

# **OTERO COUNTY PERSONNEL POLICY**

**ORDINANCE NO. 07-01**  
(Amended: March 27, 2007)

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## **DEFINITIONS**

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

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

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

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

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

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

**APPOINTED EMPLOYEE.** Appointed employees are exempt employees, serve at the will and pleasure of the County Manager and under certain circumstances elected officials. Appointed employees are not entitled to grievance procedures.

**CHIEF DEPUTY.** Chief Deputies are exempt employees and serve at the will and pleasure of the Elected Official. Chief Deputies are not entitled to grievance procedures or holiday or overtime pay.

**CONTRACT EMPLOYEES.** Contract employees are unclassified employees and have a contract approved by the County Commission. Contract employees serve at the will and pleasure of the Otero County Commission. Contract employees are not entitled to grievance procedures. Benefits, wages, and all other conditions of employment shall be in accordance with the contractual agreement with the County.

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

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

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

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

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

**EXEMPT EMPLOYEES.** All executive, administrative and professional employees as those terms are defined in the Department of Labor regulations relating to the Fair Labor Standards Act, and whose compensation is based on a fixed salary.

**GRANT FUNDED EMPLOYEE.** A contract employee hired to fill a full or part-time position, which exists only upon receipt of grant funds. This position is terminable-at-will. The Grant Funded employee is not considered a regular classified employee and does not have the right to grieve. Benefits, wages, and all other conditions of employment shall be in accordance with the contractual agreement with the County.

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

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

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

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

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

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

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

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

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

**PROBATIONARY EMPLOYEE.** A full-time employee hired to fill a regular classified position that has not yet completed the twelve (12) month probationary period of employment or an employee who has been placed on probation for disciplinary reasons during which time the employee is terminable-at-will.

**PROMOTION.** A promotion is any upward movement on the General Wage and Classification Chart.

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

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

**SICK LEAVE.** Leave with pay granted to employees, after accrual at a specific rate when personal illness or quarantine keeps the employee from performing the duties of the position or when a member of the immediate family is ill.

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

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

**TERMINABLE-AT-WILL.** Employees who can be terminated at any time without cause; e.g., probationary, temporary, contract, and chief deputy. Terminable-at-will employees are not entitled to the grievance proceedings.

**TERMINATION.** An action, which terminates an individual's employment with the County, recommended by the Department Head for whom the employee works, reviewed by the highest ranking personnel officer and approved by the County Manager or Elected Official,

**TRANSFER.** The voluntary or involuntary movement of an employee, within, or from one department or office to another department or office in the County.

**SECTION I**  
**EMPLOYMENT STATUS**

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

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

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

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

1.4 **REGULAR EMPLOYEE.** A full-time employee hired as a regular classified employee for County service, who has successfully completed probation.

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

1.6 **CONTRACT EMPLOYEES.** Contract employees are unclassified employees and have a contract approved by the County Commission. Contract employees serve at the will and pleasure of the Otero County Commission. Contract employees are not entitled to grievance procedures. Benefits, wages, and all other conditions of employment shall be in accordance with the contractual agreement with the County.

**SECTION II  
GENERAL PROVISIONS**

- 2.1 **PURPOSE.** The purpose of this Personnel Ordinance is to establish consistent, basic policies and practices concerning relations between Otero County and its employees. This Personnel Ordinance further establishes the formal grievance procedure available to regular employees to hear their grievances with respect to improper promotions, demotions, terminations and suspensions, and provide the method by which a personnel hearing officer is chosen to hear formal grievances. Provisions of the Personnel Ordinance shall apply to all County employees except as provided herein. Independent contractors are not subject to the provisions of the Personnel Ordinance.
- 2.2 **SCOPE.** Definite rules and regulations cannot be readily formulated for every possible problem and situation. This Personnel Ordinance serves as a general basis and guide for the proper, efficient, and effective administration of personnel matters of the employees of Otero County. The personnel rules contained herein replace and supersede all previously issued personnel rules and regulations applicable to employees of Otero County, including but not limited to the Otero County Personnel Policy, adopted February 25, 1998, and all amendments and revisions related thereto.
- 2.3 **AMENDMENT OF ORDINANCE.** There shall be no resolution or other action of the Board of County Commissioners or other County officials, which is inconsistent with this Personnel Ordinance except by amendment of this Personnel Ordinance as required by law. The Board of County Commissioners reserves the right to amend this Personnel Ordinance at its discretion.
- 2.4 **EMPLOYEE KNOWLEDGE AND INFORMATION OF ORDINANCE.** The Human Resources Department shall provide a copy of this ordinance to present employees and to all new employees with instructions to read and be familiar with all provisions of this Ordinance. Employees shall sign for a copy and acknowledge that they have read and understand the ordinance.
- 2.5 **EQUAL EMPLOYMENT OPPORTUNITY.** Individuals will not be discriminated against on the grounds of race, age, religion, color, national origin, ancestry, sex, marital status, physical or mental handicap, medical condition, in consideration for employment, promotions, transfers, duration of employment, compensation, terms, conditions, or privileges of employment by Otero County.
- 2.6 **ADMINISTRATION BY COUNTY MANAGER.** The County Manager or his designee shall administer and interpret the personnel system and the terms of this Personnel Ordinance and its amendments, and all future approved operating

procedures. The County Manager shall recommend to the Board of Otero County Commissioners any necessary amendments or revisions to the Personnel Ordinance.

