the essential functions of the position even with a reasonable accommodation;
 - c. Has established an unsatisfactory employment record of such nature as to demonstrate unsuitability for the position;
 - d. Has failed to meet the application deadline for a particular position;
 - e. Has failed to complete the application; or,
 - f. Is a former employee who was found to have violated policy.

PERSONNEL

Procedure for Compliance for Recruitment and Selection of Employees (continued)

Applicants who have been found to have falsified applications may be considered after three (3) calendar years. Former employees who were found to have violated policy may be considered on a case-by-case basis, but should be considered after at least three (3) calendar years from separation of employment.

An application also may be rejected if the applicant meets or met any of the above criteria (a-f) violated the above provisions while seeking employment with or employed by the Albemarle County Public Schools. These provisions are reciprocal for former employees of the School Board.

5. Promotions and Transfers – Promotions and transfers under this policy are those positions which current employees wish to apply for and compete to obtain. These opportunities may be open to Albemarle County regular employees who meet prescribed minimum qualifications for the advertised position. Vacancies may be posted internally (within a department or within the County), and/or externally, as determined by the Department of Human Resources for a period of at least five (5) business days (for internal only) or ten (10) business days. Candidates for internal transfers or promotions must adhere to all communicated instructions, including deadlines, for job consideration. In the event that an internal vacancy involves the transfer of an employee from one department to another, both department heads must be in agreement regarding the specific details (i.e., effective date, training that is expected, follow-up procedures, and other details) of the transfer before the transfer occurs. A new probationary period may be required when an employee changes to a different position in accordance with Policy § P-23, Performance Review.
6. Selection Procedures – Applications will be screened to determine which candidates best meet the needs of the department. Those candidates will be interviewed. Offers of employment will not be made without approval from the Director of Human Resources/designee, and no offer shall be made until the closing date for applications or the minimum posting period has passed, unless an exception has been granted by the Director of Human Resources/designee.

Under no circumstances will a department head/designee suggest to or agree with (either formally or informally) an employee planning to retire from the County or Albemarle County Public Schools to rehire him/her in a part-time or full-time position after retirement. Neither will a department head/designee delay a hiring process in order to rehire the retiree. Retirees from the County or Albemarle County Public Schools are not eligible for rehire until the Virginia Retirement System waiting period has been fulfilled. Periods of leave with or without pay do not count toward satisfying the required break in service. Summer breaks, intersession periods, educational leave, and sabbaticals also do not count toward satisfying the required break in service.

PERSONNEL

Procedure for Compliance for Recruitment and Selection of Employees (continued)

7. Department heads/designees will forward a brief rationale for their selected candidates to the Department of Human Resources through the prescribed process. All materials pertaining to the candidate pool, interviews, and selection process must be retained for a period of three (3) years from the hire date of the selected candidate. Departments are responsible for their own retention and destruction of recruitment materials, unless the Department of Human Resources requires otherwise.
8. The hiring manager will notify interviewed candidates of their status. All other candidates can view their application status through the application system and /or job posting. Official notification in writing by the Department of Human Resources to the hiree shall be the only commitment of employment.
9. Certain positions may require employees to present satisfactory evidence of good health to the Department of Human Resources prior to beginning their employment.
10. Employees shall be required to undergo background checks in accordance with County Policy § P-05, Effect of Criminal Conviction or Arrest, and any other clearances the position requires.
11. Equal Employment Opportunity: Hiring for Albemarle County shall be accomplished without regard to race, color, religion, national origin, gender, pregnancy, childbirth or related medical conditions, age, marital status, or disability unless otherwise permitted by County policy or applicable law. Applicants hired by the County must be citizens of the United States or legally authorized to work in the United States. Reasonable accommodations will be provided for persons with disabilities if requested.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-25

STANDARDS OF CONDUCT

The Board requires that all of its employees will conduct themselves in a manner which reflects favorably upon them as a representative of local government. To this end, the Board will establish and maintain certain standards of conduct designed to:

1. Establish a fair and objective process for correcting and treating unacceptable conduct;
2. Distinguish between less serious and more serious misconduct and provide timely corrective action.

The standards of conduct are intended to be illustrative but not all inclusive of the type of conduct expected of local employees.

At a minimum, the following standards are expected of all employees:

1. Timely and regular attendance;
2. dependable application of time – employees are expected to apply themselves to their assigned duties during the full schedule for which they are compensated except for reasonable time provided for such things as personal hygiene;
3. Satisfactory work performance;
4. Appropriate attire;
5. Courteous and professional behavior toward the public and fellow employees.

The following are examples of unacceptable conduct:

1. Unsatisfactory attendance, performance, or excessive tardiness;
2. Abuse of County time such as unauthorized time away from the work area;
3. Obscene or abusive language;
4. Conviction of a moving violation or failure to notify supervisor of an accident while using a County vehicle;
5. Failure to follow a supervisor's instructions, perform assigned work or comply with established County policy;
6. Leaving the work site without permission during work hours;
7. Failure to report to work without proper notification;

PERSONNEL

Procedures for Compliance – Standards of Conduct

8. Unauthorized use or misuse of County property or records. Unauthorized use of County property includes, but is not limited to, personal use of telephones, computers, and related devices and peripheral equipment that are the property of the County to the extent that such personal use interferes with an employee's productivity or work performance, or the use of such property to engage in political activities. Political activities shall be those activities as defined in Virginia Code § 15.2-1512.2(C) and shall include, but shall not be limited to, participating in the activities of, or contributing to, a political party, candidate or campaign or an organization that supports a political candidate or campaign; soliciting votes or endorsements on behalf of a political candidate or campaign; or expressing opinions on political subjects and candidates. Pursuant to Virginia Code Section 15.2-1505.2, this Standard of Conduct shall apply to all officers and employees of the County who utilize County property;
9. Violation of safety rules to include negligent driving of a County vehicle;
10. Falsifying any records such as, but not limited to, vouchers, reports, insurance, time records, leave records or other official records;
11. Willfully or negligently damaging or defacing records, County property, or other employee property;
12. Theft or unauthorized removal of County records or property;
13. Gambling on County property or during work hours;
14. Threatening or coercing employees;
15. Indebtedness to the County;
16. Use of an employee's work time or work environment to promote a political candidate;
17. Inadequate or unsatisfactory job performance; *
18. Acts of physical violence or fighting on the job; *
19. Reporting to work or any work or school related activity after any consumption of alcohol or unlawful use of controlled substance(s); *
20. Possession or use of alcohol or controlled substance(s), unauthorized firearms, dangerous weapons, or explosives on the job; *
21. Criminal convictions for acts of conduct occurring on or off the job which are plainly related to job performance or of such a nature that to continue the employee in the assigned position could constitute negligence in regard to the County's duty to the public or its employees. *

* May result in immediate dismissal.

Individual departments may have additional standards of conduct as defined by the department head. These standards should be in writing, and should be approved by the County Executive and shared with the department's employees.

Amended: August 4, 1993, February 1, 2002, December 3, 2014

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-26

TERMINATION OF EMPLOYMENT

The Board recognizes that termination of employment can be either voluntary or involuntary. In all cases, the procedures used will be of a fair and consistent nature, taking into consideration the reasons for separation. Except for excluded classes of employees as defined in Policy § P-03, Employee Grievance Procedure, an employee who is dismissed may appeal the decision under the approved grievance procedure.

The terminated employee's department shall initiate an employee action request (EAR). Department heads or designees have the responsibility of notifying the Human Resources Department as soon as they know an employee is leaving. This form will be the only official notification to remove an employee from the payroll.

Probationary employees may be released or may resign during their probationary periods without obligation on the part of the employer or employee.

Every employee who is separating from employment regardless of the length of service, their position, or the circumstances of their separation, will have the opportunity to participate in an exit interview. The employee may request an in-person exit interview from the Director of Human Resources or designee and/or their Department head or designee.

Procedure for Compliance for Termination of Employment

Resignation: Resignation is a voluntary termination of employment on the part of an employee for any reason. All employees are required to give written notice of resignation. The Department head or designee has the responsibility of notifying the Department of Human Resources as soon as the Department head or designee receives an employee's letter of resignation and submitting all required documentation for inclusion in the employee's personnel file and final payment processing in a timely manner.

An employee shall submit a letter of resignation in writing to the employee's immediate supervisor at least two (2) weeks prior to the effective resignation date. An employee may resign sooner than the two (2) week required period if agreed upon by the Department head or designee.

An employee who does not report to the employee's regularly scheduled work hours for three (3) consecutive days without notifying the employee's supervisor and/or failure to receive leave approval from the employee's immediate supervisor will be deemed to have voluntarily resigned from employment. The employee's pay and benefits will be calculated using the last day the employee reported to work as the effective date of resignation.

Layoff: Layoff is a reduction in the work force due to budgetary restrictions and/or reduced work load. In the case of a layoff, immediate supervisors will notify affected employees as far in advance as possible. See Policy § P-30, Employee Reduction in Force Procedures, for additional information and procedures.

PERSONNEL

Termination of Employment (continued)

Dismissal: Dismissal is an involuntary separation from employment due to a violation of County policy or state or federal law, disciplinary infractions, failure to satisfactorily perform the work required, or failure to meet the requirements of the position. Prior to the dismissal, it is expected that the Department head or designee has thoroughly investigated the incident(s) or circumstance(s) leading to the dismissal, has documented any action taken, and has applied discipline in a fair and consistent fashion. The Department head or designee shall keep the Director of Human Resources or designee informed of any disciplinary actions in progress. See Policy § P-22, Employee Discipline.

All salary payments and benefits will be calculated based upon the effective date of the employee's dismissal and all accrued annual leave payments up to the maximum allowed will be made to the employee. If the employee is reinstated as a result of the grievance procedure, all salary and benefits will be reinstated retroactively to the date on which payments ceased or as otherwise agreed upon. In addition, the reinstated employee shall be given the choice of repaying the annual leave payment and having the employee's annual leave balance restored or returning to work with a zero balance and beginning to accrue leave at the employee's previous applicable rate. The employee's hire date will also be reinstated to reflect the employee's status prior to the dismissal.

Amended: August 7, 1996, May 3, 2017

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-27

CONFLICT OF INTEREST

In accordance with the Code of Virginia, Section 2.1-639, the Board has established certain procedures for complying with the Conflict of Interest Act. Employees are expected to be familiar with State Code requirements that are applicable to them whether or not these requirements are specifically reflected in this policy.

Amended: August 4, 1993

PERSONNEL

CONFLICT OF INTEREST (continued)Nepotism

No administrator or any other person in a supervisory position shall have under his or her direct supervision any employee whose relationship is of the first or second degree, either by blood or marriage. In the event of a promotion which brings about the conditions thus described, the employee of lower rank shall be transferred to another position for which he or she is qualified when a vacancy occurs.

Relationship of the first or second degree shall mean: father, mother, brother, sister, spouse, son, daughter, aunts, uncles, son-in-law or daughter-in-law, sister-in-law, brother-in-law, or step-family members.

Acceptance of Gifts

No officer or employee of a state or local government or advisory agency shall accept any money, loan, gift, favor, service, or opportunity that reasonably tends to influence them in the performance of their official duties. Items given to a group shall be permitted if used or consumed on the County premises and not used in contravention of the above policy.

This policy is not intended to abolish the exchange of gifts between employees for birthdays, Christmas, or retirement events, or the offering or acceptance of social invitations, providing that such exchange or invitation is understood not to influence employees in the discharge of their official duties.

Annual Statement

Employees will be required to sign an annual statement regarding to whom they are related within their department.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-28

INDEBTEDNESS TO THE COUNTY

The Director of Finance is prohibited by law from issuing County checks to anyone owing money to the County. County employees are therefore expected to pay taxes, licenses, and fees owed to the County on or before their due dates. In the event of delinquency, the Director of Finance will follow procedures of collection required in the State law, which provides for deductions from salaries and liens on estates. (Section 58.1-3133 and 58.1-3952, Code of Virginia)

Amended: August 4, 1993

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-29

COUNTY VEHICLE USAGE POLICY

The primary intent of providing vehicles for use by employees is to assist them in carrying out their official responsibilities during normal work hours. While on occasion, a County vehicle may be needed for work required at other than normal work hours, such times shall be limited and shall require the advanced approval of the County Executive. Abuses of this policy will be considered serious violations and will be dealt with through the normal disciplinary procedures.

Amended: August 4, 1993

PERSONNEL

Procedure for County Vehicle Usage Policy (continued)

- A. County owned vehicles are to be furnished for use only on official County business. While using a County vehicle for official business, employees may stop for meals as they would under normal working conditions. They may not, however, use the County vehicle for such personal business as dropping children at child care, grocery shopping, payment of personal bills, etc.
- B. Personnel who are required to perform County business (including meetings) after regular working hours will be reimbursed for any approved use of their personal vehicle for such after hours work in accordance with rates as set forth by the annual appropriation ordinance. In special circumstances approved by the County Executive, County vehicles may be used for County business performed after regular working hours.
- C. Temporary Assignment: County vehicles may be parked at an employee's residence or other prearranged location on occasions when the department head determines that the employee has need of it for County business after normal working hours, when the employee is subject to emergency calls after normal working hours, or when the department head determines for some other reason that it would be in the best interest of the County. Such temporary assignments will be approved by the County Executive/Designee or Superintendent in conjunction with the department head.
- D. Permanent Assignment:
 - 1. Employees who are permanently subject to emergency after hours calls (for example, Police Department), with the approval of the department head and County Executive, may be assigned a County vehicle that can be regularly parked at his/her residence or other designated location.
 - 2. A department head, with the approval of the County Executive, may determine that it is in the best interest of the County for an employee in his/her department to be allowed to regularly park his/her vehicle at his/her residence or other designated location.
- E. County vehicles are to be operated with due regard to safety, traffic laws, courtesy, common sense, proper maintenance, and in a manner that would reflect proper conduct for a County employee.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-30

EMPLOYEE REDUCTION-IN-FORCE*

The Board recognizes that occasionally a department must reduce its number of staff members. The reasons for such a reduction include, but are not limited to, the following: a general downsizing of the total organization; a change in the organizational structure of the given department; the changing needs of the clients served by that department.

* Social Services employees are covered under the State's reduction in force policy and procedures.

The following procedures shall be applied when a reduction-in-force becomes necessary for the reduction of any full-time, regular employees of the County:

I. Employee Notification

When a reduction-in-force becomes necessary, the department head will notify the Director of Human Resources and the employee(s) being affected as soon as a potential reduction is known. Full-time employees will be notified in writing as soon as possible, but no less than 60 calendar days prior to the effective date of the elimination of the position.

The affected full-time employee(s) will be given the opportunity to discuss the reduction with the Director of Human Resources and department head.

II. Reduction Criteria and Process

In any reduction implemented under this policy, the performance, level of training and experience of the personnel involved compared to other members of the same position and/or same job group will be considered. "Job group" for purposes of this policy shall mean a group of related job positions which serve a common function or functions within a department. The following process will be utilized:

A list will be developed, as needed, by the Director of Human Resources, according to the following:

- A. The list will be rank-ordered from the most senior down to the least senior employee within job groups. "Seniority" for this purpose will be defined according to length of continuous service, including any approved leaves of absence, as a regular, full-time employee in the current position and in any prior full-time position within the same job group. The list will be further refined to group employees according to their respective positions: Office Associate, Custodian, Police Officer, Etc.

PERSONNEL POLICY

Employee Reduction-in-Force Procedure (continued)

- B. Once the seniority list for each of the respective groups has been developed, then the employees' performance and discipline, as documented in their Human Resources personnel files for the past three years, will be reviewed by the County Executive and rank ordered. The County Executive may consider all such documented performance and discipline to determine who will be reduced.

In the event that two employees in the same position/job group with the same hiring date, qualifications, and performance record are being considered for a reduction, the County Executive will apply the following criteria, not necessarily in this order, to determine which employee to lay off:

- A. Additional training;
- B. Written documentation of skills and abilities;
- C. Total experience in present position;
- D. Total experience in Albemarle County;
- E. Recommendation of the employees' department head.

III. Reassignment and Recall

A member of the Human Resources Department will meet with employees in positions identified to be eliminated to determine their skills, experience, education, training and interests in order to identify other positions in the County for which they may qualify, or for which retraining is feasible. Every reasonable effort will be made to place an affected employee in a vacant position for which he/she may qualify.

In lieu of being laid-off, full-time employees may be eligible to assume vacant positions within the same or lower pay classifications provided they hold appropriate qualifications or have had previous successful experience in the particular position. An employee reassigned to a position in a lower paygrade pursuant to this policy will be bound by the provisions of policy §P-60, Procedure for Salary Administration and Position Classification, section H.3.

Laid-off employees' names will be placed on a recall list that will remain effective until the end of the next fiscal year. If a position becomes available during that period, and the employee is qualified to fill that position, the employee will be notified in writing. The employee will then be interviewed for this vacant position. After the period on the recall list has expired, the former employee may apply/reactivate his/her application for any vacant position for which he/she is qualified.

IV. Separation Benefits

Laid-off, full-time employees will receive the following separation benefits to assist them in their transition from County employment:

PERSONNEL

Employee Reduction-In-Force Procedure (continued)

- A. Separation Pay. Pay will be calculated at the employee's regular rate of pay at the time of the reduction-in-force, based on the length of service and the schedule provided below. "Length of service" shall mean years of continuous service, including any approved leaves of absence, as a regular, full-time employee in the employee's current position and in any prior, full-time position within the same job group.

Length of Service:	Separation Pay Period:
Less than two years	Two weeks of pay
Two years and above	One week of pay for every full year of service, up to a maximum of 12 weeks

- B. Continued Insurance Contributions. The Board contribution for medical and dental insurance coverage will continue for the duration of the separation pay period for laid-off employees who were enrolled in those plans at the time of the reduction. Upon completion of the separation pay period, the employee may elect to continue coverage under COBRA.

Unless otherwise specified, an employee who declines a reassignment to another vacant position prior to the effective date of the reduction shall not be entitled to separation benefits under this policy. If an employee receiving separation benefits is rehired by the County, he/she will be under no obligation to repay those funds.

Amended: August 7, 1996; March 3, 2010

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-31

BLOOD BORNE INFECTIOUS CONDITIONS

The County Executive shall determine on a case-by-case basis the attendance of employees known to be infected with a blood borne virus which may be transmitted by body fluids, such as the viruses causing AIDS and Hepatitis-B. The County Executive shall seek a recommendation from an advisory committee to assist him in making his determination. The Committee shall be composed of a physician from the public health department and such other individuals as deemed appropriate by the County Executive. The employee may be excluded from work pending the County Executive's decision. The privacy rights of the employee involved shall be respected. The number of personnel who are made aware of the employee's condition shall be minimized, but shall not serve to jeopardize the safety of the employee or other persons within the work environment. The County Executive shall adopt regulations setting forth the procedures to be followed to effect this policy.

Additionally, recognizing that there will be employees infected with such viruses who have not been identified medically, all employees shall be instructed in routine precautions which shall be followed to minimize the exposure of any person to potentially infectious body fluids.

Amended: August 4, 1993

PERSONNEL

Blood Borne Infectious Conditions (continued)

The following procedure will be utilized in determining the attendance at work of any employee known to be infected with a blood borne virus which may be transmitted by body fluids, such as the viruses causing AIDS and Hepatitis-B. Each such determination will be made on a case-by-case basis. This procedure will not apply to persons suffering from common childhood conditions such as measles, chicken pox, impetigo, strep throat, scarlet fever, head lice, etc.

1. The County Executive will establish a review committee composed of the Director of the Thomas Jefferson Health District or a public health physician designated by the Director, the employee's treating physician, and the Director of Human Resources. After reviewing all pertinent information regarding the employee and consulting with the employee and such other individuals as the review committee shall deem necessary, the review committee shall make a recommendation to the County Executive regarding the employee's attendance at work. The review committee may make such further recommendations as it deems appropriate.
2. Decisions regarding employment and working conditions of employees with blood borne infectious conditions should be based upon the employee's work assignments, whether they are physically able to complete assigned work and whether they are likely to expose other workers to open skin lesions, mucous membranes or other body secretions. In each case, risks and benefits to both the infected employee and to others in the workplace should be weighed.
3. The review committee shall confer within fourteen (14) calendar days of being established and shall make its recommendation to the County Executive as soon thereafter as practical. The County Executive will notify the employee of his decision within five (5) working days after receiving the Committee's recommendation. The employee may appeal the County Executive's decision to the Board of Supervisors. The request for such appeal must be submitted to the County Executive in writing within ten (10) calendar days of the date of the County Executive's decision. Failure to request an appeal within the specified time will constitute a waiver of the right to an appeal to the Board of Supervisors.
4. The employee's status will be re-evaluated based upon a plan for periodic review which the review committee has formulated.
5. The employees may be excluded from work for a period not to exceed twenty (20) working days pending the County Executive's decision. Sick leave benefits may be used during this period. If the decision is that the employee did not have to be absent from work, all sick leave benefits used during the 20 day period will be returned to the employee.

PERSONNEL

Blood Borne Infectious Conditions (continued)

6. All parties involved shall respect the individual's right to privacy. The number of personnel who are informed of the employee's condition shall be kept at the minimum needed to assure proper care of the employee and to appropriately handle situations in which there is a potential for virus transmission (e.g., bleeding injury).
7. If the employee is unable to return to work, application for retirement disability through the retirement system and social security will be pursued.
8. The Director of Human Resources shall assure that a training program will be provided for all employees which will include routine precautions to be followed in minimizing exposure to potentially infectious body fluids.
9. The County Executive shall be designated as the contact person for all inquiries related to an employee who has a blood borne infectious disease.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-32

HAZARD COMMUNICATIONS

It is the intent of the Board and its County Executive to ensure that all employees have a right to know the health and safety information for all hazardous substances that they will use or handle in the course of their normal work. The expressed purpose of the Hazard Communication Program is to provide a safe environment for all individuals through procedures that will identify and evaluate all hazardous substances and subsequently provide information and training to all individuals that will allow the safe use of any hazardous substances.

Amended: August 4, 1993

PERSONNEL

HAZARD COMMUNICATIONS POLICY AND PROCEDURESPurpose

It is the intent of the Board to assure that all employees have the right to know the health and safety information for all hazardous substances they will use or handle in the course of their normal work. The expressed purpose of the Hazard Communications Program is to provide a safe environment for all individuals through procedures that will identify and evaluate all hazardous substances and subsequently provide information and training to all individuals that will allow the safe use of any hazardous substance.

Staff Responsibilities

The County Executive shall oversee this program and delegate responsibilities relating to this hazard communication program to the Safety Coordinator. Each department head, director and supervisor, or his/her designee, shall be responsible for implementation of the program in his/her work areas and related activities under his/her supervision. Questions concerning this program should be directed to the Safety Coordinator in the Office of Human Resources.

Program Elements1. Hazard Communication Plan

Each department shall maintain an up-to-date Hazard Communication Plan. The plan shall contain:

- a. An outline of the County's hazard communication program;
- b. Listing of hazardous chemicals located in various work places;
- c. Copy of Material Safety Data Sheets for hazardous chemicals;
- d. Copy of generic labeling information for hazardous chemicals where labeling is inappropriate.