2.7 DUTIES OF ELECTED OFFICIALS AND DEPARTMENT HEADS. All Elected Officials and Department Heads shall adhere to the provisions of this Personnel Policy.

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

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

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

2.11 MANAGER'S STANDARD OPERATING PROCEDURES. It is the intent of the governing body that the County Manager is hereby empowered and authorized by delegation of the power and authority of the Board of County Commissioners to enact Standard Operating Procedures governing a broad spectrum of topics and issues which are necessary to efficiently and effectively perform the functions and services provided by Otero County. These Standard Operating procedures include, but are not limited to the following:

Code of Conduct; Safety	Safety Manual;	Dress Code
Incentive Policy; Drug and	Family Medical Leave;	Hazard Communication;
Alcohol policy; Workplace	Sick Leave Buy Back;	Security & Usage Policy;
Violence; Email use	Vehicle use Policy;	Computer use Policy; Service
Policy; Sexual	Cell phone use Policy;	Credit Pay Plan; Shift
Harassment;	Hazardous Materials;	Differential pay plan;

Sick leave donation;                      Educational assistance;                      County Budget process;  
Wellness Program;                      Overtime Pay Plan;  
Wage and Compensation Plan;  
Vehicle Accident Prevention Policy;  
Other Prohibited Harassment Policy; and  
Mileage and Per-diem Policy.

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

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

**SECTION III**  
**RECRUITMENT AND SELECTION**

- 3.1 **PURPOSE.** It is the policy of Otero County to select and recruit the best suited persons for all regular classified positions in an open and competitive manner, to insure no discrimination and to insure equal employment opportunity for all applicants and employees. This section applies only to regular classified employees, except as specifically stated for temporary employees.
- 3.2 **RECRUITMENT OF APPLICANTS.** The County Manager or his designee shall issue job announcements through such media deemed appropriate to insure open and competitive recruitment of individuals outside of County service, with sufficient time to insure reasonable opportunity for persons to apply. All publications for job announcements shall include reference to Otero County as an Equal Opportunity Employer, such as EOE and a Drug-free workplace.
- 3.3 **PUBLIC JOB ANNOUNCEMENTS EXCEPTION.** Vacant positions may be filled by regular classified or probationary County employees by use of an in-house job announcement provided the employee is qualified for the position. Vacant positions may be filled without public announcement by temporary employees on a temporary basis to replace regular classified employees on leave and pending the selection of a regular employee for a position or otherwise for a period not to exceed six (6) months. Additionally, public advertisement for positions of the same title is required only one time during each six-month period, provided there is a sufficiently large pool of applications received through original advertisement to insure competitive recruitment for such positions that are vacant within the six (6) month period.
- 3.4 **BEST SUITED APPLICANT DETERMINATION.** The best suited applicant is determined by the Elected Official or Department Head based on minimum qualifications of education, experience, abilities, skills and past work experience as specified in written position specifications for each position. Personal interviews shall be conducted with at least three (3) applicants, or if less than three applications are received, all applicants shall be interviewed.

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

- 3.5 **SELECTION.** The Elected Official, Department Head or designated representative shall review all applications for positions in their departments. After personal interviews have been conducted, a recommendation shall be made by the interview board to the County Manager and final appointment shall

be made by the Elected Official, Department Head or the County Manager based on the best suited applicant for the position.

3.6 PRE-SELECTION PROHIBITED. Publicly posted and advertised positions shall not be promised to a person prior to recruitment and selection.

3.7 INELIGIBILITY FOR HIRE AND REHIRE. Applicants shall be considered ineligible for hire or rehire by Otero County if the applicant has:

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

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

#### **Ineligibility of Applicants for Deputy Sheriff and Detention Officer**

No person who is not a citizen of the State of New Mexico convicted of a felony, under indictment, or who is generally known for having a bad character or as a

disturber of the peace shall be eligible to serve as a deputy sheriff or detention officer.

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

3.9 REFERENCE/BACKGROUND CHECKS. References provided by applicants will be checked by the Department Head, Elected Official, or County Manager (or his designee). Applicants are required to provide an authorization for the County to check references and does a background check. Only applicants who sign this written authorization will be considered for the position for which they have applied. Applicants must receive satisfactory employment references or demonstrate a total of five (5) years of previous satisfactory performance. Applicants who are entering the job market for the first time may substitute references from their educational background including high school.

**SECTION IV  
CHANGES IN EMPLOYMENT STATUS**

4.1 PROMOTION. Otero County encourages the professional growth of its employees and rewards the initiative, creativity, effort, commitment, and diligence of its employees through the promotional process. County employees are encouraged to take advantage of promotional opportunities and apply for higher paying positions for which they qualify.

A. Procedural Requirements for In-House Advertisements. Any employee whose job performance reflects an ability to do his or her present job well and to handle more difficult assignments or greater responsibility will be considered eligible for promotion to available positions in a higher classified level. Positions will be advertised in-house at the discretion of the Department Head or Elected Official. When a position within Otero County becomes available, the following steps will be taken to ensure that current employees are considered for the vacant position:

1. An announcement describing the position and noting the grade level will be posted in each Department or Office. In most cases, an announcement will be posted for a minimum of five workdays.
2. Any employee possessing the minimum stated qualifications may apply for the position. This must be done prior to the closing date indicated on the announcement.

4.2 DEMOTION. An employee may be demoted to a position for which the employee is qualified when the employee would otherwise be terminated because the employee's position is being abolished due to lack of funds or lack of work and there are no appropriate vacancies at the same level; when the employee's job is being reclassified; when the employee does not demonstrate the necessary ability to render satisfactory performance in the position presently held, or when the employee voluntarily requests such a demotion, provided there is a position available.