2. Hazard Chemical Inventories

The Hazard Communication Standard requires the establishment and maintenance of a hazardous chemical inventory for each work area in which hazardous chemicals are stored or used. Any substance which is capable of producing adverse effects on the health and safety of human beings is considered to be a hazardous chemical and shall be listed on the inventory. All chemical products produced or used in Albemarle County which have health or safety warnings on their labels shall be included on the inventory.

It shall be the responsibility of the director (or designee) of an office to ensure that all hazardous chemicals in facilities under his or her supervision be inventoried by work location and that copies of the inventories be sent to the Human Resources Office

PERSONNEL

Hazard Communication Plan (continued)

The hazardous chemical inventories shall be updated annually by May 1st of each year. Computerized inventories shall be sent from the Office of Human Resources to all work locations using or storing hazardous chemicals. Additions, deletions, and corrections to the inventory shall be made directly on the supplied computer printout. The updated inventory shall be returned to the Office of Human resources by the date stipulated. Updated inventory lists and applicable MSDs will be provided for each work site to be placed in the MSDS book.

3. Product Labels

At each work location, the person responsible for receiving materials shall verify that all incoming containers of chemicals or chemical substances are properly labeled by the manufacturer with the following information:

- a. Name of chemical/chemical substance(s);
- b. Appropriate hazard warning;
- c. Name and address of manufacturer, vendors, or responsible party(ies).

No hazardous chemical will be released for use until the container has been checked for the above information. Product containers with incomplete labels shall be refused and returned to the vendor.

Original labels will not be removed from any container received for use; and if materials are repackaged, the new containers will be labeled with content information.

Secondary containers are to be labeled with either an extra copy of the original manufacturer's label or a facsimile which clearly indicates the chemical name and the appropriate hazard warning.

The only container not requiring a label shall be when the entire transferred chemical/chemical substance is to be used immediately by the preparer.

If any label becomes illegible through use or spillage, a label must be added with the information required in subsection a, b, and c above.

4. Material Safety Data Sheet

A Material Safety Data Sheet (MSDS) is a technical bulletin detailing health and safety information about hazardous chemicals. An MSDS tells employees about the hazards of chemicals used in their work locations and the safety precautions that should be taken when handling them. Data sheets for all hazardous chemicals to which Albemarle County employees may be exposed shall be kept on file in the Human Resources Office, and copies of applicable MSDSs shall be available at each work location in the notebook entitled Material Safety Data Sheets.

PERSONNEL

Hazard Communications Policy and Procedures (continued)

The Safety Coordinator shall be responsible for obtaining MSDS sheets, verifying their completeness and distributing MSDS notebooks to work locations. The director (or designee) of an office shall be responsible for ensuring that the appropriate MSDS notebook is available to employees in work areas where hazardous chemicals are used and/or stored. Employees can find a list of all hazardous chemicals used or stored at their work locations in the MSDS notebook. Employees who are unable to find the notebook should contact the Safety Coordinator for assistance. Before a new chemical is introduced to a work location, an MSDS shall be made available for review by the affected employee(s).

When hazardous chemicals are ordered, it shall be specified on the purchase order that the chemicals are not to be shipped without corresponding material safety data sheets. Any MSDS received that has not been verified by the Safety Coordinator, will be forwarded to the Human Resources Office.

A. Obtaining Material Safety Data Sheets

1. If there is a substance for which there is no MSDS available in the MSDS notebook, or if a supervisor is uncertain whether a material is hazardous, the Safety Coordinator shall be notified. The following information should be given:
 - a. Complete chemical/product name;
 - b. Manufacturer's name;
 - c. Manufacturer's complete address;
 - d. Manufacturer's phone number (if available).
2. A representative of the Office of Human Resources will contact the manufacturer/distributor requesting a MSDS for that chemical/product.
3. If the distributor does not respond within approximately 21 days, a follow-up letter will be sent.
4. In the event that no MSDS is sent by the distributor after repeated requests, purchasing will be requested to stop all purchases from the distributor; and, if appropriate, the Safety Coordinator will contact a Virginia Occupational Safety and Health (VOSHA) representative for further action.

B. Information

The MSDS must provide information on:

- 1) Physical and chemical characteristics of each hazardous chemical;
- 2) Known acute or chronic health effects;
- 3) Exposure limits;
- 4) Whether the chemical is considered to be a carcinogen;

PERSONNEL

Hazard Communication Policy and Procedures (continued)

- 5) Precautionary measures;
- 6) Emergency and first aid procedures and,
- 7) The identity of the organization which prepared the MSDS.

5. Hazardous Non-Routine Tasks

Periodically, employees are required to perform hazardous non-routine tasks. Prior to starting work on such projects, each affected employee will be given information by their supervisor about the hazardous substances to which they may be exposed during that activity. Each department will maintain a list of non-routine tasks and provide a copy to the Safety Coordinator. Information given to the employees should include:

- a. Specific physical/chemical hazards;
- b. Protective and/or safety measures the employees can take;
- c. Measures the County has taken to reduce the hazards including ventilation, personal protective equipment, administrative controls, and posted emergency procedures;
- d. If the supervisor/department manager or any employee has a question concerning hazardous materials they may encounter in a non-routine task, they should contact the Safety Coordinator for assistance in assessing the problem.

6. Unlabeled Pipes

Occasions arise when employees must repair plumbing and pipes. No employee is to repair or replace any unlabeled pipe until the contents of the pipe are determined and precautionary steps relating to the hazardous chemical can be implemented. This does not apply to water pipes as long as no other safety hazards are apparent (such as hot water/steam or electricity).

7. Notification of Contractors

- a. It shall be the responsibility of the appropriate supervisor to provide contractors under his/her supervision with the following information in writing, prior to the starting of work:
 - 1) Hazardous chemicals to which employees of the contractor may be exposed while on the job site;
 - 2) Precautions that they can take to lessen the possibility of chemical exposure;

It is the contractor's responsibility to provide his employees with this information.

PERSONNEL

Hazard Communications Policy and Procedures (continued)

- b. Construction contracts shall include a requirement for contractors to provide Albemarle County with information on hazardous materials they will use. Prior to the start of construction, the contractor should furnish the appropriate department head a list of chemicals that may be brought onto the job site. If an additional chemical, not on the initial list, is brought onto the job site, department head shall be given prior notification. When requested, the contractor shall furnish MSDSs for any chemicals to be brought onto the job site. This information must also be provided to the Safety Coordinator.

8. Employee Training

- a. New employee orientation: Prior to starting work, each Albemarle County employee assigned to an area where hazardous chemicals are used shall receive a health and safety orientation. During the orientation, the employee shall receive information and training as follows:
 - 1) An overview of the requirements contained in the Hazard Communication Standard;
 - 2) Location and availability of the Albemarle County written Hazard Communications Program;
 - 3) Types of chemicals present in the workplace;
 - 4) Physical and health effects of the hazardous chemicals;
 - 5) Methods and observational techniques used to determine the presence of hazardous chemicals in the work area;
 - 6) Control/work practices and personal protective equipment used to lessen or prevent exposure to hazardous chemicals;
 - 7) Steps Albemarle County has taken to lessen or prevent exposure to hazardous chemicals;
 - 8) General safety emergency procedures to follow if employees are exposed to hazardous chemicals;
 - 9) Instruction in how to read labels and review Material Safety Data Sheets to obtain appropriate hazard information.
- b. Employee Specific Chemical Safety Training: Department heads, supervisors, or their designee, will implement a training program with emphasis on hazardous materials found in their specific work place. The employee shall receive information and training on:
 - 1) Chemicals present in the work place operation;
 - 2) Container labeling;
 - 3) Health hazards;
 - 4) Reduction in exposure through control/work practices and personal protective equipment;
 - 5) Chemical storage and waste management;
 - 6) Physical/chemical characteristics;
 - 7) Reactivity data;

PERSONNEL

Hazard Communications Policy and Procedures (continued)

- 8) Fire/explosion hazards;
- 9) Observation techniques and methods used to determine the presence or release of hazardous chemical/vapors in the work area;
- 10) Emergency procedures in event of exposure and/or spill.

Each department head, or director is responsible to ensure that all of their personnel attend this program and to maintain accurate attendance records.

After attending the general orientation training class, each employee will sign a form to verify that he/she attended the training and received written materials relating to the regulation on Hazard Communication. The form will be forwarded to the Safety Coordinator for review and placement in the person's personnel file. Prior to a new hazardous chemical being introduced into any section of Albemarle County, each employee of that section will be given information as outlined in paragraph 8.b. above.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-33

OUTSIDE EMPLOYMENT BY COUNTY EMPLOYEES

The State Conflict of Interest Act requires that no employee of a State or local government advisory agency shall accept any business, professional, or employment opportunity that reasonably tends to influence him in the performance of his official duties. To facilitate the County's compliance with this regulation, County employees are required to make known to the department heads any employment that is other than with Albemarle County and to receive the department head's approval to engage in such employment. Albemarle County Board members are exempt from the provisions of this policy.

Amended: August 4, 1993

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-34

HARASSMENT

All employees of Albemarle County shall be tactful in their relationships with their peers and the public and shall treat them with respect and courtesy. Violent, profane, insolent, or suggestive language or gestures, or language which is intended to demean a person because of their race, sex, or religious affiliation, shall not be expressed. Any instances of verbal or physical harassment will be dealt with through appropriate disciplinary action. Instances of physical or verbal harassment will be treated as a major offense which could result in termination.

Complaints may be initiated through the usual chain of command or may be reported directly to the County Executive/Designee.

Amended: August 4, 1993

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-35

STAFF HEALTH

As a condition of employment, every new employee of the Board and volunteer, aide, shall submit on the prescribed form, a signed certificate by a licensed physician, stating the employee appears free of communicable tuberculosis. The certificate will be based on recorded results of those xrays, skin tests, and other examinations, singly or in combination, considered necessary by the physician. The xrays, tests, and/or other examinations must have been performed within the 12 month period immediately preceding submission of the certificate. Any employee who begins duty without having complied with this requirement will have violated the terms of employment and is not entitled to compensation. Any new volunteer, aide, or employee who begins his/her duties without having complied with this requirement shall be removed from that assignment until the requirement is fulfilled. (A new employee is designated as someone hired for the first time or rehired after a one year absence.)

The Board may, from time to time, require a tuberculosis re-screening of all employees.

Legal References: Code of Virginia, 1950, as amended, Secs. 22.1-300, 22.1-301

Cross References: EACA, Bus Driver Examination and Training

Amended: August 4, 1993

PERSONNEL

STAFF HEALTH

(Employee Assistance Program)

Most human health problems can be successfully treated, provided they are identified in the early stages and referred to an appropriate type of care. The cause of these problems may stem from substance abuse or emotional or family concerns. The purpose of the Employee Assistance Program (EAP) is to offer a method for identification and referral so that division employees and their families can take constructive action in dealing with personal problems.

General Guidelines

1. Program participation is voluntary and confidential. The employee may enter the program through self-referral or supervisory referral. In either case, all matters will be conducted on a strictly confidential and humane basis. Exceptions to this would be cases of suspected adult or child abuse, which must be reported to appropriate authorities in accordance with Virginia State statutes and established division procedures, and other unprofessional or inappropriate conduct involving students.
2. Employees who have a problem are encouraged to seek counseling and information on a voluntary basis by contacting the designated EAP counselor.
3. No documentation regarding the employee's participation in the EAP program will become part of the employee's personnel file, and at no time shall the division discriminate against any employee in terms of job security or promotional considerations as a result of that employee participating or not participating in this program.
4. At the employee's request, sick leave may be granted for treatment or rehabilitation on the same basis as is granted for ordinary health problems.
5. If there are costs incurred as a result of a program referral that exceed those covered by the employee's insurance benefits, these additional costs will be the responsibility of the employee.
6. It shall be within the employee's discretion whether or not to comply with the referral or whether or not to follow the recommendations of the diagnostician or counseling agent.

Supervisory Referrals

1. Employees are assured that, if there is an indication that personnel problems may be the cause of unsatisfactory job performance, the employee will receive an offer of assistance to help resolve such problems in an effective and confidential manner. In these cases, the supervisor will discuss the problem privately with the employee.
2. Supervisors will not diagnose personnel problems or try to find causes. The employee will be referred through the EAP counselor to a qualified source.

PERSONNEL

Supervisory Referrals (continued)

3. The EAP counselor will notify the supervisor, in cases of supervisory referral, that the referent did/did not need and/or accept referral to appropriate care-giving agencies and programs. Simultaneously, the referent will also be notified that his/her supervisor knows of the employee's reporting or non-reporting to a care-giving agency.
4. Job performance standards are not being changed. The only change is the offer of a new service designed to help get employees back to an acceptable standard, and thus save valued people and jobs.

Issued: _____, 19_____.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-36

ASSIGNMENT AND TRANSFERA. Assignment

The County Executive shall assign all employees to positions in the local government.

B. Transfer

The County Executive shall have authority to transfer personnel within the local government when such transfers will serve the best interests of the division and the personnel involved. The reasons for transfer shall be reasonable and shall be fully explained to personnel involved.

C. Reorganization

The County Executive shall have the authority to reorganize the delivery of services within the local government subject to the concurrence of the Board of Supervisors. If such a reorganization affects an employee in that his/her position is changed or eliminated, applicable policies such as those relating to reclassification or reduction in force will apply.

Legal References: Code of Virginia, 1950, as amended, Section 22.1-297

Adopted: August 4, 1993

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-37

EMERGENCY SITUATION STAFFING

The Commonwealth of Virginia Emergency Services and Disaster Law of 1973, requires that localities prepare and keep current an emergency operations plan. Such a plan has been developed and adopted by the governing bodies of Charlottesville, Albemarle County and the University of Virginia. In accordance with this plan, the Board recognizes that emergency preparedness requires the careful planning for handling of disasters that affect citizens. In cases of emergency situations, i.e. weather-related disasters or other emergencies wherein the community is required to provide shelter, emergency transportation, etc., it may be necessary for Albemarle County employees to be called upon to provide necessary services. In such instances, the Board expects that employees will respond to requests for emergency services and has established procedures whereby supervisors can meet the needs that arise.

Regulation: Emergency Situation Staffing

1. In accordance with the regional Emergency Operations Plan, various departments are charged with initial preparedness for emergency situations that may affect employees. Each of these departments will assure that the Plan is familiar to key staff members and that plans have been made to respond to emergency situations as they arise.
2. Department heads will be apprised of likely situations wherein their staff members may be called upon to respond to the requirements for emergency services.
3. When an emergency situation arises that requires staff to respond in off-duty hours, the responsible department head will staff the situation with employees providing as much advance notice as possible to those who will be affected. Whenever non-exempt employees are required to work in other than normally scheduled times, provision for compensating for services rendered will be made and communicated to employees. Refusal to report to duty when it has been made clear that the request is due to an emergency situation will be grounds for disciplinary action up to and including dismissal.

Adopted: May 18, 1994

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-38

ATHLETIC COACHES

Athletic coaches are strictly volunteers. Any money paid to coaches is for expenses, reasonable benefits, nominal fees, or any combination thereof for their civic and humanitarian service. Such payments are not compensation and are not tied to the amount of time a coach spends on the activity or a team's win-loss record. Coaching positions are temporary and at-will. Coaches are not guaranteed additional seasons or sports.

Coaches who are regular County employees must receive permission from their current supervisors prior to assuming coaching duties. Any time off due to coaching activities from regular work responsibilities must be requested and approved in advance.

As a basis for determining nominal coaching fees, amounts may be determined using comparable market data gathered by the Department of Human Resources.

COUNTY OF ALBEMARLE
PERSONNEL POLICY§P-40 COURSE REIMBURSEMENT – CLASSIFIED EMPLOYEES**A. Purpose**

The County encourages its employees to participate in job-related staff development, including taking job-related courses or pursuing a job-related degree.

B. Qualification Criteria

When coursework is taken, the following criteria shall apply to course reimbursement:

1. The employee must be a regular, non-probationary employee;
2. The content of the course is not something that would be covered under the County's staff development program;
3. The course is relevant to the employee's current position in the County and will improve skill in this position, or the course is required as part of a degree program that is relevant to the employee's current position in the County;
4. The course is approved in advance by the department head and the training manager in Human Resources;
5. The course is taken outside of paid work hours on a voluntary basis;
6. The employee must successfully complete the course. "Successful completion" is defined as receipt of a grade of "C" or better, or in a situation where no grade is given, a "pass" designation or other certification is required; and
7. Reimbursement will only be applied toward the cost of tuition.

This policy does not apply to courses leading to certification or licensure which are a condition of continuing employment or where a stipend will be paid to the employee upon successful completion.

C. Reimbursement Procedure

Requests for course reimbursement must be made to the training manager in Human Resources prior to the start of the course. Depending on the funds available, a maximum reimbursement per employee will be designated each fiscal year by the training manager in Human Resources. Upon providing proof of successful completion and course payment to the Human Resources Department, reimbursement for pre-approved courses will be made up to the maximum authorized reimbursement amount.

D. Financial Assistance Outside of the County

Eligible employees who receive assistance from outside sources (i.e. scholarships, grants, GI Bill, fellowships, and other stipends) are eligible for tuition reimbursement only for the amount up to the cost of the tuition which exceeds the amount of outside assistance received, up to the maximum reimbursement established each year.

E. Payback Agreement

As a condition of tuition reimbursement, the employee must agree that if he or she voluntarily leaves County employment, the employee will repay the County the full amount of any tuition reimbursements received during the twelve month period preceding the employee's resignation date.

F. Human Resources Exception

The Human Resources Director or designee is authorized to recommend exceptions to the conditions and limitations of course reimbursement when such exceptions support the continuous growth and development of employees who have demonstrated exceptional performance. If the Human Resources Director or designee recommends an exception to the policy, it shall be forwarded to the County Executive or designee for final approval.

Amended: August 7, 1996; July 1, 1999; August 7, 2013

COUNTY OF ALBEMARLE
PERSONNEL POLICY§P-42 STAFF REPRESENTATION ON COMMITTEES AND TASK FORCES

The following responsibilities shall be assumed by individuals who chair or represent others on committees and task forces:

Responsibilities of Chairmen:

Chairmen should assure that the parameters of the decision making for the committee or task force are clearly outlined to include the specific charge to the committee or task force. The charge should be set by the Board or County Executive/Designee.

This information should also include whether the group:

1. Is advisory and, if so, to whom;
2. Has any limits on the scope of its decision making (i.e., budget or other delimiting factors);
3. Is ad hoc or a standing committee/task force (if standing, the length of service on the committee should be explained).

Chairmen should assume responsibilities for:

1. Recording and disseminating minutes of each meeting: Minutes should include the date and time of meetings, who was present/not present, and any major actions taken/decisions made at the meeting;
2. Keeping the County Executive/designee apprised of the progress of the committee: The County Executive/designee shall make the decision as to whether the committee/task force recommendations require Board action and also when progress reports should be made to the Board;
3. Apprising the County Executive/designee of any members who do not regularly attend meetings;
4. Seeking/providing information to members about the charge to the committee/task force.

Adopted: August 4, 1993

PERSONNEL

Staff Representation on Committees and Task Forces (continued)Responsibilities of Committee/Task Force Members:

1. Regular attendance at and participation in meetings;
2. Regularly apprising the group that they represent about the progress of the committee/task force;
3. Seeking opinions of constituents about the work of the committee/task force;
4. Voicing opinions while the committee/task force work is progressing;
5. Supporting the work of the committee/task force after the work is completed;
6. Apprising the chairman if they will be unable to attend meetings or continue to represent their constituency.

Through the above procedures, it is anticipated that various groups will participate and be represented in the work of the County.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-60

SALARY ADMINISTRATION AND POSITION CLASSIFICATION

The County's Classification and Pay Plan governs the classification and compensation of positions in County employment and is maintained by the Department of Human Resources.

The Pay Plan adopted by the Board of Supervisors is directly linked to the Classification Plan and is based on the principle of equal pay for equal work. The County's salary administration program that provides for payment of salaries, recognizes achievements, and rewards individual ability and performance.

Procedure for Salary Administration and Position Classification

- A. Job descriptions are detailed specifications of each position classification and are developed for each position. They each include general statements of the duties, responsibilities, and qualifications necessary for that position. A job description will be developed for each position. Department heads will collaborate with the Department of Human Resources to ensure that job descriptions accurately reflection of that positions.
- B. Like classifications will be grouped in terms of seven job factors:
1. Job Complexity
 2. Education and Experience
 3. Scope and Impact
 4. Supervision Received
 5. Working Relationships
 6. Working Environment
 7. Physical Demand

Each classification is determined by a system of point values developed during the analysis of each job.

- C. It is the responsibility of the department head/designee to maintain equitable and properly evaluated positions within his/her department. Newly created positions or major changes in the functions or responsibilities of an existing position shall be reported to the Director of Human Resources/designee in order to initiate an evaluation study to establish a new position or to reclassify an existing position.
- D. All position classifications and reclassifications must be approved by the County Executive/designee prior to placement on a salary range.
- E. Salary ranges consisting of a minimum, midpoint, and maximum salary will be established for each class of positions based on the County's policies, as well as information about similar positions within the adopted market¹ and, where appropriate, compared with similar positions within the state.

¹ The County's adopted market is Augusta County, Buckingham County, Chesterfield County, Fauquier County, Fluvanna County, Greene County, Hanover County, James City County, Loudoun County, Louisa County, Madison County, Montgomery County, Nelson County, Orange County, Prince William County, Roanoke County,

Salary Administration and Position Classification (continued)

- F. The Department of Human Resources will ensure that the plan is kept current through periodic reviews and comparative studies of pertinent factors affecting levels of pay. The Human Resources Department may recommend pilot programs designed to maintain comparable pay and classifications. The County Executive may authorize a pilot program for a period not to exceed one year.
- G. Entrance Pay Rate – The entrance pay rate shall normally be the minimum rate in the pay range prescribed for the pay grade. When a prospective employee has relevant experience, education, and/or skill sets beyond position requirements that would warrant placement above the minimum rate, the Department of Human Resources will use established guidelines, internal equity, and market considerations to determine the employee's entrance pay rate.

The County Executive is authorized to hire employees at any point within the salary range, based on market conditions and the qualifications of the individual.

- H. Pay Rate Adjustment – The following personnel actions shall affect the pay status of an employee in the manner described. All pay rate adjustments must be approved by the Department of Human Resources prior to taking effect.
1. Promotion – When an employee is selected and promoted to a position with a higher pay grade, the employee may receive a pay increase based upon consideration of established guidelines, internal equity considerations, market considerations, the level of variance from the employee's current pay grade, and where the employee's salary falls within the pay grade.

Promotions can only occur if
 - (a) There is a vacancy in the higher pay grade,
 - (b) A new position in the higher class is approved , or
 - (c) There is a duly approved career development program.
 2. Reassignment – Department heads may need to reassign staff to different positions to meet the department's needs. When an employee is reassigned to a position with a lower pay grade for administrative purposes, the employee's rate of pay shall not be decreased. If the rate of pay exceeds the new pay grade maximum, the employee's pay shall remain the same until the range changes as a result of subsequent market studies and/or reclassifications.

When an employee is reassigned to a lower pay grade position and subsequently reassigned back to a higher pay grade position at or below the initial pay grade, the employee's pay rate increase shall be based upon consideration of established guidelines, internal equity considerations, market considerations, and other relevant factors.

Salary Administration and Position Classification (continued)

3. **Reclassification** – When an employee is reclassified into a higher pay grade, the employee may receive a pay rate increase. The increased amount will be based upon consideration of established guidelines that include the level of variance from the employee's current pay grade and where the employee's salary falls within the pay range. Market considerations may also be taken into account.
4. **Demotion** – When an employee is demoted from one class to another having a lower pay grade, the employee shall be placed within the lower range with consideration given to established guidelines, internal equity considerations, market considerations, and other relevant factors.
5. **Voluntary Movement to a Position in a Lower Pay Grade** – When an employee chooses to move to a position in a lower pay grade, the employee may be subject to a reduction in pay rate, with consideration given to established guidelines, internal equity considerations, market considerations, and other relevant factors.
6. **Movement to a Different Position in the Same Pay Grade** – When an employee moves to a different position in the same pay grade, the employee's rate of pay generally will remain the same, exclusive of day and hour changes and participation in the Virginia Retirement System (VRS). Any adjustment in pay shall be based upon established guidelines, internal equity considerations, and other relevant factors.
7. **Completion of First Six Months for Classified Employees** – Upon successful completion of the first six (6) months of employment with the County, a regular employee will:
 - i. If hired on or before November 1st of a fiscal year, receive a calculated salary increase effective concurrently with the salary increase for all regular classified employees for the next fiscal year. This prorated increase will include a performance-based increase if applicable.
 - ii. If hired on or after November 2nd of a fiscal year, receive a calculated salary increase effective following the sixth (6th) month of employment or concurrently with the salary increase for all regular classified employees for the next fiscal year, whichever is later. This initial six (6) month salary increase will only be awarded for successful completion of the employee's initial employment period and would not be repeated for a change in position. However, if there is a break in service with the County, a re-hired employee would be eligible for another six (6) month increase.
8. **Certification Pay** – When an employee is certified or licensed in a specific designated skill related to, but not required for the employee's position, the employee may receive additional compensation in an amount to be determined by the Department of Human Resources. This additional compensation would be in effect for the period that the licensure or certification is deemed compensable by the department head, with the agreement of the Department of Human Resources.
9. **Temporary Work in a Higher Classification** - Temporary assignments with a higher pay rate occur when the work requires the designation of an employee to a position with a higher classification for at least 11 consecutive workdays by the department head/designee or County Executive/designee. This does not apply to occasional

Salary Administration and Position Classification (continued)

10. assignments of supervisory or administrative responsibility. A regular employee assigned temporary work in a higher classification shall be paid the minimum rate of the higher classification, but no less than 5% above the employee's hourly rate for all such time worked if the assignment will be for at least 11 consecutive workdays.
11. In-Range Adjustment – When it can be substantiated that the salary of an employee is significantly below the average salary of the relevant market for the position, the employee's relevant education/skill set has substantially increased, or the scope of the employee's position has expanded considerably, an in-range equity adjustment may be granted. Requests for adjustments shall be submitted by the employee's department head to the Director of Human Resources/designee, who will review the request based on the following factors: (1) an identification of the position's relevant market; (2) internal equity; (3) degree of position expansion; and (4) other considerations. The Director of Human Resources will use this information to make a recommendation to the County Executive/designee, who shall have the sole authority to approve any adjustment to an employee's salary based on this process.

Adopted: July 1, 1993

Amended: September 13, 1993; June 19, 1995; July 8, 1996; December 8, 1997; September 3, 2008; May 3, 2017; February 6, 2019, effective April 1, 2019

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-61 STAFF SCHEDULES, TIME TRACKING, AND COMPENSATION POLICY

The County has established the following procedures to compensate employees fairly and in accordance with federal, state, and local laws for all time worked. The County approves the annual staffing plan through the budget process each fiscal year. Staffing allocations are made for each department that determine the number and type of positions for employee payroll. These policies and procedures establish guidelines and expectations for employees and supervisors.

I. Staff Schedules

A. Classified Staff

The supervisor of every classified employee shall determine the employee's work schedule in accordance with the base weekly hours for that position and the needs of the department. Department heads/designees may require that employees work additional time or alternative schedules to meet the needs of the department. Whenever possible, supervisors shall give advance notice as soon as the work schedule change is determined so that the employees are able to arrange their personal schedules.

II. Alternative Schedules

A. Guidelines: Department heads/designees may permit alternative work schedules for staff provided that the following conditions are met:

1. The department is open to the public on all days other than posted holidays and emergency closings;
2. Employees work the requisite number of hours for their positions; and
3. All applicable personnel policies are followed.

B. Flex Time: Non-exempt employees are paid based upon hours worked or leave taken during the workweek or work period. In lieu of taking leave, a supervisor may allow an employee to work an alternative schedule in a given workweek or work period as long as all base weekly hours are accounted for within the workweek or work period. Exempt employees may work alternative schedules with supervisor approval.

III. Overtime and Compensatory Time Leave Compensation

Non-exempt employees are entitled to overtime pay or compensatory time leave in accordance with the Fair Labor Standards Act (FLSA) for hours worked in excess of their maximum allowable hours at one and one-half (1.5) times their regular rates of pay. The following regulation establishes the general guidelines and procedures the County will follow regarding overtime and compensatory time leave requirements of the FLSA and applicable state law. If any conflict arises between this policy and the

FLSA or state law, the requirements of the FLSA and/or state law will govern.

§P-61

PERSONNEL POLICY

PROCEDURE FOR STAFF SCHEDULES, TIME TRACKING, AND COMPENSATION

I. Overview and Key Terms

- A. **Base Weekly Hours.** Each regular employee has a designated number of official hours per workweek or work period that have been set for the position. While an employee's actual daily work schedule may vary, the employee's base weekly hours remain the same. For example, an employee with 40 base weekly hours may work five (5) eight (8)-hour shifts or may work four (4) 10-hour shifts.
- B. **Full-Day Increments.** Full-day increments refers to the entire scheduled day and not a "day of leave" as defined in Policy § 86 Leave Program.
- C. **Exempt Employees.** Employees in certain positions are exempt from overtime pay requirements and compensatory time leave eligibility if the positions satisfy the criteria for the exemptions defined under the FLSA. Positions will be designated as exempt or non-exempt by the Department of Human Resources and approved by the County Executive/designee.
- D. **Fair Labor Standards Act.** The FLSA requires all covered employers, including the County, to comply with its minimum wage and overtime compensation requirements.
- E. **Hours Worked.**
1. **General.** Non-exempt employees who work more than the maximum allowable hours in a workweek or work period must receive either overtime pay or compensatory time leave for their excess hours worked. Paid or unpaid time off during which the employee is absent from service for the County shall not be counted as "hours worked" in determining if the maximum allowable number of hours has been exceeded, except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.). Such absences include, but are not limited to, holiday, sick, annual, and compensatory time leave; leaves of absence; meal breaks; and building closures.
 2. **Breaks.** FLSA does not require rest breaks or meal breaks. However, supervisors should allow employees time to attend to health and hygiene needs. Supervisors may designate specific times for rest and meal breaks. Department heads may establish department-wide standards to ensure efficient operations and service. Non-exempt employee rest breaks longer than 20 minutes are not compensable as time worked as long as no work is performed and the employee is free to leave his/her post. Non-exempt employee meal breaks 30 minutes or longer are not compensable as time worked as long as the employee is completely relieved from duty and free to leave his/her post.

PERSONNEL POLICY

3. Travel Time. When non-exempt employees are required to work outside of County facilities, the hours involved in the actual travel, as well as the hours working, shall be considered time worked. Employees shall report this time to their supervisors, using procedures established for that purpose. Ordinary travel/commute between an employee’s home and work shall not be considered hours worked, unless approved as hours worked by the Department of Human Resources.

F. Leaving Premises During the Workday. Departments may establish their own sign-out/notification procedures for employees leaving the premises during the workday.

G. Maximum Allowable Hours. A non-exempt employee must be compensated for overtime once the employee has exceeded the maximum allowable hours. Maximum allowable hours for employees are as follows:

7(k) exempt ¹ Sworn Law-Enforcement	171 hours within the 28-day work period
7(k) exempt Uniformed Fire Rescue	212 hours within the 28-day work period
All Other Employees	40 hours within the workweek

H. Non-exempt Employees. Employees who are subject to the FLSA’s overtime and compensatory time leave requirements are considered non-exempt.

I. Overtime. This is time that non-exempt employees physically work in excess of the maximum allowable hours per workweek or work period, except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.). The County must compensate an eligible employee for time worked in excess of the maximum allowable hours by making monetary payment at one and one-half (1.5) times the employee’s regular rate of pay for each hour or portion thereof worked or by granting compensatory time leave at the rate of one and one-half (1.5) times for each hour or portion thereof worked.

J. Pay by Exception. Albemarle County operates on a “pay by exception” system. Each regular employee has a designated number of hours per fiscal year the employee has been allocated as part of the organization staffing plan. These annual hours are divided equally into the number of established pay cycles. The payroll system will pay this amount automatically unless the employee and supervisor submit adjustments to the base weekly hours such as overtime or leave without pay.

¹ “7(k) exempt” refers to 29 U.S.C. § 207(k), which provides public agencies a partial exemption to overtime compensation requirements for employees engaged in fire protection or law enforcement activities.

PERSONNEL POLICY

- K. **Premium Pay.** This refers to additional compensation, exclusive of overtime, non-exempt employees may receive as an incentive for specific types of work, i.e., shift differentials.
- L. **Regular Schedule.** All regular employees have a designated schedule each workweek or work period based upon the base weekly hours. Changes to a non-exempt employee's regular schedule that impact the base weekly hours may cause changes to the employee's pay, such as overtime or leave without pay.
- M. **Straight Time.** A non-exempt employee's non-overtime hours worked, compensated at the employee's hourly rate.
- N. **Work Schedules.** The department head/designee is responsible for establishing employee work schedules, including allowances for breaks and meal periods.
- O. **Workweek and Work Period.** The County Executive has established the official workweek as seven (7) days, extending from Saturday at 12:01 a.m. to Friday at 12 midnight. The work period for 7(k) exempt law-enforcement and fire rescue employees is a 28-day period. The beginning and ending time for the 28-day work period under section 207(k) of the Fair Labor Standards Act shall be determined by the appropriate department head.

II. Tracking Time and Pay Adjustments**A. Non-exempt Employees**

1. **Time Recording.** Non-exempt employees are paid for time worked on an hourly (or portion thereof) basis. All non-exempt employees must complete and submit, in a timely manner, accurate data recording their hours worked and leave taken. Failure to do so may result in disciplinary action in accordance with County policy.
2. **Increments.** Rounding rules up or down to the quarter-hour will be established for County-wide consistency. Departments may set reasonable expectations for adherence to work schedules. An employee may be counseled or disciplined for tardiness; however, pay will follow the rounding rules.
3. **Reductions in Pay.** In the County's pay by exception system, when an employee misses work in the workweek or work period and has insufficient leave to make up the variance from the base weekly hours, the non-exempt employee will be docked pay for that workweek or work period in 15-minute increments. Employees may also be docked pay for disciplinary purposes in accordance with County policy.

PERSONNEL POLICY

B. Exempt Employees

1. Time Recording. Exempt employees are expected to follow established procedures and policies for exempt employee time tracking and leave submission. Failure to do so may result in disciplinary action in accordance with County policy.
2. Increments. Exempt employees are compensated on a salary basis. The salary may be calculated on a daily or weekly basis depending on the position. However, exempt employees are not paid based upon physical time worked.
3. Reductions in Pay.
 - a. Exempt employees may be docked pay in accordance with FLSA, FMLA, Workers' Compensation laws, and other applicable laws. Generally, pay may be docked for partial weeks worked during the first and last weeks of employment and situations where a benefits-eligible employee has insufficient leave accrued or chooses to take leave without pay. Pay must be docked in full-day increments, excluding exceptions permitted under law. Benefits-ineligible employees may not be docked pay when work is performed in the workweek or work period, unless permitted by law. Supervisors may require any exempt employees to make up missed work in another workweek or work period.
 - b. Discipline. Any exempt employee may be docked pay in full-day increments for disciplinary purposes in accordance with County policy.

III. Overtime Pay and Compensatory Time Leave**A. Eligibility to Earn Overtime Pay/Compensatory Time Leave**

1. Non-exempt Employees. Unless excluded by the FLSA, all non-exempt regular employees of the County who work in excess of 40 hours within a workweek or the maximum allowable hours within one 28-day work period are eligible to receive overtime pay and/or compensatory time leave. Temporary employees are not eligible to receive compensatory time leave, but are eligible to receive overtime pay.
2. Exempt Employees. Exempt employees are not eligible to earn overtime, whether as monetary payment or compensatory leave time. However, this does not preclude department heads from using their discretion to grant time off to exempt employees in recognition of time worked beyond normal work schedules.

PERSONNEL POLICY

B. Calculation of Overtime/Compensatory Time Leave

All non-exempt employees are to be compensated for overtime hours worked. This compensation may be monetary or through the accrual of compensatory time leave. Time is calculated based on the entire workweek or work period and not on a daily basis. Overtime is not earned until the maximum allowable hours have been physically worked, except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.). Calculation of overtime/compensatory time leave shall be as follows.

1. Fire Rescue Employees. Fire Rescue employees who are 7(k) exempt and work over 212 hours within the 28-day work period are to be paid overtime pay. They are also subject to the Gap Pay Act (Virginia Code § 9.1-700, et seq.). References to overtime pay throughout policy includes gap pay required by the Virginia Code.
2. Sworn Law-Enforcement Employees. Sworn law-enforcement employees who are 7(k) exempt and work over 171 hours within the 28-day work period are to be paid overtime pay. They are also subject to the Gap Pay Act (Virginia Code § 9.1-700, et seq.). References to overtime pay throughout policy includes gap pay required by the Virginia Code.
3. All Other Employees. All other non-exempt employees who physically work over 40 hours within the workweek are to be paid overtime pay.
4. Compensatory Time Leave. A non-exempt regular employee may be compensated at the rate of one and one-half (1.5) hours of compensatory time leave for each overtime hour worked in a workweek or work period instead of overtime pay referenced in B.1-3. The employee and supervisor must agree to compensatory time leave as compensation. If a supervisor is offering only compensatory time leave as payment, the employee must agree to accept compensatory time leave or be able to decline the additional work. Otherwise, overtime pay must be provided for required additional work. Temporary employees are not eligible for compensatory time leave in lieu of overtime pay.
5. Compensation for Additional Non-Overtime Work. When a non-exempt employee works more than his/her base weekly hours, the employee must be paid his/her hourly rate (straight time) for those excess hours worked, except as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.). Compensatory time leave may not be earned except as overtime.

PERSONNEL POLICY

6. Dual Job Employees.
 - a. Two or More Non-exempt Positions. Employees who have two or more non-exempt regular positions contributing to overtime hours are eligible for both overtime pay and compensatory time leave. These employees may receive overtime pay at the blended overtime rate or earn compensatory leave time in accordance with B.4. Department heads shall consult with Human Resources for guidance regarding the payment of overtime compensation to these employees.
 - b. Exempt and Non-exempt Regular Positions. For employees who have one or more exempt regular position(s) and one or more non-exempt regular position(s), the eligibility for overtime is determined by the primary position (the position with the highest part-time percentage). When the primary position is classified as non-exempt, all work performed in both positions contributes to the total hours for the workweek or work period. When the primary position is classified as exempt, the employee is not eligible to earn overtime or compensatory time leave. The employee may receive straight time pay for hours worked in the workweek or work period beyond the base weekly hours in the non-exempt position.
 - c. Non-exempt Regular and Temporary Positions. If a non-exempt regular employee also has time worked in a non-exempt temporary position during the workweek, all such time worked counts towards the maximum allowable hours. The supervisor of the regular position may deny the earning of compensatory time leave in lieu of overtime pay, regardless of which position(s) contributed to the overtime hours. If a supervisor denies compensatory time leave, overtime must be paid at the blended overtime rate.
 - d. Non-exempt Regular Employees Working Exempt Temporary Positions. As long as the exempt temporary position is occasional and sporadic, the hours worked in the temporary position do not count towards the maximum allowable hours. Supervisors of temporary positions shall contact the Department of Human Resources before scheduling any non-exempt regular employee for exempt temporary work.

C. Compensatory Time Leave Payouts

1. Maximum Balances. Employees eligible for the public safety exemption may accrue up to 240 hours of compensatory time leave. All other regular, non-exempt employees may accrue up to 100 hours of compensatory time leave.

PERSONNEL POLICY

2. Job Changes. Upon termination of regular employment, non-exempt employees shall be paid for unused compensatory time leave. A non-exempt employee who is transferring to another department or who is changing from a non-exempt to an exempt position shall be paid for the unused compensatory time leave balance or reach an agreement with the current department head to use any accumulated compensatory leave prior to the effective date of the change. The employee's compensatory time leave balance must be zero (0) prior to the starting date for the new position.
3. Compensatory Time Leave Payout Requests.
 - a. Department heads may offer periodically partial or full payouts of accrued compensatory time leave. Fair practices must be established to provide equal access to all eligible non-exempt employees. Department heads may not make payouts under the maximum compensatory time leave balance without employee approval.
 - b. Employees may request partial or full payouts of accrued compensatory time leave. Payouts are subject to department head approval and budgetary considerations. Department heads may set fair and consistent limits.
4. Compensatory Time Leave Payout Rate.
 - a. During Employment: When compensatory time leave is paid during the course of employment, it will be paid at the employee's current regular rate.
 - b. Upon Termination: When compensatory time leave is paid upon termination of employment, it will be paid at a rate of compensation not less than:
 - i. The average regular rate the employee received during the last 3 years of employment, or
 - ii. The employee's final regular rate, whichever is higher.

D. Employer Responsibilities

1. Managing the Accrual of Overtime. Department heads/designees may require that employees work additional time or overtime to meet the needs of the department. They are also responsible for managing non-exempt employees' hours worked whenever possible within the designated workweek or work period to avoid overtime. If an employee works more than the designated work hours in a day, the employee's supervisor may adjust the employee's work schedule for that

PERSONNEL POLICY

workweek or work period by the amount of the excess time worked to avoid the accrual of overtime.

The County will compensate an employee for any time worked in excess of the employee's base weekly hours. However, an employee may be disciplined for working unapproved time.

2. Availability of Funds. Department heads/designees shall ensure that adequate funds are available to pay required overtime compensation and compensatory time leave payouts.
3. Scheduling Compensatory Time Leave. (See Policy § P-86, Leave Program.)
4. Recordkeeping. Department heads/designees shall ensure that all non-exempt employees complete and submit, on a timely basis, accurate data recording their hours worked and leave taken. They shall also ensure that exempt employees submit timely and accurate leave records.

E. Employee Responsibilities

Authorization for Overtime. Non-exempt employees may work additional time beyond their scheduled hours only with prior authorization from their supervisor. Failure to obtain prior authorization may result in disciplinary action in accordance with County policy.

IV. ON-CALL AND CALL-BACK COMPENSATION

A. On-Call Compensation

1. Purpose. Employees may be required to be available to return to work or "on-call" during a scheduled period. On-call periods have been established as 12-hour periods for the entire County. Department heads/designees may schedule employees to be on-call for shorter periods based on business needs.
2. Compensation and Eligibility. A regular or temporary non-exempt employee on-call will be paid a flat fee equal to one and a quarter (1.25) of the employee's hourly rate for each 12-hour on-call period. When an on-call period of less than 12 hours has been designated, an employee will still receive one unit of on-call pay for the period. Periods during which an employee is on-call are not time worked and do not count towards maximum allowable hours for overtime. For example, an employee who makes \$10.00/hour and is on-call for a designated eight (8)-hour shift would receive \$12.50 for one on-call period. If the on-call shift was 13 to 24 hours, the employee would receive \$25.00 for two (2) on-call periods.

PERSONNEL POLICY

Non-exempt employees who are on-duty while they are on-call are to be compensated for the time they are on-duty as time worked. Whether the FLSA considers an employee to be “on-duty” while on-call depends on a number of circumstances, including, but not limited to, being required to remain on the employer’s premises and being restricted from using on-call time effectively for personal purposes.

Exempt employees are not eligible to receive on-call compensation.

3. Condition to Work. Employees who are “off-duty”, but on-call, must remain in a work-appropriate condition. This includes, but is not limited to, refraining from consuming substances that impair or compromise an employee’s ability to work.
4. Departmental Expectations. Departments may develop on-call guidelines and expectations for employees for “off-duty” on-call time based on departmental needs. Department heads must submit their proposed guidelines to the Human Resources Department for approval to ensure that they meet all applicable legal and policy requirements.

On-call compensation will be authorized only if the on-call service meets all the following criteria:

- a. Service must be mandated.
 - b. On-call employees are expected to respond promptly to calls, resulting in partially restricted personal time of on-call employees. Specific required response times may vary depending on individual departmental requirements.
 - c. On-call employees will not be called if another employee is already on duty and available to perform the required services.
 - d. The department’s on-call guidelines have been approved by the Department of Human Resources.
5. Reporting for Work. While on-call, an employee may be contacted to report to work. An employee who is called in to work from on-call status is eligible for call-back compensation. The employees will also retain the on-call compensation in addition to wages for time worked.
 6. Special Provisions Regarding CPS Workers. Child protective service workers employed by the Department of Social Services shall be compensated for their on-call service in accordance with all state-mandated requirements.

PERSONNEL POLICY

B. Call-Back Compensation

1. Purpose. There may be times when supervisors may need employees to report back to work on short notice outside of the employee's work schedule. Call-Back status occurs when a department head/designee requires a non-exempt employee to report back to work outside of the employee's work schedule on less than 24-hour notice. Call-back is not hours worked beyond the schedule which require an employee to stay at work, such holdover time shall be compensated as straight time or overtime as applicable. Additionally, work schedule changes with more than 24 hours' notice are not call-back hours. Whenever possible, supervisors should give notice to employees when the need for call-back may occur, such as for an anticipated snowstorm.
2. Eligibility for Call-Back Compensation. Any regular non-exempt employee who is called back to work as described above by the department head/designee shall be paid call-back compensation..

Temporary, non-exempt employees who have regular work schedules which are changed via call-back are eligible. Temporary employees who work on an intermittent, occasional, or sporadic basis do not qualify for call-back pay when scheduled or called to work with less than 24 hours' notice.

While exempt employees may be called back to work with short notice, they are not eligible for call-back pay.

3. Condition to Work. Employees who are called back for work must report in a work-appropriate condition that includes, but is not limited to, the non-consumption of substances that impair or compromise an employee's ability to work. If an employee is not in a condition to work, the employee must disclose that to the supervisor before reporting for duty.
4. Compensation. The call-back compensation rate is one and one-half (1.5) times the employee's regular hourly rate for call back hours. If an employee exceeds the maximum allowable hours for the workweek or work period, or as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.), the employee will receive overtime pay instead of call-back pay. The employee may not receive both for the same hours worked. In lieu of receiving overtime pay, employees may receive compensatory time leave in accordance with the established procedures above.