4.3 TRANSFERS:

- a. General Transfer. Employee may be moved from one position to another of the same grade and pay range either voluntarily or involuntarily. An employee may be transferred if it is in the best interest of the County. Involuntary transfers are not grievable. Shifting department or office needs may require that an employee be temporarily or permanently transferred from one geographic location to another within a department or office. An employee may be transferred from one position to another position at the same salary range within a department or office. If such a transfer involves a

probationary employee, time served in the former position shall be credited toward achievement of regular full-time status and salary increases, and accumulated annual and sick leave shall be retained.

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

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

4.5 PROCEDURE FOR WORKFORCE REDUCTION. The Elected Official or County Manager shall make the determination for layoffs. When layoffs of more than one employee are required, pursuant to workforce reductions, layoffs shall be determined using the following criteria:

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

Termination because of a reduction in force is not grievable.

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

Layoff return privileges end:

- a. Six (6) months after the effective lay off date;
- b. After an employee has refused employment in a position for which the employee is qualified and/or for which the pay rate is the same or higher than

the position previously held; or

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

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

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

**SECTION V**  
**CONDITIONS OF EMPLOYMENT**

5.1 PROBATIONARY PERIOD. An employee hired to fill a regular classified position shall serve a probationary period of twelve (12) months, beginning on the first day of work, during which time the employee is terminable-at-will. The probationary period is an integral part of the evaluation process and is utilized for observing the employee's performance and obtaining the most effective adjustment of a new employee to the position. The employee must achieve a satisfactory performance or better by the end of the twelve (12) month probationary period before the employee can become a regular classified employee entitled to all of the rights and benefits of that status.

If the employee satisfactorily completes the probationary period, the employee will become a regular employee. If the employee does not satisfactorily complete the probationary period, the employee will be terminated.

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

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

A probationary employee:

- a. can be terminated, without cause, at any point during the probationary period;
- b. is allowed to use annual leave as soon as it is accrued.
- c. cannot grieve disciplinary actions;
- d. is allowed to use sick leave as soon as it is accrued 5.2

**TEMPORARY EMPLOYEE HIRED TO A REGULAR POSITION**

- a. An employee who fills a temporary position and is subsequently hired to fill a regular classified position shall serve the required probationary period. The

beginning date of the probationary period is the date the employee changes from temporary to probationary status.

5.3 FORMER COUNTY EMPLOYEES HIRED TO A POSITION. A former Otero County employee re-hired at any time to fill a position shall serve the required probationary period.

#### 5.4 PERMITTED POLITICAL ACTIVITIES

All employees:

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

5.5 PROHIBITED POLITICAL ACTIVITIES. All employees, Department Heads and Elected Officials are prohibited from:

- a. Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose.
- b. Directly or indirectly coercing, attempting to coerce, commanding or advising a state or local official or employee to pay, lend, or contribute anything of value to a party, committee or organization, agency, or person for a political purpose.
- c. Threatening to deny promotions to any employee who does not vote for certain candidates, requiring employees to contribute part of their pay to a political fund, influencing subordinate employees to buy tickets to political fund-raisers and similar events, advising employees to take part in political activity and matters of a similar nature.
- d. Engaging in political activity while on duty.

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

5.6 PUBLIC OFFICE. Employees may not hold political office during employment with the County, except as provided in provisions of the Hatch Act.

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

- a. Immediate family shall not work in the same department when there is a supervisory relationship between them.
- b. When there is a change in assignment or relationships among County employees, which leads to the supervision of or by other immediate family the employee, must inform the Elected Official or Department Head in writing within five (5) working days. The Elected Official or department head shall immediately notify the County Manager in writing. The County Manager will decide on a course of action and advise the affected employees within five (5) working days of receipt of notification. Failure to inform the Department Head, Elected Official or County Manager of the situation may result in discipline.
- c. Any problem arising from such a situation should be referred to the County Manager by the Elected Official or Department Head for review.

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

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

5.10 HARASSMENT. The County will not tolerate verbal or physical conduct by any employee which harasses, disrupts or interferes with another employee's work performance or which creates an intimidating, offensive or hostile environment.

This provision applies to all employees, elected officials and volunteers.

Any such behavior shall be reported immediately to an affected employee's immediate supervisor, following the department's chain of command, for guidance and a prompt, confidential investigation. If the complaint involves the employee's immediate supervisor or if the problem continues the employee may contact the County Manager or his designee. Employees may be assured that appropriate corrective measures will be taken and that there will be no retaliation for having filed a complaint of harassment. The employee making the report shall be informed of the findings and conclusions of investigations.

Anyone violating the provisions of this section will be subject to disciplinary action up to, and including termination.

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

#### A. POLICY

Sexual harassment in any form is strictly prohibited, whether directed at employees, customers or others.

It is the policy of this County to ensure a work environment free of sexual harassment. Unwelcome sexual advances, request for sexual favors, sexual demands, or other verbal, non-verbal, physical, or visual conduct of a sexual nature will constitute sexual harassment when:

Submission to the conduct is either an explicit or implicit term or condition of employment.

Submission to or rejection of the conduct is used as a basis for an employment decision.

The conduct has the purpose of affecting or unreasonably interfering with an employee's work performance, or creating an intimidating, hostile, or offensive work environment; or

In third-party situations, one individual is offended by the sexual interaction, conduct, or communications between others.