PERSONNEL POLICY

Once an employee has been called back to work, the employee will be guaranteed a minimum of two (2) hours of call-back pay even if less than two (2) hours of work are performed. An employee will receive call-back pay for all hours worked. Ordinary travel/commute between

an employee's home and work shall not be considered hours worked, unless approved as hours worked by the Department of Human Resources. Emergency travel time to a location other than the employee's regular place of business which requires travel of a substantial distance (more than the employee's typical commute) is considered hours worked. Only hours physically worked or call back emergency travel time to work count towards the maximum allowable hours. An employee called back to work from "on-call" status may keep the on-call pay in addition to call-back pay received. When work is completed, travel time home is not compensable as time worked.

If an essential personnel employee receives additional pay due to building closure, the employee is not eligible for call-back for the same hours worked.

V. HOLIDAY PAY

Please refer to Policy § 86, Leave Program, for information on pay for work performed on a holiday.

VI. SHIFT DIFFERENTIALS

Non-exempt regular and temporary employees may be regularly or periodically scheduled to work evening or midnight shifts and may receive premium pay for such work. When five (5) or more hours are physically worked in either shift, the employee will receive the following additional percentage of his/her hourly rate for each hour worked in the range.

Evening: 3:00 p.m. – 12:00 a.m. 5% of the hourly rate premium pay

Midnight: 12:00 a.m. – 9:00 a.m. 6% of the hourly rate premium pay

Shift differential premium pay will not be granted when less than five (5) hours of work are performed in the designated range. Although an employee may be regularly assigned to an evening or night shift, the shift premium will not be paid when paid leave is taken, nor will the employee be charged the premium for leave without pay. Fire Rescue employees who are 7(k) exempt are not eligible for this shift differential premium pay.

PERSONNEL POLICY

VII. BUILDING CLOSURES DUE TO INCLEMENT WEATHER OR EMERGENCY SITUATIONS

The County expects all employees not required to work onsite who are able to work remotely during building closure periods to do so. Employees should make every good faith effort to continue to work remotely when possible. Employees not able to work remotely during building closure periods should notify their supervisor as soon as possible.

Employees may be required to report to a County-operated worksite during building closure periods. Please refer to policy § P-66, Coverage Due to Inclement Weather or Emergency, for more information. While they may be essential personnel, employees on the public safety pay scales are not eligible for additional pay due to building closures.

Compensation for other essential personnel is as follows:

Employees Required to Work. Any non-exempt, regular employee who is directed to work at a site that is impacted by a declared inclement weather event or emergency are essential personnel and are paid a premium equal to the employee's hourly rate for any time the employee works during the building closure period. This premium is in addition to the regular wages essential personnel earn for any time worked in accordance with this policy.

For example, if the building closure period is 6am-10am, the employee's work schedule is 8am-4pm, and the employee works 9am-4pm (no lunch break) on the day of the closure as directed by the supervisor, the employee would receive one hour of paid administrative leave due to building closure (8am- 9am), one hour of essential personnel additional pay due to building closure (9am-10am), and seven hours of pay for time worked (9am-4pm).

VIII. PROFESSIONAL LEARNING

See Policy § P-87, Professional Learning, for more information on compensable work time for training and learning activities.

IX. COURT APPEARANCES / HEARINGS

When employees are subpoenaed to appear as witnesses in legal proceedings or participate in hearings with other federal, state, or local agencies in their capacities as County employees, the time spent in such work-related proceedings will be treated as compensable work time.

Employees who initiate or are otherwise involved in legal actions of any kind (excluding employee grievance proceedings) in their private capacity and not as a County employee, whether such actions involve the County or not, will not be permitted to treat such time as compensable work time. Leave may be requested in accordance with policy § P-86, Leave Program.

X. SPECIAL PROVISIONS FOR SWORN LAW-ENFORCEMENT EMPLOYEES

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-63

RETIREMENT

I. REGULAR RETIREMENT

A. General

Retirement shall be at the discretion of the employee. Full-time regular employees of Albemarle County who qualify are eligible for the benefits of the Virginia Retirement System ("VRS"). Additional information describing VRS benefits is available on-line at varetire.org.

B. Continuing Participation in the County's Medical and Dental Insurance Plans

1. All employees retiring under VRS and/or the County's VERIP policy are eligible for continuous participation in the group medical and dental insurance plans until they are eligible for Medicare coverage if they participated in the County's group medical and dental insurance plans on the day prior to separation from the County. The age and service criteria for VRS are as follows: 50 years of age with 10 or more years of continuous regular employment by a VRS-participating employer; or 55 years of age with 5 or more years of continuous regular employment by a VRS-participating employer.
2. Individuals eligible to participate in the County's group medical and dental insurance plan shall pay the full cost of health insurance coverage, including any applicable administrative expenses.
3. Any retirees or Board members who participated in the County's group medical and/or dental insurance plans as of December 1, 2009 shall continue to be eligible to participate, at their own cost, until they are eligible for Medicare coverage.

II. LONGEVITY INCENTIVE PROGRAM

The County values the service of all of its employees, both full-time and part-time. Since part-time employees are not covered by VRS, the County has elected to establish a Longevity Incentive Program (the "Program") and thereby provide eligible part-time employees with certain benefits as more fully explained in this section.

A. Scope of Program

All regular, part-time employees of the County will be covered by the Program provided that they work the minimum number of hours necessary to establish eligibility for County benefits. Salaried Board Members are not eligible for participation in this program.

PERSONNEL

Longevity Incentive Program (continued)

B. Benefits

The following benefits will be provided to eligible part-time employees under the Program:

1. Life Insurance: A term life insurance policy will be provided equal to twice the employee's annual salary with double indemnity for accidental death and dismemberment payments for the accidental loss of one or more limbs or of eyesight.
2. Annuity Program: Based on length of service in the County, part-time employees will be provided with an annuity program. The Board will contribute an annual amount according to the following formula:
 - a. 5 - 9 years of County service - five percent of annual salary.
 - b. 10 - 14 years of County service - seven percent of annual salary
 - c. 15 - 19 years of County service - nine percent of annual salary.
 - d. 20+ years of County service - eleven percent of annual salary.

III. Retirement Pay/Payment upon Death

In recognition of employee service to Albemarle County, regular full-time and part-time employees who meet the age and service criteria for retirement under VRS and have been employed a minimum of five (5) years with Albemarle County shall be paid upon their retirement or death in service \$200 per year for each year of service to the County as a regular employee up to a maximum payment for 25 years of service, less any years previously paid for under this policy. Years of service do not have to be continuous.

IV. Voluntary Early Retirement Incentive Plan (VERIP)

A. Eligibility

1. Participants in the Albemarle County VERIP must be regular full-time or regular part-time employees eligible for benefits as defined in P-02, Definition of Employee Status and meet the following additional requirements:
 - a. Full-time employees must be eligible for early or full retirement under the provisions of VRS. Part-time employees must meet the same age and service criteria as if they were full-time employees covered under VRS.
 - b. Have been employed by the County government and/or school division for 10 of the last 13 years prior to retirement.
2. Employees retiring under the disability provisions of VRS and/or Social Security shall not be eligible for the VERIP.

PERSONNEL

Voluntary Early Retirement Incentive Plan (continued)

3. VERIP benefits will cease if the retiree returns to work in a regular full-time or regular part-time position with the County government and/or school division.
4. VERIP benefits will continue if the retiree returns to work in a temporary part-time or temporary full-time position with the County government and/or school division.

B. Benefits

1. VERIP benefits shall be paid monthly for a period of five years after retirement or until age 65, whichever comes first. The VERIP benefits consist of a stipend calculated in accordance with Section B.2 (“stipend”) and a monetary contribution toward health insurance (“medical contribution”).
2. Stipends under VERIP will be calculated as follows:
 - a. Compute the annual VRS benefit. This computation shall include any reductions for early VRS retirement if appropriate.
 - b. Recompute the annual VRS benefit with the addition of five more years of service or the number of additional years needed to reach age 65, whichever is lesser.
 - c. The difference between these two calculations is the annual VERIP stipend (“Stipend Value”) to be paid on a monthly basis.
 - d. Stipends for part-time employees who are eligible to participate in VERIP shall be determined as if the part-time employees are eligible for an annual VRS benefit and the amount shall be calculated in the same manner as benefits for VRS-eligible employees under subsections (a) – (c) above.
3. The County Executive will recommend to the Board an annual adjustment to the VERIP stipend after having been apprised of the VRS adjustment for retirees.
4. The Board will pay a monetary contribution toward an employee’s health insurance as long as the employee remains eligible to receive VERIP benefits. Retirees receiving VERIP benefits who elect to remain on the County’s health insurance will pay premiums for the coverage equivalent to that paid by active employees electing the same level of coverage. Retirees receiving VERIP benefits who elect not to remain on the County’s health insurance will receive the monetary contribution as a payment. The maximum value of this payment will be seven hundred and twelve dollars (\$712.00) per month.

PERSONNEL

Voluntary Early Retirement Incentive Plan (continued)

5. Effective December 2, 2009, the VERIP stipend shall continue to be calculated in the manner provided in Section B.2, but the stipend amount shall be modified in accordance with the following schedule:
 - a. Retirements effective on or after July 1, 2012 but before July 1, 2013: 80% of the Stipend Value.
 - b. Retirements effective on or after July 1, 2013 but before July 1, 2014: 60% of the Stipend Value.
 - c. Retirements effective on or after July 1, 2014 but before July 1, 2015: 40% of the Stipend Value.
 - d. Retirements effective on or after July 1, 2015 but before July 1, 2016: 20% of the Stipend Value.
 - e. Retirements effective on or after July 1, 2016: No VERIP Stipend.

C. Application

Applications for VERIP must be made to the Human Resources Department prior to December 1st of the year preceding the fiscal year the employee's participation in VERIP takes effect. Applications after December 1 may be approved based on the needs of the County.

D. Approval

All VERIP applications are subject to approval by the County Executive or designee.

E. Duration

The Board of Supervisors reserves the right to modify this policy in its discretion, and all benefits described in this policy shall be subject to future modifications and annual appropriations by the Board of Supervisors.

F. Additional Benefits

1. Current employees who apply for VERIP by February 27, 2009 and who meet the eligibility standards identified below shall be entitled to receive, at their election, **one** of the following:
 - a. Two additional years of Board contributions toward health insurance beyond the duration established by Section IV.B, paid on a monthly basis. Employees who retire at 65 years of age or older shall receive two years of contributions toward health insurance.
 - b. The cash equivalent of two additional years of Board contributions toward health insurance, calculated at the FY 2009-10 annual rate and paid in one or more installments.

PERSONNEL

Voluntary Early Retirement Incentive Plan (continued)

2. To be eligible for the additional benefits in this section, employees must:
 - a. Submit VERIP applications by February 27, 2009;
 - b. Submit a letter by April 1, 2009 establishing a retirement date no later than June 30, 2009; **and**
 - c. Retire after the effective adoption date of this subsection (F) but no later than June 30, 2009.

G. Targeted Retirement Incentives

1. Current employees holding positions in paygrades 16 and higher whose retirement is determined by the County to not impair the essential functions of the department, who apply for VERIP by March 15, 2010, and who meet the eligibility standards identified below shall be entitled to receive, at their election, **one** of the following:
 - a. A lump sum payment equivalent to 20% of the employee's current salary. "Salary," for non-exempt employees receiving benefits pursuant to this section, shall mean the employee's current annualized pay based on his regular hourly rate and regularly scheduled work hours.
 - b. Monthly payments, the total of which is equivalent to one week of pay for every full year of service with the County for up to 20% of the employee's salary. The number of monthly payments will be determined by the County, however, it shall not exceed sixty (60) monthly payments.
 - c. Continued full Board contributions toward the employee's health insurance for an additional 3 years beyond the contributions specified in Section B of this policy, or until the age of 65, whichever comes first.
2. To be eligible for the additional benefits in this section, employees must:
 - a. Submit VERIP applications by March 15, 2010;
 - b. Submit a letter by April 1, 2010 establishing a retirement date no later than June 30, 2010; **and**
 - c. Retire after the effective date of this subsection G but no later than June 30, 2010.
3. The County Executive or his designee may extend for up to 6 months the June 30, 2010 retirement date required by G.2.b and G.2.c for an employee who is otherwise eligible for the benefits in this subsection G upon a finding that such employee's retirement serves the interest of the County.

PERSONNEL

Voluntary Early Retirement Incentive Plan (continued)

Amended: August 4, 1993; April 19, 1995; June 2, 2004; January 7, 2009; December 2, 2009; March 3, 2010; May 10, 2017.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-65

EMPLOYEE RECOGNITION PROGRAMA. Purpose

The Board of Supervisors encourages its employees to provide the best possible service to our customers and citizens. The purpose of this program is to recognize County employees who distinguish themselves in the performance of their duties and who contribute significantly to the achievement of the goals and objectives of the County.

B. Program Established

There is hereby established an Employee Recognition Program. Each department is authorized to define its own recognition standards to reward employees for the following:

1. Providing exceptional customer service
2. Performing above and beyond normal duties and expectations
3. Identifying and/or implementing a means to reduce the costs of providing services
4. Demonstrating excellence in safe work practices
5. Causing improvement in productivity, process, or quality of services
6. Exemplifying County values of Integrity, Innovation, Stewardship and Learning

These departmental standards shall be in writing and approved by Human Resources. Pursuant to Virginia Code section 15.2-1508, the Board of Supervisors authorizes the payment of monetary bonuses and other forms of nonmonetary awards to recognize employees who qualify for recognition under this program.

C. Eligibility

All permanent full-time and part-time County classified employees are eligible to participate in this program.

Adopted: February 9, 2005

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-66

**COVERAGE DUE TO INCLEMENT WEATHER OR
EMERGENCY**

It is the County's intention to keep County Office Buildings open to the extent possible and provide staff coverage to maximize service to the public. However, sometimes coverage will be limited due to inclement weather or other emergencies. In such instances, the County strives to staff facilities to provide necessary services and to protect the safety of employees and the public.

PERSONNEL

Building Closure Procedures

1. **Designated Building Closure.** The County Executive determines when buildings are closed and may retroactively designate these periods.
2. **Single Location Closures.** If a situation only impacts certain buildings, such as a power outage, the County Executive may close only those locations. Employees whose locations are not impacted are required to report to work as scheduled. The County Executive may designate a liberal leave period for employees working at other locations.
3. **General Coverage.** Department heads must arrange coverage to ensure safe and effective operation. During inclement weather or emergency situations, essential personnel may be required to report for work.
4. **Liberal Leave.** The County Executive may designate a liberal leave period due to inclement weather or emergency situations when a building is not closed but employees may be unable to report to work or may need to leave early from work. During these periods, department heads should allow staff to take unscheduled leave if their employees feel it necessary, unless coverage requirements cannot otherwise be met. Employees may use accrued leave without prior approval during liberal leave periods. In lieu of taking leave, employees may be allowed to flex time with supervisor approval. Department heads are responsible for monitoring time worked and leave taken to ensure employees are fairly and accurately compensated.

If essential personnel feel they are unable to report to work, they must use applicable accrued leave or leave without pay. These employees are not eligible for paid administrative leave provided to non-essential employees for building closures. Essential personnel who are repeatedly unable to work during building closures may be counseled or disciplined, as essential personnel are expected to work during these periods. Please refer to Policy § P-02, Definition of Employee Status, for more information on essential personnel.
5. **Scheduled Leave.** Leave previously scheduled by an employee which falls on a work day when the employee's regular schedule is impacted by a delayed opening, early closing, or closing should not be adjusted.
6. **Impact to Work Schedule.** Employees not required to work onsite who are able to work remotely during building closure periods must do so. Employees should make every good faith effort to continue to work remotely when possible. Employees not able to work remotely during building closure periods should notify their supervisor as soon as possible.

An employee not able to work remotely during building closure periods will be granted paid administrative leave (building closure leave) up to his/her regular schedule for such time missed and will not be required to use accrued leave or take leave without pay. For example, in the event the building is closed due to weather, and the remote-working employee loses electricity, the employee will be granted paid administrative leave for time unable to work within their regularly scheduled hours.

Employees whose schedules are not impacted by a closure will not receive additional leave or compensation. Employees may receive different amounts of paid administrative leave depending on the impact to their individual schedules.

7. **Working During Building Closures.** Essential personnel are expected to work at a site that is impacted by a declared inclement weather event or emergency. Only those employees required to work onsite should report to a County-operated worksite. Employees do not receive administrative leave due to building closure when they are working. Please refer to Policy § P-61, Staff Schedules, Time Tracking, and Compensation Policy, for information on compensation during building closures.
8. **Board Authority.** The Board may modify the procedures and compensation practices in this policy at any time.

Adopted: February 6, 2019, effective March 1, 2019; January 6, 2021

LEAVE PROGRAM

Consistent employee presence on the job promotes and maintains excellence in Albemarle County by providing continuity of service and reduced temporary staffing costs. The County recognizes that some absences are necessary. In such cases, the employee's return to work at the earliest time commensurate with good health, safety, and reasonable personal consideration is an expectation. The County expects that all employees shall strive to maintain an acceptable attendance record and that the occasional absences of employees shall not have an adverse effect on services.

Adopted: February 6, 2019 (Effective upon time and attendance system implementation (Kronos))

Amended: December 18, 2019; June 2, 2021

Table of Contents

[General Information](#)

[Administrative Leave](#)

[Annual Leave](#)

[Bereavement Leave](#)

[Building Closure Leave](#)

[Compensatory Time Leave](#)

[Court Duty Leave](#)

[Election Officer Leave](#)

[Emergency Leave](#)

[Employee Recognition Leave](#)

[Employee's Debilitating or Life-Threatening Illness or Injury](#)

[Family Medical Leave Act – Protected Leave Status](#)

[Holiday Leave](#)

[Income Replacement Program – VRS Hybrid Plan members only](#)

[Jury Duty Leave](#)

[Leave as a Reasonable Accommodation](#)

[Maternity Leave](#)

[Military Leave](#)

[Personal Leave](#)

[Professional Learning Leave](#)

[Sick Leave](#)

[Sick Leave Bank](#)

[Total Leave Exhaustion](#)

[Unpaid Leave – Leave of Absence \(Long-Term\)](#)

[Unpaid Leave – Leave Without Pay \(Short-Term\)](#)

[Workers' Compensation](#)

I. General Information

A. Eligibility

All Albemarle County regular, benefits-eligible employees are eligible for the benefits and programs outlined in this policy. While non-benefits-eligible employees may not accrue paid leave as a benefit, they may be granted certain types of paid and unpaid leave under programs outlined in this policy. (See also § P-02, Definition of Employee Status.)

B. Definitions

Unless otherwise stated in policy or defined by law, the following definitions apply only to this policy.

Day of Leave or Day: A “day of leave”, a “day”, or “daily” shall equal the total hours scheduled per year divided by the number of days established for an employee’s position and number of months worked in a year (i.e., 12-, 11-, 10-month employee). This will not necessarily be the same amount an employee works on a given day. Unless otherwise noted, this definition applies to all leave policies.

For example, a 12-month employee (260 days) scheduled for 2080 hours per year has an eight (8)-hour day of leave; an 11-month employee (220 days) scheduled for 1760 hours per year has an eight (8)-hour day of leave; a 10-month employee (200 days) scheduled for 1450 hours per year has a seven and one quarter (7.25)-hour day of leave.

Employee: “Employee,” unless otherwise noted in this policy, means regular, benefits-eligible employees.

Fiscal Year: “Fiscal Year” means the fiscal year adopted by the Board (July 1 to June 30).

Flex: “Flex” means the ability of a supervisor to allow an employee to work an alternative schedule.

FTE: “Full-Time Equivalency” or “FTE” describes the full- or part-time status of an employee.

Household Member: “Household Member” means 1) any individual who cohabits or who, within the previous 12 months, cohabited with the employee, and any children of either of them then residing in the same home with the employee, 2) the employee’s former spouse, whether or not he/she resides in the same home with the employee, or 3) any individual who has a child in common with the employee regardless if the employee and individual have been married or have resided together at any time.

Immediate Family: “Immediate family”, unless otherwise defined in policy or defined by law, means the employee’s spouse, children, parents, siblings, grandparents, or the employee’s spouse’s children, parents, siblings, grandparents (includes all direct lineage such as

great-grandparents, grandchildren, etc. and step-immediate family members).

Parents include persons standing *in loco parentis* and children include biological, adopted, or foster children, stepchildren, legal wards, or children of a person standing *in loco parentis*.

In loco parentis includes those who have or had day-to-day responsibilities to care for or financially support a child who is under 18 years of age, or 18 years of age or older and incapable of self-care because of a physical or mental disability. A biological or legal relationship to the child is not necessary.

In Writing:

“In writing” mean generally any dated written statement including a leave slip, formal memo, or e-mail, unless otherwise noted or defined by law. Refer to specific policy sections or department requirements for specific forms that may be required.

Rolling Year:

“Rolling Year” means a rolling 12-month period measured backward from the date an employee uses leave.

Workday:

“Workday” specifically means a calendar day worked, as opposed to a “day of leave” or “day”.

C. General Leave Guidelines and Responsibilities

1. Leave under the Family Medical Leave Act (FMLA), Workers’ Compensation, Sick Leave Bank, Debilitating or Life-threatening Illness or Injury, and Income Replacement Program is managed by the Department of Human Resources for privacy reasons, with administrative support from the employee’s department. All other leave is managed and administered by the employee’s department with support from the Department of Human Resources.
2. Employees and supervisors should familiarize themselves with the types of leave available and the proper procedures for using each. Unless specifically stated, leave is used when an employee is absent from work, not as a means of additional compensation. Pay and leave for non-exempt employees are determined on a total workweek or work period basis, not a daily basis.
3. Leave is taken based on an employee’s schedule. Due to fluctuations in the day of leave and the varying base hours of different positions throughout the County, leave may be taken at a different rate from the rate at which it was accrued.
4. An employee with two or more regular positions (dual jobs) will have the FTEs for each position combined to determine eligibility for leave benefits. Leave will be held in a single account for all regular positions.
5. Employees are expected to only take leave for which they have sufficient leave balances. “Leave without pay” (LWOP) is not a leave type, but instead is a consequence of having insufficient applicable leave. Applicable types of accrued leave will be used before an employee may take LWOP. The Department of Human Resources will establish County-wide rules for the order in which different types of leave are used for different types of absences.

6. Employees may not borrow against future leave accruals. Paid leave may only be taken when the employee has earned enough leave to cover the absence or when provided by established County programs/practices.
7. When an employee performs no work or is not in a paid leave status in a calendar month, no accrued leave will be earned for that month.
8. Employees are responsible for notifying their departments as far in advance as possible whenever they will be absent. Employees are responsible for following their department's applicable guidelines when making leave requests. Employees are responsible for notifying their supervisors at least 30 minutes prior to their scheduled start time of unforeseeable delays and absences, unless the department has established other guidelines for notification. Employees should be aware of the notification requirements and procedures of their departments.
9. Employees are responsible for discussing workload/scheduling/coverage with their supervisors/designees when they need to be absent from work for any period either as a block of time or intermittently.
10. Both the department and the employee are responsible for tracking leave approvals and absences.
11. Employees should contact the Department of Human Resources for extended use or use of special leave types which require additional approval/administration as outlined in this policy such as leave under the FMLA, leave without pay (or LWOP), leaves of absence (LOA), Workers' Compensation, or military leave. Also, supervisors should notify the Department of Human Resources if an employee is out of work and may require extended use or use of special leave types which require additional approval/administration.
12. The department head/designee may approve leave that an employee has available as provided in this leave policy. The department head/designee, to the best of his/her ability, should ensure that processes/procedures are in place to prevent employees from taking unapproved or not yet accrued leave. Employees are responsible for being aware of their leave balances and usage and requesting leave use appropriately.
13. Any missed work that is not approved or foreseeable absences that are not requested in a timely manner may result in required leave use, denial of leave use, loss of pay, and/or disciplinary action. Failure to give proper notice or abuse of any of these policies may lead to disciplinary action up to and including termination.
14. Signs of leave abuse or excessive absenteeism will be examined, including looking at patterns such as Friday/Monday absences and/or frequency of occurrences. The Department of Human Resources staff shall provide guidance on initiating an investigation and any disciplinary action to be taken.
15. Employees must receive prior authorization to work with an outside entity while on paid or unpaid leave pursuant to § P-33, Outside Employment.
16. It will remain the right of the department head/designee to:
 - a. Authorize or refuse to authorize the advance request of an employee for permission to be absent.
 - b. Investigate absences.
 - c. Deny leave for absences in violation of any County policy.

- d. Impose reasonable disciplinary action upon employees who have been found by the department head/designee to have abused their leave privileges and/or violated the provisions of this policy.
 - e. Require written verification/proof of medical appointments or other types of absences, unless prohibited by policy or law.
17. The County Executive/designee may issue emergency regulations regarding employee work hours, absences, and leave usage in the event of a declared state of emergency, pandemic, or other crisis affecting the County's ability to operate under normal policies and procedures.
 18. Employees who are placed on administrative leave without pay for disciplinary reasons or other administrative reasons may not use other types of leave concurrently without permission from the Director of Human Resources/designee.
 19. Employees changing County positions and/or departments without breaks in service shall maintain accrued leave and accrual rates in accordance with policy.
 20. Employees changing employment between the County and Albemarle County Public Schools shall maintain accrued leave in accordance with this policy and accrual rates shall be reciprocal. Employees of a Partner Agency changing employment to the County, Albemarle County Public Schools, or another Partner Agency shall maintain accrued leave in accordance with this policy and accrual rates shall be reciprocal as agreed through a signed memorandum of understanding (MOU) or similar agreement.
 21. Although non-benefits-eligible employees are not eligible for some of the leave programs in this policy, they are required to follow procedures for requesting time off, recording time worked, and acceptable attendance. When flex time is not approved, these employees will be docked pay in accordance with § P-61 Staff Schedules, Time Tracking, and Compensation Policy, when applicable due to a lack of accrued paid leave.

D. Excused and Unexcused Absences

Acceptable attendance is a minimum expectation of all County employees. Absences will be classified as either excused or unexcused. Some types of leave may be either, depending on whether it was approved by the supervisor or not, regardless of whether it was paid. All unexcused absences are included into the acceptable attendance calculations. Sick leave is unexcused, except sick leave used concurrently with FMLA, Workers' Compensation, or Bereavement, which is excused. Any other paid or unpaid leave used in lieu of sick leave is also unexcused. Unapproved annual, personal, and compensatory time leave is unexcused even if the employee uses paid leave. Regardless of the leave type, an employee may be counseled or disciplined for failure to give proper notice or failure to receive prior approval.

E. Acceptable Attendance Standards

Generally, an employee's attendance is unacceptable when more than one (1) day of unexcused absences occurs per month, on average (10 days for 10-month, 11 days for 11-month, 12 days for 12-month per year). However, attendance should be examined, counseled, and disciplined by the supervisor on a case-by-case basis when appropriate. An employee may be disciplined for unacceptable attendance even if he/she has sick leave or other paid leave available.

F. Leave Usage

1. Exempt Employees

- a. Increments - Employees who are exempt from overtime provisions under the Fair Labor Standards Act (FLSA) (exempt employees) shall take leave in full-day increments.
- b. Work Expectations - An exempt employee is expected to work his/her full schedule. When an exempt employee takes a leave day, the supervisor should respect the employee's time off. However, there may be occasions when the employee may need to respond to an emergency. An exempt employee who performs a minimal amount of work shall still use a day of leave. If more than a minimal amount of work is performed, the employee should work with his/her supervisor to flex the time on a later date or not take the day as leave.
- c. Flex Time – Supervisors may approve exempt employees to work alternative schedules in lieu of using leave or in recognition of work above and beyond the employee's regular schedule. Time may be flexed outside of the workweek or work period for exempt employees.

2. Non-Exempt Employees

- a. Increments - Employees who are eligible for overtime under FLSA shall record leave in 15-minute increments.
- b. Work Expectations – A non-exempt employee must not perform any work while on leave. Permission to work while out must be granted by the supervisor in advance and should be recorded as compensable time instead of leave.
- c. Flex Time – Supervisors may approve non-exempt employees to work alternative schedules in lieu of using leave within the same workweek or work period. Pay and leave are determined on a total workweek or work period basis. Leave will only be used to supplement an employee's total weekly hours when the hours worked are less than his/her base hours. For example, if an employee misses two (2) hours of work for a doctor's appointment but works two (2) additional hours in the workweek with the supervisor's permission, no sick leave would be taken that week.
- d. Special Flex Time Rules For Certain Public Safety Employees – Non-exempt employees who qualify for the public safety exemption may request flex time in lieu of leave use prior to the use of such leave. When these employees are in a paid status, all such time is considered time worked as required under the Gap Pay Act (Virginia Code § 9.1-700, et seq.).

II. Administrative Leave

Administrative leave may be granted or required on a case-by-case basis, such as for investigations, suspensions, releases from work for safety, or recognition of service. Administrative leave may be paid or unpaid as appropriate. Administrative leave with pay is not an adverse personnel or employment action.

III. Annual Leave

A. Purpose

Annual leave is provided to regular, benefits-eligible 12-month employees to recognize service provided to the County, foster wellness, and encourage work-life balance.

B. Accrual Rates

12-month benefits-eligible employees shall begin to accrue annual leave based on the employee's hire date of regular, continuous employment. Employees accrue annual leave monthly in an amount based on the employee's day of leave at the time of distribution as follows.

1. One (1) day per month for each month employed during the first five (5) years of continuous employment.
2. One and one-quarter (1.25) days for each month employed during the sixth through the tenth (6-10) years of continuous employment.
3. One and one-half (1.5) days for each month employed during the eleventh through the fifteenth (11-15) years of continuous employment.
4. One and three-quarter (1.75) days for each month employed during the sixteenth through the twentieth (16-20) years of continuous employment.
5. Two (2) days for each month employed during the twenty-first through twenty-fifth (21-25) years of continuous employment.
6. Two and one-quarter (2.25) days for each month employed during the twenty-sixth (26+) and succeeding years of continuous employment.

An employee who changes from a 10-month or an 11-month to a 12-month schedule shall begin to accrue annual leave based on the date he/she commenced continuous employment as a regular employee to include benefits-eligible and non-benefits-eligible employment as a 10, 11, or 12-month regular employee.

With the approval of the Director of Human Resources/designee and the County Executive/designee, an employee's annual accrual rate may be negotiated at a rate other than the rate determined by years of service and/or an employee may be granted a negotiated amount of additional leave.

C. Accumulation Maximum Cap

Annual leave balances are subject to a maximum cap.

1. The annual leave maximum cap is 320 hours for employees, except as provided in subsection 2.
2. Partner Agency employees working for Constitutional Officers have a maximum cap of 6 weeks (240 hours or a fraction thereof for part-time employees) pursuant to state law, unless an agreement between the Constitutional Officer and the County includes such employees under this policy. If such an agreement exists, then employees of Constitutional Officers shall have an annual leave maximum cap of 320 hours.

D. Use of Annual Leave

1. An employee is required to obtain his/her department head's/designee's approval prior to taking annual leave.
2. Requests to use annual leave and approvals should be in writing. All requests should be made as far in advance as possible. Employees should also refer to department-specific requirements and procedures.
3. Annual leave use is granted at the discretion of the department head/designee.
4. The department head/designee must consider the workload and impact of leave on the County's service delivery when approving or denying annual leave requests.
5. The department head/designee must reasonably accommodate annual leave requests as staffing permits.

6. An employee has the right to ask for and receive an explanation for the denial of an annual leave request.
7. Once annual leave has been approved by the department head/designee, changes shall not be made to the approved annual leave use without notification in writing to the employee by the department head/designee.

In the interest of fostering wellness for employees, non-probationary employees are strongly encouraged to take at least five (5) days of annual leave per year. Department heads/designees shall work with their employees to ensure that time is made available for annual leave use. Employees are responsible for knowing their leave balances and usage and scheduling leave in a timely fashion.

8. Department heads/designees shall not approve more than three (3) consecutive weeks of paid annual leave if the employee is not planning to return to work (i.e., going to retire/resign). Any annual leave requested by a terminating employee beyond three (3) weeks must be approved by the County Executive/designee prior to use.

E. Conversion of Unused Annual Leave

1. At the end of the employee's birth month each year, any annual leave balance that is above the maximum accumulation cap will be converted as follows: 50% to the employee's own sick leave balance and 50% donated to the County Sick Leave Bank. The employee need not be a member of the Sick Leave Bank.
2. Employees are responsible for keeping track of their leave balances to avoid conversion of annual leave. Employees are also responsible for requesting time off as appropriate with as much advance notice as possible.
3. Employees and the department head/designee are encouraged to work together to facilitate leave use to avoid annual leave conversion.

F. Payout of Annual Leave

Payout of annual leave only occurs in the following situations:

1. Upon termination of regular employment, the employee will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap.
2. Upon transfer/hire from a 12-month position to a 10-month or 11-month position, the employee will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap. The employee may request to convert up to five (5) days of accrued annual leave to personal leave to be available for his/her use in the new 10- or 11-month position. If an employee requests leave conversion, it will be taken from the balance subject to the maximum cap. Employees transferring to benefits-ineligible positions will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap prior to the transfer.
3. Upon transfer/hire from a 12-month position eligible for annual leave under this policy to a Partner Agency position who does not have a signed memorandum of understanding (MOU) to accept leave, the employee will be paid at the employee's hourly rate for any remaining annual leave up to the maximum cap.
4. When an employee has two (2) regular 12-month positions (dual jobs), annual leave payout will be representative of the FTEs for each position. For example, a 0.60/0.40 employee would be paid 60% of the annual leave at the hourly rate of job A and 40% at the hourly rate of job B.

IV. Bereavement Leave

A. Purpose

The loss of an immediate family member or household member may deeply affect an employee. To allow an employee to grieve, tend to that person's estate, or other related matters, bereavement leave is available.

B. Bereavement Leave Days and Use

In the event of the death of a member of an employee's immediate family or a household member, any regular employee may use up to five (5) days of unpaid bereavement leave per occurrence. Accrued sick leave may be used concurrently for up to the first five (5) days of absence. Any additional time required by the employee shall be covered by other applicable leave in accordance with this policy. In the event of the death of a non-immediate family member or non-household member, employees may not use bereavement leave, but may use other applicable leave in accordance with this policy.

C. Extraordinary Circumstances

In the event of extraordinary circumstances, such as the death of a current colleague, the department head/designee may allow employees to attend services with approval from the County Executive/designee, so long as it does not cause an undue hardship on the department. Administrative leave with pay would be used in this situation for any regular employee.

V. Building Closure Leave

Paid leave and unpaid leave due to inclement weather and other County emergencies are addressed in § P-66, Coverage Due to Weather and/or Emergency.

VI. Compensatory Time Leave

A. Purpose

Because employees are paid with taxpayer dollars, to be good stewards of public money, public sector employers are able to offer employees compensatory time leave in lieu of money as compensation for overtime. Additionally, some non-exempt employees may value additional time off more than additional pay.

B. Accrual, Maximum Balance, and Payout

Please refer to § P-61, Staff Schedules, Time Tracking, and Compensation Policy, for information on compensatory time leave as it is earned for overtime work performed.

C. Use of Compensatory Time Leave

Accrued compensatory time leave may be used for any leave purpose. However, classified, non-exempt employees are required to arrange use of compensatory time leave in advance with their supervisors. Department heads/designees shall be responsible for allowing employees to use compensatory time leave within a reasonable period of time after the employee requests it, so long as such use does not unduly disrupt the operations of the department. A "reasonable period" under the FLSA is determined by considering the customary work practices within the department, such as: (a) the normal schedule of work; (b) anticipated peak workloads based on past experience; (c) emergency requirements for staff and services; and (d) the availability of qualified substitute staff. Leave is considered to "unduly disrupt the operations of the department" if the supervisor reasonably and in good faith anticipates that granting the request would impose

an unreasonable burden on the department’s ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee’s services.

VII. Court Duty

A. Purpose

The County recognizes the duty of employees to appear before a court of law when summoned or subpoenaed. These procedures outline leave usage. Refer to § P-61, Staff Schedules, Time Tracking, and Compensation Policy, for information on when an employee’s appearance in court is considered compensable work time.

B. Eligibility

The County provides unpaid court duty leave for employees consistent with Virginia Code § 18.2-465.1. Employees are expected to notify their supervisors in as far in advance as possible prior to using court duty leave. Supervisors may require verification that an employee has been called for court duty. Court duty leave does not apply to any employee who is the defendant in a criminal case for which the employee is summoned or subpoenaed.

C. Regulation

Employees who are summoned or subpoenaed to appear, except as defendants in criminal cases, in court proceedings which take place during their scheduled hours, are allowed unpaid court duty leave for such appearances. Such employees may use accrued leave as applicable, subject to supervisor approval.

VIII. Election Officer Leave (Polling Leave)

A. Purpose

The County recognizes that serving as an election official can provide a unique learning and community service experience.

B. Eligibility

Albemarle County offers paid polling leave for benefits-eligible employees and unpaid polling leave for benefits-ineligible employees consistent with Virginia Code § 24.2-100, et. seq.

C. Guidelines

1. Any employee who serves as an officer of election (defined under Virginia Code § 24.2-101) shall not have any adverse personnel action taken against him/her for such service provided. An employee is not required to use accrued paid leave to serve as an officer of election.
2. An employee must give reasonable notice to his/her supervisor and comply with established procedures when he/she needs to take time off to serve as an officer of election.
3. Hours worked as an officer of election shall not be counted as “hours worked” for purposes of overtime compensation. Employees are not required to volunteer as an officer of election.
4. Employees who serve as officers of election for any locality are eligible for polling leave.

5. Employees are also eligible for any standard poll worker stipend that may be provided by an Electoral Board.
6. Employees employed by an elected official, the Electoral Board, or General Registrar are not eligible for polling leave.
7. Employees who work four (4) or more hours as an officer of election, including travel time, are not required to report for any shift which begins between 5 p.m. and 3 a.m. and will be granted polling leave.

IX. Emergency Leave

A. Purpose

Emergency leave is for employees who need to address emergency or urgent circumstances beyond their control that affect their residences.

1. For example, emergency leave may be granted for situations similar to the following:

A disaster affecting the home or residence of the employee or his/her immediate family, including damage occurring during a declared a state of emergency or an employee's house burning down.

2. Examples of circumstances for which emergency leave should not be granted are the following:

- a. Animal/vehicle strikes and other car repair-related issues;
- b. Employee's water pump breaks during the normal course of wear and tear and other household repairs due to normal wear and tear; and
- c. Employee loses power due to a non-state of emergency

B. Eligibility and Days of Use

1. The department head/designee may grant up to two (2) days of emergency leave without loss of pay to any benefits-eligible employee per year.
2. These days do not accrue from year to year and are not paid out upon termination of employment.

C. Requesting and Using Emergency Leave

1. To the extent possible, employees should request emergency leave in writing from the department head/designee.
2. If the circumstances in a given case are unclear, the department head/designee shall confer with the Director of Human Resources/designee before granting approval.
3. Emergency leave is not intended and may not be used for absences covered by other types of leave, including sick, personal, or annual leave. In addition, emergency leave is not intended and may not be used as a substitute when other types of leave have been exhausted.

X. Employee Recognition Leave

Paid leave may be awarded to regular employees as recognition for extraordinary achievements and contributions to the County, including through the Employee Recognition Program.

XI. Employee’s Debilitating or Life-Threatening Illness or Injury

An employee who has a debilitating or life-threatening illness or injury may be granted a reasonable period of unpaid leave for this purpose. The leave will be approved by the Department of Human Resources provided it does not cause an undue hardship to the County. This type of leave may be taken only in full-day increments and runs concurrently with paid leave, unpaid leave, any other leave program, and any reasonable accommodation if applicable.

An employee must submit medical documentation of his/her need for leave to the Department of Human Resources. Whenever possible, documentation must be provided prior to leave being taken. Approval from the Department of Human Resources must be obtained prior to leave being taken when foreseeable or as soon as possible.

XII. Family Medical Leave Act – Protected Leave Status

A. Purpose

This Family and Medical Leave (“FMLA”) section is written to assist Albemarle County in complying with the provisions of the federal Family and Medical Leave Act of 1993, and its amendments. This section seeks to balance the needs of the County (the “employer”) with the needs of its employees and their families. Any variation between this policy and the FMLA will be determined in favor of the Act.

B. Definitions

Definitions set forth below are applicable to FMLA only and may be different from general definitions listed elsewhere in this policy. If definitions in this FMLA section require clarification or conflict with, federal and/or state laws, those laws will prevail over this policy.

Child: Means a biological, adopted, or foster son or daughter, a stepchild, a legal ward, or a child of a person standing *in loco parentis* who is either i) under 18 years of age or ii) 18 years of age or older and “incapable of self-care because of a mental or physical disability” at the time FMLA leave is to commence.

For a covered service member or for covered active duty, a child may be any age.

Covered Active Duty: In the case of a member of a regular component of the Regular Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and

In the case of a member of a Reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 U.S. Code § 101(a)(13)(B).

Covered Service Member: A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

A veteran who was undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

Eligible Employee:

An eligible employee: 1) Has been employed at least 12 months or 52 weeks within the last seven years; 2) Has worked at least 1250 hours during the 12 months immediately preceding the proposed leave; 3) Has not used all available FMLA Leave in the current rolling year; and 4) Meets the conditions of the FMLA.

Employer:

For purposes of this section, “Employer” means the County and the Albemarle County Public Schools, as they are considered a single, integrated employer. See 29 C.F.R. §§ 825.104(2) and 825.108.

Family:

Family is defined as the employee’s spouse, employee’s children, and employee’s parents.

Health Care Provider:

A licensed doctor of medicine or osteopathy or any other person determined by the U.S. Secretary of Labor to be capable of providing health care service.

In Loco Parentis:

Persons who stand *in loco parentis* include those who have or had day-to-day responsibilities to care for or financially support a child who is under 18 years of age or is 18 years of age or older and incapable of self-care because of a physical or mental disability. In the case of an employee, those who had such responsibility when the employee was a child also stand *in loco parentis*. A biological or legal relationship to the child or employee is not necessary.

Job-Protected:

The employee is guaranteed the right to return to his/her former position or to an equivalent position.

Next of Kin:

“Next of Kin” generally means the nearest blood relative of an individual when used in respect to that individual.

The “next of kin” of a current service member is the nearest blood relative other than the covered service member’s spouse, parent, son, or daughter, in the following order of priority:

1. A blood relative who has been designated *in writing* by the service member as the next of kin for FMLA purposes,
2. Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions,
3. Brothers and sisters,
4. Grandparents,

5. Aunts and uncles,
6. First cousins

When a service member designates in writing a blood relative as next of kin for FMLA purposes that individual is deemed to be the covered service member's *only* FMLA next of kin. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously.

Parent:

Includes biological, adoptive, step, foster, or any individual who stood *in loco parentis* when the employee was a child. This does not include parents-in-law.

Serious Health Condition:

An illness, injury, impairment, or physical or mental condition that involves the following:

1. any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or
2. a period of incapacity requiring absence of more than three (3) calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
3. any period of incapacity due to pregnancy, or for prenatal care; or
4. any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or
5. a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or,
6. any absences to receive multiple treatments (including any period of recovery) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three (3) consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

Serious Injury or Illness:

In the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in the line of duty while on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty while on active duty in the Armed Forces) and that may

render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

A veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during a period described in 29 U.S. Code § 2611(15)(B), means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in the line of duty while on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty while on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

Week: A week is defined as the weekly authorized regular hours of the employee's position.

Year: A rolling 12-month period measured backward from the date an employee uses FMLA leave.

C. Posting and General Notice

The employer shall post and keep posted, in a conspicuous place, on the premises where notices to employees and applicants for employment are customarily posted, a notice prepared or approved by the U.S. Secretary of Labor explaining the FMLA's provisions and providing information about the procedure for filing complaints with the Department of Labor. This posting requirement may be satisfied by electronic posting if every employee has access to a computer at work.

Employees Rights and Responsibilities notification will be posted on the Department of Human Resources website.

D. Conditions of Leave

1. General Information

The Family and Medical Leave Act (FMLA) provides up to a combined total of 12 workweeks of unpaid job-protected leave per year to eligible employees for the birth of a child and to care for the newborn child, for the placement with the employee of a child for adoption or foster care, to care for the employee's spouse, child, or parent with a serious health condition, or because of the employee's own serious health condition that makes the employee unable to perform the functions of the employee's position.

The FMLA also provides up to a combined total of 26 workweeks of unpaid job-protected leave per year to eligible employees because of any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a military member on covered active duty (or has been notified of an impending call or order to covered active duty status), or to care for a covered servicemember with a serious injury or illness if the employee is the spouse, child, parent, or next of kin of the covered servicemember. Military caregiver leave is available to an eligible employee once per veteran, per serious injury or illness. However, an eligible employee may take an additional 26 weeks of leave in a different 12-month period to care for the same veteran if the veteran has another serious injury or illness.

2. Notification Requirements

a. Foreseeable

When the need for leave under FMLA is foreseeable, the employee is required to provide at least 30 days' advance notice to the Department of Human Resources either verbally or in writing. The employee shall make a reasonable effort to schedule the treatment, placement, or other foreseeable need for leave so as not to disrupt unduly the operations of the employer. In the event that it is not practicable to give such advance notice, the employee should give as much advance notice as is practicable, ordinarily within two (2) business days of when he/she learns of the need for the leave.

b. Unforeseeable

When the approximate timing of the need for leave is not foreseeable, an employee must provide notice to his/her supervisor or the Department of Human Resources as soon as practicable based on the facts and circumstances of the particular case.