The County expects that employees will treat one another with courtesy, dignity, and respect. Sexual harassment is a form of misconduct, which constitutes a serious offense and subject offenders to disciplinary action, up to and including termination.

The County will exercise reasonable care to prevent or correct any sexually harassing behavior by providing training, by enacting this policy, by launching prompt, thorough, and impartial investigations of any complaints, and by enforcing appropriate disciplinary actions.

Each Elected Official, Department Head, and/or Supervisor is responsible for:

Complying with this policy and reporting sexual harassment complaints or observations to the County Manager, Human Resource Director, or County Attorney. Under no circumstances is a Supervisor, Department Head, or Elected Official authorized to investigate alleged violations of this policy.

Distributing this policy to all employees and, where appropriate, including in new employee orientation material and publicizing in employee publications.

To avoid misunderstandings about what might constitute sexual harassment, the following guidelines should be followed. Sexual harassment is not limited to the examples shown, but many instances of harassment have been similar to those specifically prohibited.

Repeated, unwanted social invitations.

Touch, e.g., hugs, massages, fanny pats, hip-grinds, and behavior that, if it occurred to a stranger on the street, would subject the employee to charges of molestation, indecent exposure, assault, or rape.

Sexual gestures or other offensive body movements, e.g., “the finger,” or grabbing personal areas of the body.

Sexually suggestive or abusive talk, e.g., dirty jokes, sexual innuendoes, talking about body parts, and repeated, unwanted sexually explicit invitations; bragging or speculating about one’s own or others’ sexual performance.

Offensive printed or written materials.

The County will provide employees, supervisors, managers, and elected officials sexual harassment prevention training, which explains prohibited conduct, outlines the County’s complaint procedure, and details disciplinary and corrective actions. The County will not permit employment-based retaliation against anyone who brings a complaint or speaks as a witness in a sexual harassment investigation. Retaliation, reprisal, or other adverse action for making a complaint or report of harassment in good faith or for assisting in the investigation of any such complaint is

absolutely prohibited. Any incident of retaliation or intimidation should be immediately reported to the County Manager, the highest ranking personnel officer or County Attorney and will subject the employee to disciplinary action up to and including termination.

## B. PROCEDURE

Employees experiencing or witnessing sexual harassment must immediately report it to the County Manager, highest ranking personnel officer or County Attorney. Employees failing to report sexual harassment may be subject to disciplinary action up to and including termination.

The County Manager, highest ranking personnel officer, County Attorney, or an outside party retained by County management shall promptly, thoroughly, and impartially investigate any complaint or report of any violation of this policy. Investigations will be initiated within three (3) working days after receipt of a complaint.

To the extent possible, the employee's confidentiality and that of any witness and the alleged harasser will be protected against unnecessary disclosure. However, the immediate Supervisor, Department Head or Elected Official shall be notified.

The County will take prompt disciplinary and/or remedial action for violations of this policy. Such discipline may range from a verbal warning to termination from employment.

The affected employee will be informed of the findings when the investigation is complete.

The County takes complaints of violations of these provisions seriously. In addition, false or dishonest complaints or reports are also a violation of these provisions. The responsible party may be subject to disciplinary action, up to and including termination.

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

5.12 DRUG TESTING. Otero County does not tolerate the use of illicit drugs or the abuse of prescription drugs or alcohol. The County has a general drug and alcohol abuse policy which requires all employees to be tested for the following:

1. Pre-employment
2. Post accident involving property damage or personal injury
3. Reasonable suspicion

All safety-sensitive employees are subject to random drug/alcohol testing. Further, Otero County has established a Department of Transportation Drug Testing policy in which those employees who are required to have a Commercial Driver's License (CDL) shall be tested randomly for both drugs and alcohol. These policies are part of this personnel policy.

**SECTION VI**  
**BASIS FOR EMPLOYEE DISCIPLINE**

- 6.1 **DISCIPLINE.** Disciplinary actions for employees are based on cause, in order to promote the efficiency of the services rendered by the County and the operation of its respective departments and offices. Disciplinary actions will be consistent with governing laws and regulations and will be taken without regard to race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or medical condition. No employee will be disciplined for refusing to perform an unlawful act.
- 6.2 **DEFINITION OF CAUSE.** Cause is defined as any conduct, action or inaction arising from or directly connected with the employee's work, which is inconsistent with the employee's obligation to the County and reflects the employee's disregard of the County's interest. Cause includes, but is not limited to, inefficiency, incompetence, misconduct, negligence, insubordination, performance which continues to be inadequate after reasonable efforts have been made to correct the performance problems, or conviction of a felony or misdemeanor.
- 6.3 **DISCIPLINARY ACTION.** The County Manager, Elected Officials, Department Heads and supervisors have the authority to discipline an employee under their supervision. However, only the County Manager has the final authority to demote, suspend for more than three (3) days or terminate an employee for disciplinary reasons. Copies of any documented disciplinary action must be furnished to the Personnel office for placement in the employee's personnel file with the signature of the employee acknowledging receipt of the action. If the employee refuses to sign the disciplinary action, the supervisor will so note on the disciplinary action form and file it in the employee's personnel file.
- 6.4 **CONSULTATION WITH COUNTY ATTORNEY.** Termination, demotion, and suspension require consultation with the County Attorney before taking disciplinary action. Whenever such consultation is not practical because of urgency, necessary action may be taken and the situations/circumstances reviewed with the County Attorney as soon as practical.
- 6.5 **PROGRESSIVE DISCIPLINE.** An employee shall be progressively disciplined whenever possible. All actions involving substandard work performance, leading up to and including dismissal, require progressive warnings. The type of corrective action used depends on the severity of the infraction and the employee's previous work record. Because of the serious nature of some infractions, the first disciplinary action may be suspension or termination.
- 6.6 **VERBAL REPRIMAND.** A verbal reprimand is used for minor infractions to inform the employee that his/her actions, behavior or conduct needs to change.