If an employee is absent for more than three (3) consecutive workdays or if the employee's supervisor has reason to believe that an employee's leave may be for an FMLA-qualifying reason, the supervisor must contact the Department of Human Resources and will remind the employee to contact Department of Human Resources to determine eligibility.

c. Employee Request and Eligibility Notice

The employee's notice or request should be sufficient to make the employer aware that the employee needs FMLA-qualifying leave and of the anticipated timing and duration of the leave. When the employee requests FMLA leave or the Department of Human Resources has knowledge that an employee's leave may be for an FMLA-qualifying reason, the Department of Human Resources must notify the employee in writing of the employee's eligibility to take FMLA leave within five (5) business days, absent extenuating circumstances. The Eligibility Notice should state whether the employee is eligible for FMLA leave. If the employee is not eligible for FMLA leave, the Notice must state at least one (1) reason why the employee is not eligible.

d. Employee Rights and Responsibilities Notice

The Department of Human Resources will provide the employee written notice detailing the specific expectations and obligations of the employee and explaining consequences of a failure to meet these obligations. If leave has already begun, the Department of Human Resources will mail the Notice to the employee's address of record.

e. Certification of Health Condition, Designation Notice, Second Opinion(s), Recertification, and Status Updates

The Department of Human Resources will provide the employee a Certification of Health Care Provider form that must be completed by the employee's physician and returned to the Department of Human Resources within 15 calendar days after the Eligibility Notice. If the employee fails to return a Certification of Health Care Provider form or does not provide sufficient or complete information to determine whether the leave is FMLA-qualifying, FMLA leave may be denied or delayed. It is the employee's responsibility to maintain up-to-date medical status while on FMLA leave.

The Department of Human Resources will give the employee written notice (Designation Notice) whether the leave will be designated and counted as FMLA leave within five (5) business days of when the Department of Human Resources has enough information to determine whether the leave is being taken for a FMLA-qualifying reason.

The employer may require a second opinion by a health care provider of its choice and at its expense if it has reason to doubt the validity of the medical certification. The designated health care provider shall not be employed by the employer or regularly utilized by the employer. If the two opinions differ, a third opinion may be requested from a provider selected jointly by the employee and the employer. This third opinion, to be paid for by the employer, is final and binding. The employer shall provide the employee copies of the medical opinions within 5 days of the employee's request.

The employer may request recertification if it later has reason to question the appropriateness of the leave or its duration. The frequency for which the employer may request recertification is governed by federal regulation. The employee must provide a complete and sufficient certification within 15 calendar days after the Department of Human Resources' request. When the Department of Human Resources requests certification, it will advise the employee of the anticipated consequences of the employee's failure to provide adequate certification.

The employer may also require periodic reports from the employee as to the employee's status and intent to return to work. If an employee gives unequivocal notice of intent not to return to work, the employer's obligations under FMLA to maintain health benefits (subject to the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) requirements) and to restore the employee cease. However, these obligations continue if an employee indicates he or she may be unable to return to work but expresses a continuing desire to do so.

3. Spouses Both Working for the Employer

In cases where both spouses are employees, they may take a combined total of 12 weeks of FMLA leave for the birth, bonding, adoption, or foster care placement of a child, and the care of a parent with a serious health condition. They may each take 12 weeks for their own injury/illness or that of their spouse or child. An employee can at most take 12 weeks for FMLA purposes in a year (26 weeks for a service member covered by the FMLA).

4. Intermittent or Reduced Leave

While most FMLA occurrences will necessitate leave to be taken in a single block of several weeks, the employee may request "intermittent" leave or a "reduced leave schedule" to care for the serious health condition of a family member or for the employee's own serious health condition where the need for leave is foreseeable and based on planned medical treatment. In the case of the need for a reduced schedule or intermittent use of leave, a certification of medical necessity is required from the health care provider and an appropriate work schedule should be planned in advance with the supervisor, when possible. An employee may take intermittent or reduced leave for the birth, adoption or foster care placement of a child only if the employee and department head/designee agree to such an arrangement.

If the employee requests intermittent leave or reduced leave schedule, the employer may temporarily transfer the employee to an available alternative position with equivalent pay and benefits, if the employee is qualified for the position and it better accommodates recurring periods of leave than the employee's regular job. When a transferred employee no longer needs to continue on leave and is able to return to the prior position, the employee will be subject to restoration. See Section H(2) below.

E. Leave Related to a Qualifying Exigency arising from Covered Active Duty or a Call to Covered Active Duty

If the need for FMLA leave is because of a qualifying exigency arising because a family member is on covered active duty or has been notified of an impending call to covered active duty is foreseeable, the employee shall give notice to the employer as is reasonable and practicable. The employee's notice should be

sufficient to make the employer aware that the employee needs FMLA-qualifying leave and the anticipated timing and duration of the leave.

The first time an employee requests leave because of a qualifying exigency arising out of the covered active duty or call to covered active duty status (or notification of an impending call or order to covered active duty) of a military member, the employer may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to covered active duty status and the dates of the military member's covered active duty service. A copy of new active duty orders or other documentation issued by the military shall be provided to the employer if the need for leave because of a qualifying exigency arises out of a different covered active duty or call to covered active duty status (or notification of an impending call or order to covered active duty) of the same or a different military member.

F. Substitution of Paid Leave

Paid leave shall run concurrently with FMLA leave, as available. Employees should check with the Department of Human Resources to determine what types of leave will run concurrently with their FMLA leave. The type of leave taken must be in compliance with the provisions of the applicable leave addressed in this policy. Otherwise, FMLA leave is unpaid. Time will be charged concurrently against paid leave and FMLA leave for a period of up to 12 weeks or up to 26 weeks for certain covered service member conditions.

Time missed during Workers' Compensation related injuries, which otherwise meet the requirements of the FMLA, will run concurrently with FMLA leave as applicable.

G. Benefits

1. Insurance Continuation Privileges

Employees on FMLA leave will continue to receive the employer portion of the medical and dental insurance benefits up to the maximum 12 workweeks allowed or 26 workweeks for certain covered service member conditions. These benefits will continue on the same basis as an active employee during the FMLA period. Employees are responsible for paying the necessary premium for the employee portion to cover themselves and eligible dependents by continuing to take paid leave or by making other payment arrangements.

2. Other Employee Benefits

In all cases where an employee is using some type of paid leave, all employee benefits continue as long as the employee remains on the payroll through the use of such paid leave time. If leave without pay is taken for one (1) continuous calendar month, employee benefits will be discontinued for the duration of the unpaid leave status as follows:

- a. Employer and employee contributions will not be made on behalf of the employee to the Virginia Retirement System (VRS). Upon returning to work, the employee may be eligible to purchase this service through VRS, if the leave is necessitated by birth or adoption as defined by VRS policies.
- b. Employees will not be eligible for any employer-paid life insurance during this period.
- c. Medical, dental, and optional life insurance premium payment arrangements may be made through the Department of Finance's Payroll Division and/or the appropriate vendor when applicable.

H. Returning from FMLA Leave

1. Return to Work

- a. An employee returning from FMLA leave due to his/her own serious health condition must submit a medical release on the required return to work form to the Department of Human Resources. The medical release must be from the employee’s health care provider certifying the employee’s fitness-for-duty based upon the serious health condition that caused the employee’s need to take FMLA leave.
- b. If an employee would like and is medically certified to return to work in a restricted capacity or through alternative schedule arrangements, supervisors and the Department of Human Resources will discuss possible options with the employee.

2. Restoration to Position

When an eligible employee is released to return to work following FMLA leave, he/she will be restored to the position held at the time the leave began or, with approval of the Department of Human Resources, to an equivalent position with equivalent benefits, compensation, and other terms and conditions of employment. However, in the event that the employer needs to make reductions in staff, employees on FMLA leave are subject to the procedures in § P-30, Employee Reduction in Force Procedures. If an employee was subject to a reduction-in-force during FMLA leave and is subsequently reinstated, any rights would be the same as if the employee had not been on FMLA leave.

“Key” employees may be denied job restoration. A “key” employee is defined as a salaried FMLA-eligible employee who is among the highest paid 10% of all employees. A key employee will be notified as soon as practicable after receipt of a request for FMLA leave that he/she qualifies as a key employee. The employer will also fully inform the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the employer should determine that substantial and grievous economic injury to the employer’s operations will result if the employee is reinstated from FMLA leave.

I. Unable to Return to Work

If an employee is medically unable to return to work at the end of the 12 weeks of FMLA leave, the employee must request additional time off from his/her department head/designee or resign. Otherwise, employment may be terminated. Additional time is subject to approval.

J. Record Keeping and Anti-Retaliation

The Department of Human Resources shall maintain records necessary to demonstrate compliance with FMLA. FMLA requires also that no employee be subject to any penalty for seeking to enforce rights under FMLA or for testifying for or otherwise helping other employees seek rights under FMLA.

XIII. Holiday Leave

A. Holidays Observed

The County has established the following holiday schedule for County 12-month benefits-eligible employees. Other holidays are granted by special proclamation of the Board of Supervisors. Holiday leave for qualified employees is paid.

- 1. New Year’s Day – January 1
- 2. Martin Luther King, Jr. Day - Third Monday in January
- 3. Memorial Day – Last Monday in May

4. Juneteenth Day – June 19
5. Independence Day – July 4
6. Labor Day – First Monday in September
7. Veteran’s Day – November 11
8. Thanksgiving Day – Fourth Thursday in November
9. Friday after Thanksgiving
10. Christmas Eve – December 24
11. Christmas Day – December 25
12. Floating Holiday – 1 day per fiscal year

Employees of departments who serve both the County and Albemarle County Public Schools as client groups may choose, with supervisor approval, which holiday leave schedule to follow each fiscal year. If the holiday schedules between the County and Albemarle County Public Schools do not equal the same number of days, County employees who choose to follow the Albemarle County Public Schools holiday schedule must be granted the same number of holidays as other County employees. If business needs necessitate a mid-year change, an employee’s schedule shall be adjusted so that the employee receives no more than the Board approved number of holidays granted that fiscal year.

Under certain situations, due to coverage requirements or non-County building closures, the holiday schedule for some departments or groups of employees within departments may fall on alternate dates within the fiscal year. Departments in these situations must receive Director of Human Resources/designee approval for designating alternate holiday schedules. These alternate holiday schedules must equal the number of approved County holidays. Employees of offices that follow the State holiday schedule (such as the courts and constitutional offices) may be approved for an alternate holiday schedule matching the State’s holiday schedule regardless if the schedule contains more, fewer, or the same number of days at the County’s schedule.

B. Qualifying for Holiday Leave

1. Twelve (12)-month benefits-eligible employees qualify for holiday leave (except floating holiday) as soon as they begin working. New employees must physically work at least a day before a holiday to qualify for holiday leave.
2. Employees who are terminating employment with the County will not qualify for holiday leave unless they physically work a day after the holiday. Approved paid leave may be used in lieu of physically working following a holiday. If a holiday falls on the last day of the month or week, holiday leave may be granted by the department head/designee for retiring employees.
3. If a holiday falls within the employee’s scheduled annual leave, holiday leave may be used in lieu of annual leave.

C. Working on Holidays

1. Due to coverage requirements, some employees may be required to work on a scheduled holiday. Any qualified non-exempt, employee who is required by the department head/designee to work on a scheduled holiday shall:
 - a. Be paid the hourly rate for the hours worked on the holiday plus the hours normally granted for the holiday; or
 - b. Substitute another day in the workweek / work cycle (for 28-day public safety employees) as holiday leave, including days in the workweek / work cycle (for 28-day public safety employees) before the established holiday.

2. Qualified exempt employees who work on a holiday may take the holiday on another day approved by the supervisor within the fiscal year. Employees may not take the holiday prior to the County designated holiday date, except within the workweek / work cycle (for 28-day public safety employees) in which the holiday falls. Unused holiday leave is never paid out and does not carry over fiscal years. Holiday leave does not transfer if an employee changes departments. It must be taken prior to transfer or it is forfeited.
3. Qualified employees who are scheduled to work, but fail to do so for any reason, are considered to have observed the holiday. Unworked scheduled work hours in excess of holiday hours must be covered by use of some other appropriate leave.
4. Alternative Work Schedules: A “day of holiday leave” is equivalent to a “day of leave” as defined in section I(B), above. Employees must discuss the impact of holiday leave on their alternative work schedules with supervisors. Employees are responsible for making up any hourly difference between the hours granted for the holiday and the employees’ work schedule by either using other applicable leave or working at another time during the workweek or work period. Fire Rescue employees on 12- or 24-hour shifts will receive 12 hours of a “day of holiday leave” regardless of their “day of leave” status.

Example: A non-exempt employee’s day of leave is 8 hours/day and the employee’s position is established at 8 hours/day, 5 days/week for a total of 40 hours/week. The employee has an alternative work schedule of 10 hours/day, 4 days/week for a total of 40/hours per week. Eight (8) hours of holiday leave would be granted and the employee must account for the remaining 2 hours by working 2 additional hours within that workweek or using 2 hours of compensatory time leave or annual leave.

D. Floating Holiday

1. Employees who qualify for holiday leave as of July 1 of each year are granted one (1) day of floating holiday leave for that fiscal year. Qualified employees are granted the floating holiday leave based on their day of leave status on July 1 of each year.
2. Scheduling of a floating holiday shall follow the same approval procedures as annual leave. Floating holiday leave may be used in the same increments as annual leave.
3. Floating holidays do not rollover to the following fiscal year.
 - a. Non-exempt employees who have not taken the floating holiday by June 30 of each year will be paid out for any unused floating holiday leave at the employee’s hourly rate.
 - b. Exempt employees who have not taken the floating holiday by June 30 of each year will not receive additional pay.
 - c. Employees who move during a fiscal year from a non-exempt position eligible for the floating holiday to an exempt position eligible for the floating holiday (and vice versa) will receive/not receive for additional pay based upon their non-exempt/exempt status at the end of the fiscal year.
4. Upon transfer/hire from a 12-month position to any position that is not eligible for the floating holiday leave and upon separation of employment:
 - a. Non-exempt employees will be paid out for any unused floating holiday leave at the employee’s hourly rate.

- b. Exempt employees will not receive additional pay for any unused floating holiday leave.
- 5. For the implementation year of floating holiday leave, employees who qualified for holiday leave as of July 1, 2019 will be granted one (1) day of floating holiday leave on January 1, 2020 for the remainder of the FY2019-2020 fiscal year.

E. Half-day Holidays

The Board may grant half-day holidays to benefits-eligible 12-month employees. A “half-day” is defined as half of an employee’s day of holiday leave. Any non-exempt employee who receives approval not to work the other half of the day is responsible for taking compensatory time leave, annual leave, leave without pay, or arranging with his/her supervisor to work those hours within the workweek. An exempt employee who doesn’t work on the half-day may make arrangements with the supervisor to work the time missed on another day within the fiscal year or use annual leave for the half-day.

F. Religious Holidays

Any regular or temporary employee observing a religious holiday occurring on the employee’s workday may request time off. Supervisors should allow employees to take time off for such occasion if the time off can be accommodated without undue hardship to the department. Leave must be requested in advance in accordance with policy. Supervisors shall contact the Department of Human Resources prior to denying religious holiday leave requests. Applicable accrued leave shall be used. Leave without pay will be considered in the absence of accrued leave.

XIV. Income Replacement Program (IRP) – VRS Hybrid Plan members only

A. Purpose

Effective January 1, 2014, the Virginia Retirement System (VRS) created a new retirement plan called the Hybrid Plan. Part of the VRS Hybrid Plan includes the implementation of a Disability Program for Hybrid Retirement Program Participants. Albemarle County refers to this program as the Income Replacement Program (IRP). The IRP contains two components: Short-Term Disability (STD) and Long-Term Disability (LTD), which contain different eligibility requirements. IRP-STD occurs first. If an employee is not able to return to work after the IRP-STD period, he/she may move into the IRP-LTD portion of the benefit. These programs are outlined below.

This section is intended to fully implement the Disability Program for Hybrid Retirement Program Participants pursuant to Virginia Code § 51.1-1150, et seq.. Any variation between this policy and the Virginia Code will be determined in favor of the Virginia Code.

B. Definitions

Catastrophic Condition:

A catastrophic condition exists when an employee is unable to perform at least two (2) of the following six (6) activities of daily living:

1. Bathing
2. Transferring, such as getting in and out of bed
3. Dressing
4. Toileting (using the bathroom)
5. Continence
6. Eating (ability to feed oneself)

A condition may also be considered catastrophic if the employee has a severe cognitive impairment requiring substantial supervision to protect the employee from threats to health and safety.

Major Chronic Condition:

A major chronic condition is a life-threatening health condition that exists over a prolonged period of time and is not expected to improve. The employee must have been disabled with the condition within six (6) months of the date the claim is filed and be under the care of a licensed treating health care professional for the condition.

Disability:

A condition that prevents an employee from working or performing the full duties of the employee’s job for a short or extended period. It may be non-work-related or work-related. A work-related disability is the result of an occupational illness or injury that occurs on the job and the cause is determined to be compensable under the Virginia Workers’ Compensation Act.

Partial Disability:

An employee has a partial disability if the disability exists during the first 24 months following the occurrence or commencement of an illness or injury when an employee is earning less than 80% of his/her pre-disability earnings and, as a result of an injury or illness, is (i) able to perform one or more, but not all, of the essential job functions of his own job on an active employment or a part-time basis; or (ii) able to perform all of the essential job functions of his own job only on a part-time basis.

C. IRP Third-Party Administrator

The IRP program is administered through a Third-Party Administrator. The Third-Party Administrator handles all employee claims after detailed consultation with the Department of Human Resources designee for IRP. Any variation between this policy and the Third-Party Administrator’s interpretation of the Virginia Code will be determined in favor of the Third-Party Administrator.

D. Qualifying for Income Replacement Program – Short-Term Disability (IRP-STD)

1. An employee must be an active full-time VRS Hybrid Plan member to be eligible.
2. Waiting Period – Employees must be employed for one (1) continuous year of service as an active Hybrid Plan member with a single employer before receiving nonwork-related disability benefits. The Albemarle County Public Schools and Partner Agencies, which have different VRS employer codes from the County, are considered separate employers for the purposes of this benefit. If, for example, a County employee transfers to the Albemarle County Public Schools, the one (1)-year waiting period will begin again. This waiting period is waived for a work-related disability. For work-related disabilities, the effective date of participation in the program for participating employees shall be their first day of employment or the effective date of their participation in the VRS Hybrid Plan, whichever is later.
3. Elimination Period – The elimination period is the period after any required waiting period and when an eligible employee is unable to work more than twenty (20) hours over seven (7) consecutive calendar days due to his/her total or partial disability. To begin an elimination period, an employee must have an approved claim of total or partial disability.

- a. The elimination period is waived for a catastrophic condition or as the result of a major chronic condition.
 - b. The elimination period requirement may be met during non-contract/non-scheduled days (i.e. over holidays).
4. IRP-STD runs concurrently with any other relevant benefits, including FMLA leave and Workers' Compensation. Receipt of other relevant benefits may offset IRP-STD benefits.
 5. Once the waiting period and elimination period requirements have been met, Hybrid Plan members are eligible for the IRP-STD benefit. However, the IRP-STD benefit is only available when an employee would be actively working (i.e., during contract/scheduled work days).
 6. IRP-STD benefits shall be payable for periods of:
 - a. total disability,
 - b. partial disability,
 - c. eligible maternity leave, or
 - d. periodic absences due to a major chronic condition

E. IRP-STD Benefit Amount

1. IRP-STD – Days of Income Replacement

The following charts show the number of days at the percentage of income replacement provided by the IRP-STD.

a. Days of Income Replacement: Non-Work-Related Disability

Months of Continuous Service	Work days at 100%	Work days at 80%	Work days at 60%	Total Short-Term Paid Days
0 – 12	0	0	0	0
13 – 59	0	0	125	125
60 – 119	25	25	75	125
120 - 179	25	50	50	125
180 or more	25	75	25	125

b. Days of Income Replacement: Work-Related Disability

Months of Continuous Service	Work days at 100%	Work days at 80%	Work days at 60%	Total Short-Term Paid Days
Less than 60	0	0	125	125
60 – 119	85	25	15	125
120 or more	85	40	0	125

2. Successive Periods of Short-Term Disability

- a. Within 45 consecutive calendar days. If an employee receiving IRP-STD returns to work with a release and then cannot continue to work for the same or a similar condition within 45 consecutive calendar days, the employee will be on the same IRP-STD claim. The employee does not have to fulfill another seven (7)-calendar day elimination period. The employee's income replacement will resume at the level he/she was receiving during the previous disability period. The number of days remaining on the 125-workday period for IRP-STD will also resume.
- b. On or After 45 consecutive calendar days. If an employee returns to work with a release and then cannot continue to work for the same or a similar condition on or after the 45th consecutive calendar day, the subsequent period will be considered a new claim. The employee will need to satisfy a new elimination period. If approved, the employee will have up to 125 work days of IRP-STD.

3. Partial Disability

If an employee is able to work, earnings from the employee's job during a period of IRP-STD for an eligible partial disability will offset the IRP-STD benefits. The IRP-STD benefits will be applied to the non-worked time.

4. Catastrophic Condition

If an employee is eligible to receive/is receiving 60% of pre-disability creditable compensation and is determined to have a catastrophic condition, the IRP-STD benefit will increase to 80% until his/her condition improves and is no longer considered catastrophic.

5. IRP-STD and Workers' Compensation

If an employee is eligible for compensable Workers' Compensation and IRP-STD, the Workers' Compensation benefit will be paid first; if the employee is to receive any additional compensation under the IRP-STD days chart, the IRP-STD benefit will further supplement.

F. IRP-STD Supplementing Benefit Amount

- 1. Employees must use current balances of sick, annual, personal, and compensatory time leave to supplement IRP benefits up to 100% of the employee's pre-disability credible compensation.
- 2. The total leave hours (IRP plus supplement) shall not exceed the employee's normally scheduled work hours (full creditable compensation amount).
- 3. Participating employees enrolled in the Virginia Retirement System (VRS) Hybrid Plan may not withdraw days from the Sick Leave Bank when the employee receives benefits pursuant to this program or has received benefits pursuant to this program for the same condition.

G. IRP-STD Effect on Benefits

- 1. Employees on IRP-STD will continue to receive the same benefits provided to active employees. Medical and dental insurance will continue to be available while on IRP-STD.
- 2. Life insurance through VRS paid for by the County will continue to be paid by the County.

3. Employees will continue to contribute their mandatory 5% VRS contributions while on IRP-STD. Retirement contributions will not be withheld from the employee's paycheck if an employee is only receiving Workers' Compensation and no supplemental pay. An employee may be eligible to purchase VRS service credit for the period if he/she is receiving only Workers' Compensation and retirement contributions are not being withheld from his/her Workers' Compensation payment.