Supervisors will keep written notations of verbal reprimands, and these will not be placed in the employee's personnel file until they are made a part of a later written reprimand. Causes for verbal reprimands include, but are not limited to:

- a. substandard or unsatisfactory work performance
- b. repeated absence or tardiness;
- c. misconduct on the job;
- d. failure to meet and/or maintain job requirements as set forth in the job description;
- e. violation of any personnel ordinance rules and regulations or supplemental rules;
- f. violation of a professional code of ethics accepted by those in the same professional as an employee;
- g. non-cooperation by an employee with fellow employees or other personal conduct which substantially interferes with the performance of his/her or another employee's work; and
- h. failure to adhere to an established work schedule.

6.7 WRITTEN REPRIMAND. An employee shall receive a written reprimand because the deficiency or infraction is of a greater degree than that for which a verbal reprimand may be used, or if a verbal reprimand was not effective. Causes for written reprimands include, but are not limited to:

- a. the causes listed for verbal reprimands;
- b. excessive absence or tardiness;
- c. sleeping on the job;
- d. negligence in the performance of duty including negligence in the operation of County vehicles or equipment;
- e. negligence or failure to adhere to established safety rules or regulations as well as willful unsafe conduct;
- f. insubordination and failure to comply with the lawful orders of a supervisor including the refusal to accept after hours assignments;
- g. unauthorized absence from work;
- h. harassment;
- i. failure to report loss of driver's license when required as condition of employment; and
- j. failure to follow the chain of command within a department.
- k. unauthorized use or abuse of County property (e.g. computers, cell phones, vehicles, equipment)

Written reprimands for an employee's work performance or conduct shall be placed in the employee's personnel file after providing the employee with a copy of the statement. The employee will be asked to acknowledge having read the comments by signing the statement. If the employee refuses to sign, a witness will attest in writing that the statement was presented to the employee for signature. The

witness' signature indicates that the employee received the statement, but does not necessarily indicate concurrence with its content. In addition, the letter of reprimand may be read to the employee. The employee may respond with a written rebuttal, which shall be placed in the employee's personnel file. The placement of a written reprimand in an employee's file is not grievable.

Employees placed on disciplinary probation as a result of written reprimands are not eligible for salary increases, bonus awards, promotions or transfers during the probationary period without approval of the County Manager.

6.8 **SUSPENSION.** An employee may be suspended without pay for a single serious offense or for continued inadequate job performance or misconduct after previous attempt(s) to correct the conduct have failed. Such suspension will not exceed thirty (30) working days. Suspension of an employee is subject to the formal grievance procedures. Causes for suspension include but are not limited to:

- a. The causes listed for verbal and written reprimands;
- b. continuous instances of poor performance;
- c. negligent damage to property and/or person(s);
- d. physical or mental unfitness for duty due to being under the influence of alcohol or controlled substance including illegal drugs as well as abuse of prescription drugs;
- e. consumption or possession of alcohol or controlled substances on-duty or on County property;
- f. fighting while on-duty or on County property;
- g. harassment;
- h. sexual harassment;
- i. failure to report loss of driver's license when required as condition of employment; and
- j. operation of a County vehicle or a private vehicle while on County business without a valid driver's license.

6.9 **DEMOTION.** An employee may be demoted for continued inadequate job performance after previous attempt(s) to correct the conduct have failed, provided that there exists a lower job position in the County and the employee is capable of performing such a job. The demotion of an employee is subject to the formal grievance procedures.

6.10 **TERMINATION.** Termination is the final consequences when progressive discipline has failed to change unacceptable behavior or performance, or when the employee has engaged in other behavior that is of a serious nature when is unacceptable for County employees. The termination of an employee is subject to the formal grievance procedure. Causes for termination include, but are not limited to:

- a. all causes listed for the previous disciplinary actions, if such causes continues after attempts or correction have failed;
- b. acceptance of a bribe or kick back;
- c. use of official position or authority for personal profit or advantage;
- d. theft or destruction of County property;
- e. unauthorized disclosure of confidential information from County records or documents as set forth by applicable state law; falsification, destruction or unauthorized use of County records, reports or other County data;
- f. being convicted of a felony or misdemeanor;
- g. falsification of County employment application, health history forms or any other document used in the employment process;
- h. serious acts of negligence causing damage to County property;
- i. conduct unbecoming an employee of Otero County;
- j. unlawful manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on the job or reporting to work under the influence of an unlawful controlled substance or alcohol;
- k. intentional abuse or destruction of County equipment;
- l. refusal to carry out reasonable orders,
- m. failure to meet standards of substance abuse rehabilitation programs, and
- n. falsification of official documents.

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

6.12 **PRE-DISCIPLINARY HEARING.** Regular employees shall receive a pre-disciplinary hearing prior to disciplinary action for cause, which may result in suspension without pay, demotion, loss of pay or involuntary termination. The County Attorney shall review the cause for such disciplinary action in all cases prior to the pre-disciplinary hearing. The hearing shall be held by the Elected Official, County Manager or their designee, for employees. The employee shall receive sufficient notification of the pre-disciplinary hearing in order to respond to the charges.