H. Qualifying for Income Replacement Program – Long-Term Disability (IRP-LTD)

1. If an employee is unable to return to work after the IRP-STD period, a final interactive discussion on the likelihood of return and any additional reasonable accommodations that may help the employee reach full duty will occur. The employee will continue into the IRP-LTD period. If the employee is unlikely to return to full duty following the IRP-STD period and no additional reasonable accommodations are available to bring the employee back to full duty, the employee's position will no longer be held and the employee will no longer be considered an active employee and will be separated from service. The IRP-LTD benefit will continue in accordance with the terms outlined below and Virginia Code.
2. The IRP-LTD benefit runs concurrently with any other relevant benefits, including FMLA leave and Workers' Compensation.
3. Employee eligibility for the IRP-LTD benefit is only available when an employee would be actively working (i.e., during contract/scheduled days).
4. IRP-LTD benefits shall be payable during periods of:
 - a. total disability, or
 - b. partial disability

I. IRP-LTD Benefit Amount

1. IRP-LTD Amount
 - a. After short-term disability income replacement, if the employee continues to be disabled he/she may be approved for IRP-LTD.
 - b. This is insurance coverage providing 60% of the employee's pre-disability creditable compensation.
 - c. Unless otherwise directed, to be eligible for IRP-LTD benefits, the employee must apply for Social Security Disability Insurance (SSDI) benefits or other relevant retirement benefits available to him/her.
 - d. If the employee reaches normal retirement age while on IRP-LTD, his/her benefit will stop. Normal retirement age is defined under the Hybrid Retirement Plan.
 - e. Employees continue to accrue VRS service credit while on long-term disability income replacement.
2. Successive Periods of Long-Term Disability
 - a. Within 125 consecutive work days. If an employee receives IRP-LTD, returns to work with a release, and then cannot continue to work for the same or a similar condition within 125 consecutive work days, the employee will be on the same IRP-LTD claim. Work days arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the employee's return to work period.

- b. On or After 125 consecutive work days. If an employee returns to work with a release and then cannot continue to work for the same or a similar condition on or after 125 consecutive work days, the subsequent period will be considered a new claim for IRP-STD if still actively employed by the County. The employee will need to satisfy a new elimination period and if approved, will have up to 125 work days of IRP-STD before becoming eligible for IRP-LTD again.

3. Partial Disability

If an employee is able to work, earnings from an employee's job during a period of IRP-LTD for an eligible partial disability will offset the amount of his/her IRP-LTD benefit.

4. Catastrophic Condition

If an employee is receiving 60% of pre-disability creditable compensation and is determined to have a catastrophic condition, the IRP-LTD benefit will increase to 80% until his/her condition improves and is no longer considered catastrophic.

J. IRP-LTD Effect on Benefits

- 1. Life insurance through VRS paid for by the County will continue to be paid by the County.
- 2. Employees on IRP-LTD will receive medical and dental insurance coverage as provided to retirees.
- 3. Employees on IRP-LTD are not eligible to contribute to their VRS defined benefit component (4%) or their VRS defined contribution component (1%).
- 4. Employees on IRP-LTD will be considered inactive for benefit purposes and will not continue to accrue leave. Employees will be responsible for any applicable employee contributions to their benefits during this period.

K. Returning to Work After Illness

- 1. An employee must submit a medical release prior to or upon the employee's return to work. The release must be from and signed by the employee's health care provider certifying that he/she is able to return to work with or without restrictions.
- 2. Other return to work guidelines apply to leave taken concurrently under FMLA or Workers' Compensation. Supervisors should consult with the Department of Human Resources when an employee is on concurrent leave under FMLA or Workers' Compensation prior to requesting a medical release or other information.
- 3. If a supervisor offers restricted duty or other alternative schedule arrangements which the employee is medically able to perform, the employee must return to work in that capacity.

L. End of IRP Benefit Coverage

- 1. Disability benefits shall cease to be paid to a participating employee upon the first of the following to occur:
 - a. The end of the period of disability coverage (e.g., return to work or no longer totally or partially disabled);
 - b. Voluntary separation or just cause termination from covered employment;

- c. The date of death of the participating employee;
 - d. The date that the participating employee attains normal retirement age;
 - e. The effective date of the participating full-time employee’s service retirement under the Hybrid Retirement Program;
 - f. Employee is determined to be no longer medically eligible;
 - g. Employee takes a refund of his/her member contributions and interest in the defined benefit component of his/her plan; or
 - h. Employee does not cooperate or comply with the requirements of the IRP-LTD.
2. Maximum Length of the IRP Benefit at Age 60 or Older

If an employee is age 60 or older, he/she will be eligible for an IRP benefit according to the following schedule:

Age 60 – 64	Five (5) years from the date disability benefit begins
Age 65 – 68	Until age 70
Age 69 or older	One (1) year from the date disability benefit begins

XV. Jury Duty Leave

A. Purpose

The County recognizes the duty of citizens to serve on a jury when summoned. These procedures outline leave usage.

B. Eligibility

The County provides paid jury duty leave for benefits-eligible employees and unpaid jury duty leave for benefits-ineligible employees consistent with Virginia Code § 18.2-465.1. Employees are expected to notify their supervisors as far in advance as possible prior to using jury duty leave. Supervisors may require verification that an employee has been called for jury duty.

C. Regulation

- 1. Employees may retain payment from the court for the daily rate of pay for each day of jury service in addition to jury duty leave provided by the County.
- 2. Employees are expected to report to work when jury is not in session, except:

If an employee has already been summoned for four (4) or more hours of jury duty, including travel time, on that day and starts his/her shift between 5 p.m. and 3 a.m., the employee is not required to report to work and will be granted jury duty leave.

XVI. Leave as a Reasonable Accommodation

Leave may be provided or used as a reasonable accommodation pursuant to the Americans with Disabilities Act, Title VII of the Civil Rights Act, or any other relevant statute. Leave granted as a reasonable accommodation will

be considered on a case-by-case basis, may run in concert with other reasonable accommodations, and/or may run concurrently with other available leave.

XVII. Maternity Leave

From the date of a child’s birth, the County provides unpaid maternity leave to regular employee for up to six (6) weeks for natural birth and up to eight (8) weeks for Caesarian-section, regardless if an employee qualifies for FMLA leave. If an employee qualifies for FMLA leave, IRP, or any other benefit program, these leaves will run concurrently. If an employee has paid leave available, it will run concurrently with maternity leave. All paid leave shall be exhausted before taking leave without pay, excluding any rights permitted under the FMLA. Medical documentation regarding the length of recovery time shall be provided to the Department of Human Resources by the employee within 15 calendar days after the start of maternity leave.

XVIII. Military Leave

A. Purpose

Military leave is available to employees and candidates who have accepted offers of employment from the County and perform service in the uniformed services while employed by the County. This section is intended to fully implement the United States Employment and Reemployment Rights Act (USERRA, 38 U.S. Code § 43, et. seq.) and Virginia Code § 44-93, et. seq.. Any variation between this policy and law will be determined in favor of the law.

B. Definitions

Federal Fiscal Year: The “Federal Fiscal Year” is October 1 through September 30 of every calendar year.

Service in the Uniformed Services: “Service in the uniformed services” means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes: active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the employment for the purpose of performing funeral honors duty as authorized by 10 U.S. Code § 12503 or 32 U.S. Code § 115.

Uniformed Services: “Uniformed services” means any of the Armed Forces, the Army National Guard, and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency. “Uniformed services” shall also refer to former members of the armed services or members of the organized reserve forces of any of the armed services of the United States or National Guard.

Workday of Military Leave: “Workday of military leave” means the period of time normally worked on approximately equal workdays on five or more days of each calendar week. If an employee does not normally work approximately equal workdays five or more days each calendar week, then “workday of military leave” means 1/260 of the total

working hours such employee would be scheduled to work during an entire federal fiscal year, not including holidays, annual leave, or other absences.

C. Advance Notice

An employee who is leaving to perform military service shall provide advance written notice of the need for military leave to his/her immediate supervisor (including the best approximation of the expected dates of the leave), unless it would be unreasonable to provide notice at that time or the employee is precluded by military necessity from providing notice. When available, employees must provide a copy of their military orders to their supervisors. Supervisors shall forward any notice of military service or military orders to the Department of Human Resources.

D. Paid Military Leave

Upon presentation of a copy of final orders or other equivalent notice, any employee who is a member of the uniformed services shall be entitled to up to 15 workdays of paid military leave for service in the uniformed services per federal fiscal year. If service in the uniformed services spans more than one (1) federal fiscal year, employees are not entitled to an additional 15 workdays of paid military leave in the second year for the same tour. Employees on paid military leave shall be paid their full gross salaries for regularly scheduled work hours during this period. Employees are requested to attempt to make arrangements for service in the uniformed services at times other than during scheduled work hours when possible.

E. Unpaid Military Leave and Supplemental Pay

1. An employee shall be placed on unpaid military leave for up to five (5) years while serving in the uniformed services after paid military leave is exhausted.
2. If a regular employee's uniformed services gross base salary is less than the employee's County gross base salary, the employee may request supplemental pay. Supplemental pay provides the amount necessary to bring the employee's monthly gross base salary to the gross base salary earned as a County employee at the time of recall to service in the uniformed services.
3. An employee must provide the Leave Earning Statement (or equivalent) in order to receive supplemental pay. An employee is entitled to receive a maximum total of two (2) years of supplemental pay. Employees who are receiving supplemental pay are on unpaid military leave for purposes of benefits under this policy.

F. Reinstatement

1. An employee who is entitled to military leave by reason of service in the uniformed services shall be restored to the same position, if it has not been abolished; to a position with like seniority, status, and pay; or to a comparable position if no like position exists, unless to do so would be unreasonable. Restoration is contingent on whether the employee:
 - a. Has given advance notice of the need for military leave (unless notice is precluded by military necessity or is otherwise impossible or unreasonable);
 - b. Has not been absent from his/her job for more than five (5) years;
 - c. Provides documentation to the County from his/her respective military commands that indicates a release from this period of active duty and that the service was performed under honorable conditions; and

- d. Returns to work in the timeframes outlined below.
2. If the employee was absent from work for service in the federal military for:
 - a. Thirty (30) calendar days or less, he/she must report back to work by the beginning of the next regularly scheduled work period after a reasonable amount of time to arrive home, rest, and report to work;
 - b. Thirty-one (31) calendar days to 180 calendar days, the employee must submit a notice of intent to return to work in writing within 14 calendar days after the completion of service; or
 - c. One hundred eighty-one (181) calendar days or more, the employee must submit a notice of intent to return to work in writing within 90 days after the completion of service.
 3. If the employee was absent from work for service in the Virginia military:
 - a. One hundred eighty (180) calendar days or less, the employee must submit a notice of intent to return to work in writing within 14 days of release from duty or from hospitalization, or
 - b. One hundred eighty-one (181) calendar days or more, the employee must submit a notice of intent to return to work in writing within 90 days of his release from duty.
 4. Upon returning from duty, a returning service member will be reinstated in the job that he/she would have attained had he/she not been absent for military service, (the “escalator principle”), with the same seniority, status and pay, as well as other rights and benefits determined by seniority, if the position exists, or to a comparable vacant position for which he/she is qualified, unless to do so would be unreasonable. The County is not obligated to reinstate persons returning from military leave in certain situations specified by state and federal law.

G. Benefits

During paid military leave, the employee will continue to accrue seniority and any other benefits available to him/her as if regularly employed by the County.

During unpaid military leave, the employee will continue to accrue seniority. Employees on unpaid military leave for more than one calendar month will be placed on a leave of absence (LOA) and will be eligible for benefits pursuant to the LOA policy.

H. Discrimination Against Members of the Uniformed Services Prohibited

Members of the uniformed services will not be denied initial employment, reinstatement, retention in employment, promotion, or any benefit of employment on the basis of that membership.

XIX. Personal Leave

A. Purpose

It is vital that staff are present at work to provide the quality services expected for the public. Personal leave is provided to allow 10- and 11-month employees time off from work to attend to personal matters that are not due to illness or injury. Personal leave accrues separately from sick leave, and sick leave is not to be used for personal reasons.

B. Accrual for 10- and 11-Month Employees

Regular, benefits-eligible 10- and 11-month employees accrue up to two (2) personal days of leave per year. Employees on Leave of Absences will not accrue personal leave. Personal days will be distributed on the following schedule:

New Hires

1. Employees who are hired into benefits-eligible positions effective between August 1st and October 1st will receive two (2) personal days granted on October 1st based on the day of leave as of October 1st.
2. Employees who are hired into benefits-eligible positions effective between October 2nd and December 31st will receive two (2) personal days at the time of hire or eligibility based on the day of leave at the time of distribution.
3. Employees who are hired into benefits-eligible positions effective between January 1st and June 30th will receive one (1) personal day at the time of hire or eligibility based on the employee's day of leave at the time of distribution.

Returning Employees

Employees who are employed with the County as of June 30th of the current year and return in August at the start of the new year, will receive two (2) personal days granted on October 1st based on the employee's day of leave as of October 1st as a benefits-eligible employee.

C. Accumulation Maximum Cap

Personal leave balances are subject to a maximum cap. Employees may accrue up to five (5) personal leave days.

D. Changes in Status

1. Personal leave is not paid out upon termination or transfer to a benefits-ineligible position and has no cash value. Employees who had breaks in service and are rehired will be treated as new hires per above. Balances are cleared upon termination of regular employment.
2. Employees transferring without breaks in service to 12-month positions may request to convert accrued personal leave to annual leave up to a maximum of five (5) days of leave of the new 12-month position.
3. Those employees changing to benefits-ineligible status will have their personal leave balances deactivated and leave will not accrue. In the event that they become benefits-eligible again without breaks in service, the personal leave balances will be re-activated for use and accrual will resume.
4. Employees who have increases in FTE during the year will not receive additional personal leave at the time of the increase. If an employee had an accrued personal leave balance of five (5) days and has an increase in the day of leave, the leave balance will be capped at the rate of the day of leave on the October 1st distribution.
5. Employees who change from regular benefits-ineligible to regular benefits-eligible positions will be treated as new hires per above.
6. If an employee who has a balance at the maximum cap has a decrease in FTE during the year, the balance will be capped at the rate of the new day of leave on October 1st.

E. Use of Personal Leave

Employees may use up to two (2) personal leave days per year. Personal leave requires approval from the department head/designee prior to the leave being taken. An employee must submit his/her request for personal leave to the department head/designee at least five (5) days in advance of the day or days to be taken. If it is necessary for an employee to request personal leave without five (5) days' notice, the department head/designee may require an explanation from the employee regarding the reason for the leave and the short notice.

Guidelines for granting personal leave for eligible personnel are as follows:

1. The department head/designee may limit the number of employees who may be granted personal leave on a given day in order to assure the orderly and efficient operation of the department.
2. Personal leave may be denied to an employee who has not met expectations for attendance during the current and/or previous year.

F. Exceptions

Department heads/designees may grant exceptions to the dates above when there is a bona fide reason for doing so. While two (2) days of personal leave is the standard allowance, they may approve up to five (5) days of personal leave for exceptional circumstances when an employee's personal leave balance permits.

XX. Professional Learning Leave

For information on compensation and leave options for professional learning, please refer to § P-87 Professional Learning Leave and Time.

XXI. Sick Leave

A. Purpose

The County recognizes that its employees may need time away from work due to personal health-related matters, health-related matters in their immediate families, and/or health-related appointments. The County provides a program of paid leave to benefits-eligible employees to cover such circumstances. Employees should schedule appointments and other health-related matters outside of regular work hours whenever possible to minimize the impact on the efficient operation and delivery of services to the public.

Employees and supervisors are encouraged to be flexible when employees or their immediate family members are sick or injured. Depending on the situation, a telework, alternate schedule, or restricted duty accommodation may be considered instead of, or in combination with, sick leave use.

Sick leave is for legitimate health-related matters and may run concurrently with other leave programs available by County policy. Other types of accrued leave may be used in lieu of sick leave when sick leave has been exhausted, but sick leave may not be used in lieu of other types of leave unless specifically stated in a policy. An employee who is unable to return to work due to his/her own or an immediate family member's health-related matter may be separated from employment, subject to applicable law, if it causes an undue hardship on the department, regardless of the employee's sick leave balance.

Accrued sick leave is not paid out upon termination. It has no cash value and may not be exchanged for pay; except for those grandfathered employees who elected for a retirement sick leave payout as outlined in that agreement. Employees who have breaks in service and are rehired will begin with zero balances.

Those employees changing to benefits-ineligible status will have their sick leave balances deactivated and leave will not accrue. In the event that they become benefits-eligible again without breaks in service, the sick leave balances will be re-activated for use and accrual will resume.

B. Accrual Rates

Employees accrue sick leave at the rate of one (1) “day” per month worked (10 days per year for 10-month positions, 11 days for 11-month positions, and 12 days for 12-month positions) based on the employee’s day of leave at the time of distribution.

Grandfathered Employees: County employees employed before November 1, 1989 accrue sick leave at a rate of 1.25 days per month (12.5 days per year for 10-month positions, 13.75 days per year for 11-month positions, and 15 days per year for 12-month positions).

An employee may be granted a negotiated amount of sick leave with the prior approval of the Director of Human Resources/designee and the County Executive/designee.

C. Accumulation Maximum Cap

1. There is no maximum cap on sick leave for employees not enrolled in the Virginia Retirement System (VRS) Hybrid Plan.
2. Employees enrolled in the VRS Hybrid Plan shall have a maximum cap of 720 hours.
3. Any employee who becomes eligible for the VRS Hybrid Plan may retain any accrued sick leave, even if it exceeds the maximum cap. However, the employee will not accrue sick leave until the balance is below the maximum cap and then will only accrue to the maximum cap.

D. Sick Leave Use

1. Sick leave may be used by employees for personal health-related matters, health-related matters in an employee’s immediate family, an employee’s health-related appointment, or health-related appointments in an employee’s immediate family.
2. Sick leave may run concurrently as paid leave with other types of leave as appropriate/applicable (e.g., FMLA leave, bereavement leave, income replacement, and Workers’ Compensation).

E. Medical Verification/Returning to Work

1. The County reserves the right to seek medical verification (i.e. a doctor’s note) and medical clearance for sick leave used by the employee for him/herself or immediate family member at any time.
 - a. When an employee has been absent for his/her own medical issue, a supervisor may require that an employee submit to the supervisor a medical release from the treating health care provider certifying that he/she is well enough to return to work. Requests to provide a medical release should be made prior to the employee’s return, when possible, so that the employee may obtain the medical release in a timely manner. If requested, an employee must provide the requested medical release to the supervisor within three (3) business days of the request or upon return to work, whichever comes later.
 - b. The department head/designee may create reasonable guidelines as to when a medical release is expected for employees who are out on sick leave (excluding when concurrent with FMLA leave

- use). Such guidelines must be approved by the Director of Human Resources/designee prior to becoming effective.
- c. A medical release should specify the name of the employee, the date on which the employee was seen, if the absence from work was medically necessary, and the date on which the employee is/was able to return to work. It may further stipulate any period of partial or total disability or incapacity to perform a job. If a medical release identifies any disability or incapacity, the department head/designee must contact the Department of Human Resources.
 - d. Supervisors may neither solicit information about the employee's underlying medical condition nor contact the employee's health care provider. If additional information is needed, the supervisor should contact the Department of Human Resources.
 - e. Other return to work guidelines apply to FMLA, Workers' Compensation, Sick Leave Bank, and IRP-STD. Supervisors should consult with the Department of Human Resources when an employee is on these types of leave prior to requesting a medical release or other information.
2. If a supervisor offers restricted duty or other alternative schedule arrangements which the employee is medically able to perform, the employee must return to work in that capacity.

XXII. Sick Leave Bank

A. Purpose

The County authorizes the creation and maintenance of the Sick Leave Bank to be used when a member of the Sick Leave Bank becomes incapacitated by extended illness or injury (defined as more than 20 work days) as long as one-third (1/3) of the eligible members agree to participate in accordance with the terms contained herein.

B. Administration of the Sick Leave Bank

The Director of Human Resources/designee is designated as the administrator of the Sick Leave Bank. Members of the Sick Leave Bank will be assessed one (1) additional day of sick leave at such time as the Sick Leave Bank is depleted to 1600 hours, unless they choose not to participate further in the Sick Leave Bank.

C. Employee Membership in the Sick Leave Bank

Membership in the Sick Leave Bank shall be voluntary and open to all benefits-eligible employees.

An eligible employee may enroll within the first 30 calendar days of employment by donating one (1) day of sick leave. An employee who does not enroll when first eligible may do so during any subsequent Benefits Open Enrollment period by applying, providing satisfactory evidence of good health, and donating one (1) day of sick leave. One (1) additional day may be requested for continued membership in the Sick Leave Bank whenever an assessment is required. The donated days of leave will be deducted from the donor's accrued sick leave balance. Members who have no sick leave to contribute at the time of assessment will be assessed one (1) day at the next available accrual.

D. Requesting Use of Sick Leave Bank

1. Requests for use of leave time from the Sick Leave Bank must be made in writing by the member or his/her representative prior to use of any Sick Leave Bank leave.. Requests cannot be applied retroactively except in the case of absences that were presumed to be covered by Workers' Compensation but were subsequently denied.

2. Requests must be supported by appropriate medical documentation. The Department of Human Resources may require additional medical documentation to support the request. Failure to meet applicable requirements set forth in this policy will result in the denial of the members Sick Leave Bank usage request.
3. Members should also be aware of leave under the Family and Medical Leave Act (FMLA) and how it relates to the use of sick leave and Sick Leave Bank leave. Members should also be aware of their rights and responsibilities under the Americans with Disability Act (ADA).

E. Rules for Use

1. General Information

- a. For initial use of the Sick Leave Bank, a member of the Sick Leave Bank must miss scheduled work equivalent to 20 days of leave within 30 workdays for the same illness, injury, impairment, or physical or mental condition, and the member must also have exhausted all of his/her own sick leave. Members are responsible for using other available paid or unpaid leave for time not covered by the Sick Leave Bank.
- b. Eligible members may take a maximum of 45 days of leave from the Sick Leave Bank in any year (defined as a 365-day period beginning with the first day of Sick Leave Bank usage). For example, if an eligible member begins Sick Leave Bank usage on March 1st, he/she may take up to 45 days of leave from the Sick Leave Bank in the following 365-day period.
- c. Days drawn from the Sick Leave Bank for any one (1) period of eligibility must be consecutive, except recurrence or relapse of the original illness will be covered fully on a continuing basis up to the annual maximum of 45 days. There may be more than one period of eligibility (or qualifying illness) during the 365-day period, but only a maximum of 45 days total of Sick Leave Bank leave may be used in the 365-day period. Once a member has used all 45 days of Sick Leave Bank leave, he/she must return to work and must meet the requirements of Section XXI, E(1) before becoming eligible to utilize Sick Leave Bank benefits again.
- d. Sick Leave Bank time will run concurrently with FMLA leave or as part of an ADA reasonable accommodation where applicable and appropriate.
- e. Members using Sick Leave Bank days will not have to replace those days except as a regular contributing member of the Sick Leave Bank.
- f. The Sick Leave Bank request form must be signed by the member's health care provider. The Department of Human Resources reserves the right to require additional medical documentation supporting the request or documentation from a different health care provider.
- g. Participating members enrolled in the Virginia Retirement System (VRS) Hybrid Plan may not withdraw days from the Sick Leave Bank when the member receives benefits pursuant to the Income Replacement Program or has received benefits pursuant to the Income Replacement Program for a same condition.

2. Termination

- a. Upon termination of employment or membership in the Sick Leave Bank, a member may not withdraw the days he/she contributed to the Sick Leave Bank.

- b. The Sick Leave Bank may be dissolved if less than one-third (1/3) of eligible employees agree to participate.

XXIII. Total Leave Exhaustion Guidelines

When an employee has exhausted all applicable paid leave types and wants additional time off from work, he/she should request short or long-term unpaid leave. If unpaid leave is not approved, he/she is obligated to report for work fit for duty. If an employee is unable to work due to injury or disability, he/she should discuss options with the Department of Human Resources prior to leave exhaustion. Employees who do not have approved paid or unpaid leave and do not come to work fit for duty may be disciplined up to and including termination.

XXIV. Unpaid Leave – Leave of Absence (Long-Term)

A. Purpose

An employee may need to request an unpaid long-term leave of absence from his/her regular employment. The County authorizes the County Executive/designee to consider all requests for unpaid long-term leaves of absence and will establish a procedure by which these requests may be processed in a fair and consistent manner. The County Executive/designee will, however, make decisions on granting or denying leave of absence requests based on the best interests of the County. The following procedure is intended to be utilized for leave requests not covered by other County policies.

B. Eligibility

To qualify, an employee must have completed at least six (6) months of continuous employment in a benefits-eligible position prior to commencement of a leave of absence.

C. Period of Leave of Absence

An unpaid long-term leave of absence is for a period of time from 28 consecutive calendar days to up to 12 consecutive months.

D. Requesting Unpaid Leave

1. Leave of absence requests must be submitted in writing to the employee’s supervisor as soon as possible in advance of taking the leave; however, this requirement may be waived by the department head/designee based on the circumstances and/or immediate need of the request. The request must state the reason for the leave and the starting and ending dates of the leave. Generally, requests for leave to pursue other employment will not be approved.
2. The employee, supervisor, department head/designee, and County Executive/designee will work together to determine if the request creates a hardship for the County or impedes the County’s ability to provide the necessary level of service to the public and any other relevant factors.
3. The County Executive/designee will make a decision to approve or deny the request.

E. Effect on Benefits

1. Employees on unpaid long-term leaves of absence will not accrue annual, personal, or sick leave and will not receive holiday leave or employer contributions to life insurance, VRS, medical insurance, or dental insurance.

2. If an employee has opted for any optional voluntary benefits, the employee must make additional arrangements with the Department of Finance's Payroll Division and/or the vendor providing the benefit/product (as applicable) to cover these obligations since he/she will not be paid salary or wages.
3. An employee requesting an unpaid long-term leave of absence should meet with the Department of Human Resources to discuss the effect of the leave on his/her benefit options.

F. Completion of Unpaid Leave of Absence

1. After completion of the unpaid leave of absence, an employee will be assigned to a similar position in the department from which he/she took leave. However, if the County needs to make reductions in staff, employees on a leave of absence are subject to the procedures outlined in § P-30, Employee Reduction in Force Procedures.

XXV. Unpaid Leave – Leave Without Pay (Short-Term)

A. Purpose

An employee's presence at work is essential. The County's Leave Program has been created to recognize that life circumstances do not always permit an employee to work. There may be unforeseeable circumstances when employees are unable to work and do not have paid leave available to them. The County authorizes the use of short-term leave without pay and to establish a procedure by which these requests may be processed in a fair and consistent manner. To use leave without pay, all other applicable leave options must be exhausted.

B. Period of Short-Term Leave Without Pay (LWOP)

LWOP may be requested and approved through the Time and Attendance System or other applicable process as follows. Requests should be reviewed to determine if they will create a hardship for the County, impede the County's ability to provide the necessary level of service to the public, and any other relevant factors.

1. A regular employee's supervisor may approve up to 10 days per rolling year. Supervisors must also notify the department head/designee of employee LWOP use. Departments may create notification procedures for when and how supervisors keep department heads/designee informed of such use. Department heads/designees are responsible for ensuring reasonable audit procedures for LWOP usage to occur.
2. Eleven (11+) or more days of LWOP per rolling year requires department head/designee approval in writing, as well as department heads/designees notification to the County Executive/designee. The County Executive/designee may create notification procedures. LWOP may not be approved for more than 27 consecutive calendar days.
3. The Department of Human Resources may approve LWOP regardless of the length when it runs concurrently with FMLA leave, Workers' Compensation, IRP, Maternity Leave, Military Leave, or during the Sick Leave Bank initial waiting period, when applicable.

C. Effect on Benefits

1. As long as the employee has income by working or using paid leave in a calendar month, employees on LWOP will continue to accrue and may continue to use holiday leave, annual leave, and sick leave, and may continue to participate in life insurance, medical insurance, dental insurance, and VRS contributions.
2. If an employee on LWOP does not work during a calendar month and does not use any paid leave during the month, the employee will not accrue holiday leave, annual leave, or sick leave and the County will not contribute to the employee's life insurance, medical insurance, dental insurance, or VRS.

3. Employees will be responsible for any applicable employee contributions to their benefits during this period of leave.
4. Employees should meet with the Department of Human Resources to discuss the effect of LWOP on benefits if taking leave for a block of longer than two (2) weeks.

XXVI. Workers' Compensation

For details on Albemarle County's Workers' Compensation Policy, see § P-90. Any additional types of applicable leave will run concurrently with Workers' Compensation when an employee is out for a Workers' Compensation-related injury/illness.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-87

PROFESSIONAL LEARNING TIME AND LEAVE

A. Purpose

The County encourages County employees to pursue professional development and continued learning relevant to the employee's position and goals. The objective of the professional development program is to improve job skills to provide better service to the public. To this end, the County has established procedures to ensure the appropriateness of the course of study to the particular assignment, the amount of release time and payment involved, and the consistent application of this policy.

B. Eligibility

To assist employees in accomplishing County and personal objectives, the County offers non-exempt employees paid professional training time (Tier 1), professional learning supplemental pay (Tier 2), and unpaid professional learning schedule flexibility (Tier 3) based on the guidelines established in this policy.

Exempt employees are encouraged to pursue professional learning opportunities but are not eligible for additional straight time pay, overtime pay, or accrual of compensatory time leave. Exempt employees may have training costs paid as described in the tiers below. Exempt employees may be required by their departments to keep records of professional learning time.

C. Requests

Department heads/designees may establish procedures for employees requesting time away from their regular duties for professional learning. The employee may be requested to provide information regarding the relevance of the program to the employee's current position, the benefit to the organization in meeting current or future staffing needs, the likelihood of interruption in service to employees or the public during the employee's absence, and the likelihood of any other hardship.

D. Approvals

Department heads/designees shall decide to approve or deny all training requests, including training that is directly related to the employee's current position, after considering the factors in section C and any additional relevant departmental concerns. They are also responsible for developing and applying fair and consistent standards for approving and/or denying requests. Department heads/designees should consult with the Department of Human Resources for guidance and compliance with the Fair Labor Standards Act.

PERSONNEL

Professional Learning Time and Leave (continued)**E. Key Terms**

1. **Directly related to the employee's current position.** For this policy, "directly related to the employee's current position" refers to training that will directly enhance the employee's ability to successfully perform his/her current position. This training does not have to be required by a supervisor but must support the essential functions of the current position. The essential functions are the reason the position exists, such as a code enforcement officer learning the relevant codes to enforce.
2. **Not directly related to the position.** For this policy, this training may incidentally enhance the employee's knowledge, skills, and abilities (KSAs) to prepare the employee for expanded duties or promotional consideration in the future, such as an office associate not required to perform bookkeeping responsibilities taking a bookkeeping class.
3. **Not related to the position.** For the purpose of this policy, "not related to the position" refers to training that may enhance an employee's knowledge, skills, and abilities (KSAs) but in a capacity that does not pertain to the essential functions of the employee's current position. This type of training would not be expected of an employee in the employee's current position. These KSAs might prepare the employee for a different position and/or field, such as a custodian taking vehicle maintenance classes.
4. **Ordinary and necessary business expenses.** For the purpose of this policy, department heads/designees are responsible for determining whether training related costs are considered ordinary and necessary business expenses. They should consult with Department of Finance's Payroll Division for guidance and consistency, as this is regulated by the Internal Revenue Service.
5. **Training or professional learning.** For the purpose of this policy, the terms "training" or "learning" are used generally to include courses, lectures, meetings, classes, workshops, seminars, conferences, or any other types of relevant professional learning or development. The employee may be the trainer or a participant.

F. Tier 1

1. **Guidelines.** Professional learning is classified as Tier 1 when the training is:
 - a. Directly related to the job duties and essential functions of the employee's current position; or
 - b. Required by the supervisor, even if it isn't directly related to the job duties of the employee's current position.

PERSONNEL

Professional Learning Time and Leave (continued)

2. Professional Training Time. Employees who are approved to attend Tier 1 training will be paid professional training time. This time is compensable as time worked. This time includes studying or homework outside of training sessions, regardless of whether the studying/training takes place during or outside of the ordinary work schedule. This time does not include social hours or hours spent sleeping or eating when training/work is not occurring.

If an employee on his/her own initiative, without department head/designee approval, attends an independent school, college, or independent trade school after work hours, the time is not hours worked, even if the courses are directly related to the employee's current job.

3. Study Time. Department heads/designees may set reasonable limits on the number of hours that may be spent studying outside of the work schedule. If an employee needs additional time beyond the set amount, he/she must discuss this with the department head/designee and obtain the department head/designee's express approval before exceeding the set limit. If an employee does not obtain the department head/designee's express approval before exceeding the set limit, the employee may be disciplined for working unapproved time. However, the County will compensate the employee for all such time spent studying.
4. Travel Time. Travel time to attend Tier 1 training is compensable as time worked.
5. Expenses. Training fees and related expenses such as mileage may be paid based on the following guidelines and in accordance with established processes and procedures:

When approved, department heads/designees may authorize the department's payment of, or reimbursement to employees for, the following:

- a. Related expenses for training, conferences, and/or classes, except any tools or supplies that the employee is allowed to keep at the end of the course (this does not include required textbooks);
- b. Professional licenses and certifications;
- c. Professional memberships; and/or,
- d. Dues to clubs/leagues/professional organizations when the employee is performing duties for the County that are related to the professional organization's focus or mission.

PERSONNEL

Professional Learning Time and Leave (continued)**G. Tier 2**

1. Guidelines. Professional learning is classified as Tier 2 when the training is:
 - a. Voluntary;
 - b. Not directly related to the job duties or essential functions of the employee's current position; and
 - c. Employee arranges and attends at his/her own initiative.
2. Professional Learning Supplemental Pay. Professional learning supplemental pay is a benefit to be used sparingly. Employees interested in pursuing Tier 2 learning will need to be approved to work an alternative schedule (flex time) to accommodate the training. Department heads/designees may approve employees for professional learning supplemental pay up to the employee's base weekly hours for work time that cannot be made up in the same work period due to a lack of available work or other workload constraints. This will allow employees to attend training without having their salary reduced. Professional learning supplemental pay may also be applied to time spent studying or completing homework outside of training sessions. It does not include social hours or hours spent sleeping or eating when training is not occurring.

Tier 2 training and training-related activities are to occur outside of the employee's work schedule, are not hours worked, and do not count towards the maximum allowable hours for overtime as defined in Policy § P-61, Staff Schedules, Time Tracking and Compensation Policy.

Training that is denied as Tier 2 may be approved for annual leave, or other leave available to the employee under Tier 3.

3. Professional Learning Limits. The department head/designee may limit the number of hours, for which the department will supplement pay.
4. Travel Time. For time spent traveling to training, department heads/designees may also approve professional learning supplemental pay up to the employee's base weekly hours for work time that cannot be made up in the same work period due to a lack of available work or other workload constraints.
5. Expenses. Department heads/designees should not pay training fees, mileage, or related expenses for Tier 2 training, unless it is an ordinary and necessary business expense. Employees may apply for tuition reimbursement in accordance with established policies and procedures if training was not otherwise paid for by the County.

PERSONNEL

Professional Learning Time and Leave (continued)**H. Tier 3 Guidelines**

1. Guidelines. Professional learning is classified as Tier 3 when the training is:
 - a. Voluntary;
 - b. Not related to the job duties and essential functions of the employee's current position; and
 - c. Employee arranges and attends at his/her own initiative
2. Flex Time/Leave. In order to support and retain employees, department heads/designees are encouraged to allow employees to flex time or use other available leave to support individual self-directed learning goals as long as it does not cause an undue hardship to the operation of the department. Department heads/designees should give serious consideration to leave requests for employees seeking training that would prepare them for other opportunities within the County or Albemarle County Public Schools.

If training occurs during the employee's scheduled work hours, the employee will have to work an alternative schedule (flex time) or use other available leave. Tier 3 training is not eligible for professional learning supplemental pay. The use of other types of leave for this purpose is not compensable as time worked and does not count towards the maximum allowable hours for overtime as defined in Policy § P-61, Staff Schedules, Time Tracking and Compensation Policy.

3. Travel Time. Travel time for Tier 3 travel is not eligible for professional learning supplemental pay and is not compensable as time worked.
4. Expenses. Department heads/designees should not pay training fees, mileage, or related expenses for Tier 3 training, because they are not an ordinary and necessary business expense. Employees may apply for tuition reimbursement in accordance with established policies and procedures.

I. Advanced Study

Some employees may wish to pursue advanced study by taking undergraduate or graduate-level classes at accredited institutions. Generally, education beyond what an employee currently has will not be required for the employee's current position. Therefore, most advanced study will fall under Tier 3 training. If there is a question about the appropriate tier, department heads/designees should consult with the Department of Human Resources to determine under which tier such classes may fall.

J. Other Provisions

Department heads/designees may require employees to present what was learned during their professional learning to the department as a report, presentation, or other training opportunity.

COUNTY OF ALBEMARLE
PERSONNEL POLICY

§P-89

WORKERS' COMPENSATION

I. PURPOSE

This policy establishes procedures to administer benefits under the Virginia Workers' Compensation Act (the "Act"), Title 65.2 of the Virginia Code.

II. LEAVE USAGE

- A. **First 7 Days of Absence.** If an employee misses work for a work-related injury or illness that is compensable under the Act, the first seven (7) calendar days of absence are not covered/paid by Workers' Compensation. During this period, an employee may use accrued sick leave. If sick leave is exhausted, the employee may use other accrued leave in accordance with procedures established by the Department of Human Resources. If no leave is available, these days will be unpaid.
- B. **Absence After 7 Days.** Starting the eighth (8) calendar day of absence due to a compensable work-related injury or illness, the employee will receive 66 2/3% of his/her average weekly wage as Workers' Compensation income benefits. From the eighth (8) day forward, the employee may use accrued leave in accordance with procedures established by the Department of Human Resources to supplement his/her Workers' Compensation income benefits, as follows:
1. The leave shall not exceed 33 1/3% of the employee's normally scheduled, non-overtime work hours on any shift.
 2. Sick leave must be taken first. After sick leave is exhausted, the employee may use other accrued leave in accordance with policies and procedures established by the Department of Human Resources.
 3. All leave must be accrued by the time of usage. Employees may not borrow against future leave accrual.
 4. The County's Sick Leave Bank may not be used during this period.
- C. **Benefits After 21 Days of Absence.** If the absence exceeds twenty-one (21) calendar days, the employee will be reimbursed for the first seven (7) calendar days by the County's Third-Party Administrator for Workers' Compensation at 66 2/3% of the employee's average weekly wage. The employee will be allowed to keep this reimbursement without obligation to return any payment to the County.
- D. **Denied Claims.** If a Workers' Compensation claim is denied by the Third-Party Administrator, standard leave policies shall apply to any leave taken by the employee.
- E. **Employer/Employee Insurance/Benefits Contributions.** The County shall continue all applicable contributions toward retirement, life insurance, health insurance, and dental insurance during the period an employee is absent for a compensable injury/illness. It will be the employee's responsibility to make payment arrangements with the Payroll

PERSONNEL

Workers' Compensation (continued)

Department and/or the vendor providing the benefit/product (as applicable) to cover the employee's required contributions.

- F. Return to Work. Once the employee is released by the treating physician to return to work in any capacity, the employee is expected to return to work. Depending upon the nature of the medical restrictions, if any, and the staffing needs of the employee's department, this return may not necessarily be to the same position or duties worked by the employee at the time of the injury/illness. The employee's pre-injury rate of pay shall be maintained. If the employee refuses to return to work in the full-duty or restricted-duty capacity approved by the treating physician, the County may take all actions permitted under law, including but not limited to contesting the employee's entitlement to further Workers' Compensation benefits before the Virginia Workers' Compensation Commission and/or termination of employment.

III. EMPLOYEE AND EMPLOYER RESPONSIBILITIES

- A. Workers' Compensation Third-Party Administrator. The Workers' Compensation program is administered through a Third-Party Administrator, which handles all employee claims and settlements after detailed consultation with the Department of Human Resources' designee for Worker's Compensation. This includes contested claims scheduled for a hearing before the Virginia Workers' Compensation Commission and appeals.
- B. Employee Reporting. Employees are required to report immediately all work-related injuries and illnesses to their supervisors. These include any injury that occurs while working and any illness that the employee believes to be caused by his/her work. All incidents shall be reported regardless of apparent significance and regardless of whether medical attention was obtained. Late reporting by the employee can result in delayed or denied Workers' Compensation benefits. Employees are responsible for filing a claim with the Virginia Workers' Compensation Commission within the time limit provided by Title 65.2 of the Virginia Code. Failing to file a claim within the statutory time limit may cause the claim to be lost, even if the County may be paying the employee's salary, wages, or medical expenses.
- C. Departmental Reporting. The employee's department is responsible for:
1. Submitting a First Report of Injury immediately upon notification by the employee of a work-related injury or illness, or upon obtaining knowledge of the event. All reports must be submitted within 24 hours of the accident, injury, illness, receipt of notice, or obtaining knowledge, whichever occurs the earliest.
 2. Accurately recording time lost due to work-related injury or illness using appropriate leave code(s).
 3. Communicating updates on the employee's work status to the Department of Human Resources throughout the duration of the claim.
- D. Assistance to Employees. The Department of Human Resources is responsible for providing information to employees with respect to workers' compensation benefits.

PERSONNEL

Workers' Compensation (continued)

IV. VRS INCOME REPLACEMENT PROGRAM

Employees under certain Virginia Retirement System (VRS) plans may be eligible for Income Replacement Program – Short Term Disability (IRP-STD) in conjunction with Workers' Compensation and Family Medical Leave Act (FMLA) benefits. Employees are responsible for contacting the Department of Human Resources for information on submitting a claim.

Adopted: September 3, 2008

Amended: February 6, 2019, effective April 1, 2019

COUNTY OF ALBEMARLE
PERSONNEL POLICY§P-91 AMERICANS WITH DISABILITY ACT POLICY (ADA POLICY)**I. Purpose**

The Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA) are federal laws that prohibit disability discrimination in all employment practices including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions and privileges of employment. It applies to recruitment, advertising, tenure, layoff, leave, fringe benefits, and all other employment-related activities. It is the policy of the Board to comply with all federal and state laws concerning the employment of persons with disabilities.

II. Disability Discrimination Protection**A. Who is Protected?**

Job applicants and employees who are qualified individuals with a disability are protected.

B. Definitions

1. *Direct threat*: A significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation.
2. *Disability*: means a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.
3. *Essential functions of the job*: refer to those job activities that are determined by the employer to be essential or core to performing the job; these functions cannot be modified.
4. *Major life activities*: include the following, but are not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. It also includes operation of major bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Also covered are any mental or psychological disorders, such as intellectual disability (formerly termed mental retardation), organic brain syndrome, emotional or mental illness, and specific learning disabilities.
5. *Qualified individual*: means an individual who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual is applying for or holds

PERSONNEL

Disability Discrimination Protection (continued)

6. *Reasonable accommodation*: means any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to enjoy an equal employment opportunity including but not limited to participating in the application process and/or performing essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of employees without disabilities. Reassignment of an essential job function to another employee is not a reasonable accommodation.
7. *Substantially limiting*: The determination of whether an impairment substantially limits a major life activity requires an individualized assessment, and an impairment that is episodic or in remission may also meet the definition of disability if it would substantially limit a major life activity when active. Some examples of these types of impairments may include, but are not limited to, epilepsy, hypertension, asthma, diabetes, major depressive disorder, bipolar disorder and schizophrenia. An impairment such as cancer that is in remission but that may possibly return in a substantially limiting form also is considered a disability.
8. *Undue hardship*: means an action requiring significant difficulty or expense by the employer. In determining whether an accommodation would impose an undue hardship on an employer, factors to be considered include, but are not limited to:
 - a. The nature and cost of the accommodation.
 - b. The overall financial resources of the department or departments involved in the provision of the reasonable accommodation; the number of persons employed by the department; the effect on expenses and resources; or the impact of such accommodation upon the operation of the department.
 - c. The overall financial resources of the employer; the size, number, type and location of facilities/departments.
 - d. The type of operations of the County, including the composition, structure and functions of the workforce; administrative or fiscal relationship of the particular department involved in making the accommodation to the employer.
 - e. The impact of the accommodation on the operation of the department.

III. Requesting a Reasonable Accommodation**A. Pre-employment Requests**

1. Applicants with a disability who can be reasonably accommodated will be given the same consideration for employment as any other applicant.
2. Job applicants with a disability may request a reasonable accommodation by contacting Human Resources and completing the designated form.

PERSONNEL

Requesting a Reasonable Accommodation (continued)

3. Human Resources will engage in the interactive process with the applicant to determine if the County can provide a reasonable accommodation without creating an undue hardship or causing a direct threat to workplace safety.
4. Applicants who pose a direct threat to the health, safety or well-being of themselves or others in the workplace, and when the threat cannot be eliminated by reasonable accommodation, will not be hired.

B. Employment Requests

1. Employees with a disability may request a reasonable accommodation by contacting Human Resources or their supervisor and completing the designated form. Employees requesting a reasonable accommodation must provide appropriate documentation.
2. Supervisors who receive requests for reasonable accommodation or have reason to know that an employee may need a reasonable accommodation must contact Human Resources. Supervisors should not investigate medical conditions without guidance from Human Resources.
3. Human Resources will engage in the interactive process with employees with a disability to determine if the County can provide a reasonable accommodation without creating an undue hardship or causing a direct threat to workplace safety.
 - a. Generally, an accommodation meeting will be held with Human Resources, the employee, and the employee's department/school to discuss the need for accommodation and reasonable accommodation options.
4. Albemarle County will reasonably accommodate qualified individuals with a disability so that they can perform the essential functions of a job unless doing so causes a direct threat to these individuals or others in the workplace. Albemarle County will attempt to eliminate the threat by developing a reasonable accommodation. However, if the accommodation creates an undue hardship to Albemarle County, the accommodation will not be utilized

C. Who to Contact

Contact Human Resources with any questions or requests for accommodation.

III. Excluded from Coverage***A. Direct Threat***

Individuals who pose a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation are excluded from coverage under the County's ADA policy.

PERSONNEL

Excluded from Coverage (continued)

B. Illegal Drugs

Individuals who are currently using illegal drugs are excluded from coverage under the County's ADA policy.

Adopted: May 3, 2017