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

of the pre-disciplinary hearing can be revised upon the written agreement of the parties.

6.14 IMMEDIATE SUSPENSION WITH PAY. In cases where County property, other employees or citizens are at risk because of the employee's actions, the Elected Official or County Manager or their designee shall put the employee on administrative leave with pay until the pre-disciplinary hearing is held and a decision is rendered.

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

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

6.17 NOTICE OF GRIEVANCE. Within five (5) working days of receipt of the written decision, the employee must notify the County Manager or Elected Official or their designee in writing of their intent to pursue a grievance hearing before a Personnel Appeals Hearing Officer.

## **SECTION VII GRIEVANCE PROCEDURES**

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

7.1 CONDITIONS OR ACTIONS NOT GRIEVABLE. The following matters are not grievable:

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

7.2 EMPLOYEES NOT ELIGIBLE FOR GRIEVANCE PROCEDURE. The County Manager, a contract employee, an Elected Official, a Chief Deputy, the Sheriffs Administrator, a probationary or a temporary employee is not eligible to request a grievance hearing.

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

- a. the allegation of discrimination or preferential treatment concerning promotions within the County;
- b. disciplinary action for cause against an employee limited to suspension from duty without pay, demotion or termination.

An employee is required to use the supervisory chain of command or department review committee to resolve problems before requesting a hearing.

Matters involving termination for cause shall not be subject to review by a department review committee and may be appealed only before the Personnel

Hearing Officer.

7.4 APPOINTMENT OF PERSONNEL HEARING OFFICER. The County Manager shall appoint the Hearing Officer and set the date for the hearing. As soon as the date, time and location have been selected, the County Manager shall notify the grievant by certified mail, return receipt requested. Requests for continuances shall be submitted to the County Manager.

7.5 HEARING OFFICER QUALIFICATIONS. Hearing Officers shall be attorneys, personnel professionals, be familiar with public personnel systems, or have pertinent experience in the fields of management, education or law. The County Manager shall verify the qualifications of the Hearing Officer. The Hearing Officer is not required to reside in Otero County.

7.6 GRIEVANCE HEARING SCHEDULE. Within thirty (30) days of the notification that the employee wants to pursue a grievance hearing, the County Manager will schedule a hearing. The parties must agree in writing to any postponement of the hearing beyond thirty (30) calendar days. At this hearing, the grievant shall have an opportunity to present witnesses and physical evidence and cross-examine the County's witnesses before the Hearing Officer. The grievant and the County may be represented by legal counsel.

7.7 GRIEVANCE HEARING PROCEDURES-RULES OF PROCEDURE. The

grievant can request that the meeting be open.

The Hearing Officer shall:

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

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

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

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

exhibits shall be exchanged between the parties.

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

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

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

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

7.9 ORDER OF PRESENTATION. The first case presented will be by the County's. Witnesses for the County may be called and questioned concerning their involvement in or knowledge of the case. Following each witness's testimony, the Grievant will have the opportunity to cross-examine the witness. The Hearing Officer will then have an opportunity to question the witness on matters related only to the witness's testimony. The Hearing Officer shall restrict questions to those necessary to clarify the testimony previously given. Follow up or redirect questioning will be allowed at the discretion of the Hearing Officer.

Witnesses for the Grievant may be called and questioned concerning their involvement in or knowledge of the case. Following each witness's testimony, the County will have the opportunity to cross-examine the witness. The hearing officer will then have an opportunity to question the witness on matters related to the witness's testimony. The hearing officer shall restrict questions to those necessary to clarify the testimony previously given. Follow up or redirect questioning will be allowed at the discretion of the Hearing Officer.

Following the presentation of the County and Grievant's positions, rebuttals may be offered. Such testimony shall be brief and shall address only new issues brought forth in the Opponent's presentation.

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

7.10 COMMUNICATION OF HEARING OFFICER'S DECISION. The Hearing Officer's decision will be issued within fifteen (15) calendar days of the hearing and will be signed by the Hearing Officer and transmitted to the grievant and the County Manager or Elected Official. The Hearing Officer may uphold, modify or

reverse the decision of the County Manager or Elected Official, and may reinstate the employee and award back pay and benefits. The record of the proceedings will be retained by the County Manager's office for a period of not less than three (3) years from the hearing date along with all of the physical evidence admitted by the Hearing Officer. The verbal record shall be transcribed only in the case of appeal to the District Court by one of the parties. The party requesting the transcription shall pay for the transcription.

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

**SECTION VIII  
COMPENSATION AND BENEFIT PROGRAM**

- 8.1 PURPOSE.** The purpose of the compensation plan is to establish equitable compensation for all positions in the County. Such a plan shall establish a salary schedule containing a minimum and maximum wage or salary for each position. Pay ranges are intended to furnish administrative flexibility. However, all wages and salaries are approved by the County Commission. Wage and salary increases, when authorized, shall be dependent upon the financial conditions of the County. The County Commission shall review the Manager's proposed wage and compensation plan and approve the pay schedule and policy regarding any raises and promotional increases for the entire fiscal year for all County employees.
- 8.2 HOURS OF WORK.** Employees will work their scheduled hours pursuant to work schedules established by their Department Head or Elected Official. Full-time employees will work a minimum of forty (40) hours per week or a minimum of eighty (80) hours per pay period. Commissioned Law Enforcement Personnel and Detention Officers who work a twelve-hour shift pursuant to a Section 207 K Fair Labor Standards Act election shall work eighty four (84) hours per pay period. Actual work periods may fluctuate at the discretion of the Department Head or Elected Official. Part-time employees are scheduled to work pursuant to scheduling set forth by their supervisors, the Department Head or Elected Official.
- 8.3 OVERTIME PAY.** Overtime pay shall be paid only when overtime work is authorized by the Department Head or Elected Official and only to nonexempt employees. Failure to obtain authorization for overtime shall result in disciplinary action, up to and including termination. The rate shall be one and one-half (1/2) times regular pay for each hour of overtime and such payment shall be made only in cases when a nonexempt employee works over forty (40) actual hours in a normal work week. A nonexempt sheriff's deputy or detention officer shift employee shall be paid overtime according to FLSA regulations. Holiday, vacation, sick and other leave hours shall not be considered actual working hours. Nonexempt employees authorized and required to work on a scheduled holiday shall receive their holiday pay plus their regular hourly rate of pay for actual hours worked on the holiday. Chief Deputies and exempt employees are not eligible for holiday or overtime pay.
- 8.4 CONSISTENCY WITH FAIR LABOR STANDARDS ACT.** The provisions of Section 8.3 are subject to change or revision by the Fair Labor Standards Act and any federal regulation or revision thereof. All County employees shall be given a copy of such revisions and notified that they are, in effect, Personnel Policy Supplements.

- 8.5 PERA BENEFITS. All County employees with the exception of those employees, who are subject to exclusion under PERA rules, are required to join the Public Employees Retirement Association of New Mexico (PERA).
- 8.6 INSURANCE BENEFITS. The County offers medical, dental, vision and life insurance benefits to all employees except part-time and temporary employees. Insurance plans may be changed at the discretion of the County Commission.
- 8.7 FRINGE BENEFITS. The County will follow the Internal Revenue Service's rules with regard to Fringe Benefits. Taxable fringe benefits will be included on the employee's W-2 form. (Examples of fringe benefits are: uniforms, uniform allowances, cell phone usage, vehicle usage, etc.) If you have a question, regarding what constitutes a fringe benefit and how that may affect you, please contact the Finance Office.
- 8.8 TRAINING AND PROFESSIONAL DEVELOPMENT. Otero County recognizes the value of professional development and personal growth for employees. Prior approval is required before signing up for seminars or courses. Leave with pay may be authorized for an employee to attend official meetings. Payment to attend approved job-related workshops and seminars may include the following:
- a. Registration Fee;
  - b. Tuition;
  - c. Per Diem
  - d. Mileage if use of personal vehicle is approved; and
  - e. Continuation of employee's regular salary for no more than eight (8) hours per day. Overtime will not be paid.

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

TUITION ASSISTANCE. The County will provide tuition assistance to full-time classified employees. The courses or type of degree must enhance or create a skill that is related to the employee's profession, skill or craft, and must demonstrate a benefit to the County. The determination for reimbursement is the responsibility of the Department Head, Elected Official or County Manager. The request to attend courses should be submitted to the Department Head, Elected Official, or County Manager thirty (30) days in advance of the beginning of the course. This thirty-day requirement may be waived by the Department Head, Elected Official or County Manager in their discretion.

Books, material information or supplies will be considered as property of the employee and will not be reimbursed by the County.

To be reimbursed, employee must remain employed by the County when evidence of satisfactory completion is received. Employee whose employment is terminated because of downsizing or reorganization will be reimbursed if they complete their course work after their employment is terminated.

To be reimbursed, employees must earn a grade of “C” or higher or “Pass.”

The County may require the employee to complete an employment agreement allowing County to benefit from employee’s gained knowledge, skill or degree or if the employee resigns within thirty-six (36) months after receiving reimbursement, the employee must repay the County in full.

Denial of reimbursement is not grievable pursuant to the grievance provision of this Personnel Policy.

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

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

8.11 FINAL PAY. An employee who resigns or separates for any reason from County service shall receive a final paycheck no later than the first regularly scheduled payday following the employee’s effective date of resignation. Any employee who is dismissed from County service shall receive a final paycheck by 5:00p.m. on the fifth (5) day following dismissal, provided that all County equipment has been returned. Day one (1) begins on the day of dismissal and includes Saturday and Sunday. Any annual leave balance will be paid on the final paycheck. Employee’s who fail or refuse to return County property or equipment assigned to them shall have the value of that equipment withheld from the final paycheck. In the event the final paycheck is insufficient to pay for the equipment, the employee shall pay the balance within ten days of the date of separation. In the event the employee fails to make payment, criminal charges or civil court proceedings may be pursued against the employee.

In case of death, final salary and compensation for unused annual leave shall be paid to the employee’s named beneficiary or if a beneficiary is not named, to the employee’s estate.

**SECTION IX  
LEAVE & HOLIDAYS**

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

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

9.2 ANNUAL LEAVE WITH PAY. Annual leave must be approved by the employee's supervisor prior to being taken. Reasonable efforts will be made to accommodate the employee's request. Approval will be subject to advance notification and the needs of the department. Annual leave allowance for full-time classified employees who regularly work forty (40) hours per week shall accrue as follows:

- a. Less than five (5) years accumulated service: Twelve (12) days annual leave per year.
- b. More than five (5) years but less than ten (10) years accumulated

service: Fifteen (15) days annual leave per year.

c. More than ten (10) but less than fifteen (15) years accumulated service: Eighteen (18) days annual leave per year.

d. More than fifteen (15) but less than twenty (20) years accumulated service: Twenty-one (21) days annual leave per year.

e. Twenty (20) years or more accumulated service: Twenty-four (24) days annual leave per year.

An employee does not accrue annual leave for overtime hours worked. Annual leave will not be granted in advance of accrual.

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

9.3 ACCRUAL LIMITATION. Total number of accrued annual leave hours shall not exceed a maximum of 280 hours.

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

9.5 DONATING SICK LEAVE. Consistent with the needs of the County and after consideration of the departmental workload and needs, the Elected Official, Department Head, or County Manager determines that the receiving employee is in need of leave due to catastrophic illness, resulting in a long-term absence, which is certified by a physician and which was beyond the receiving employee's control.

**Any employee may donate accrued sick hours, which will be converted as needed** into donated hours for another employee's use. It is the employee's responsibility to contact Human Resources to request donated time. An employee who is out of sick and annual leave hours may use these donated hours for their own recovery due to injury or illness or to provide care for an immediate family member's recovery due to injury or illness. A certificate of illness or injury will be required from a physician in order to qualify to use donated hours. Once an employee is approved for donated time, a request will be sent to all departments seeking donations for the individual request.

Employees donating time must complete the form to donate time and submit the form to Payroll for processing. The contributing employee must maintain an accumulated, sick leave balance of at least one hundred sixty (160) hours. Time will be taken from donating employees' accrual on a first-come, as needed basis. If

time is not needed; it will not be deducted from the donating employee's accrual. No information will be released to employees regarding the medical condition of the requesting employee without the expressed written permission of the employee requesting donated time. Under no circumstances, including termination, can these donated hours be converted into cash.

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

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

#### 9.7 FAMILY MEDICAL LEAVE.

- a. Otero County provides family medical leave of absence without pay to eligible employees who wish to take time off from work duties to fulfill family obligations relating directly to the birth or adoption of a child or the illness of a child, spouse, parent or the employee themselves. Regular full-time and part-time employees are eligible to request family leave as described in the policy.
- b. Eligible employees are allowed family medical leave according to provisions of the Family Medical Leave Act. As soon as an eligible employee becomes aware of the need for a family medical leave of absence, they shall request leave from their supervisor. Employees requesting family medical leave related to the illness of a child, spouse, parent or the employee themselves shall be required to provide a physician's statement verifying the need for leave. Eligible employees who do not request family medical leave in advance for a qualifying event will automatically be placed on family medical leave as soon as it is determined by Human Resources that their leave qualifies for protections under the Act.
- c. Eligible employees are allowed up to twelve (12) weeks of family medical leave. Eligibility for leave will be determined on a 12-month rolling back calendar. The employee will be required to take any available vacation or sick leave as part of the approved period of leave. If the family medical leave

is unpaid, the employee is subject to all rules pertaining to leave without pay (Section 9.15).

- d. Subject to the terms, conditions and limitations of the applicable plans, Otero County will continue to provide health insurance benefits for the full period of the approved family/medical leave. Health insurance premiums will be the responsibility of the employee.
- e. When family medical leave ends, every reasonable effort will be made to return the employee to the same position, if it is available, or to a similar available position for which the employee qualifies. Otero County guarantees reinstatement to all eligible employees who are not key employees. If the employee fails to return to work or contact their supervisor on or before their expected date of return, Otero County will assume that the employee has abandoned their job. Slightly different rules under FMLA apply for positions designated as key employees, those who are salaried and among the highest ten percent (10%) of Otero County's workforce. Key employees are entitled to FMLA, however; key employees are not guaranteed reinstatement.

9.8. CERTIFICATION OF ILLNESS FOR SICK LEAVE. A physician's written certification shall be required prior to receipt of sick leave pay at the discretion of the Elected Official or Department Head when an employee is absent for three (3) or more days to verify illness; or when there are excessive absences, a trend or other evidence which appears to indicate that the employee is not ill.

A physician's certificate of physical examination shall be requested by the Department Head, Elected Official, or County Manager when a pattern of sick leave develops or when work performance is inadequate due to frequent absences. In cases where the County requests a physical examination, the County will pay for the examination.

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

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

## 9.11 WORKER'S COMPENSATION INSURANCE.

- a. Otero County provides a comprehensive worker's compensation insurance program at no cost to employees. This program covers any injury or illness sustained in the course of employment that requires medical, surgical, or hospital treatment. Subject to applicable legal requirements, Workers' Compensation insurance provides benefits after a short waiting period, or if the employee is hospitalized, immediately.
- b. Employees who sustain work-related injuries or illnesses shall inform their supervisor immediately. No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. This will enable an eligible employee to qualify for coverage as quickly as possible.
- c. Neither Otero County nor the insurance carrier will be liable for the payment of worker's compensation benefits for injuries that occur during an employee's voluntary participation in any off-duty recreational, social, or athletic activity sponsored by Otero County.
- d. Subject to the terms, conditions and limitations of the applicable plans, Otero County will continue to provide health insurance benefits while the employee is receiving worker's compensation benefits. Eligible employees will automatically be placed on family medical leave as soon as it is determined by Human Resources that their leave qualifies for protections under the Act.

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

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

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

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

9.16 LIFE THREATENING ILLNESSES IN THE WORKPLACE. Employees with life-threatening illnesses, such as cancer, heart disease, and AIDS, often wish to continue their normal pursuits, including work, to the extent allowed by their condition. Otero County supports these endeavors as long as employees are able to meet acceptable performance standards. As in the case of other disabilities, Otero County will make reasonable accommodations in accordance with all legal requirements, to allow qualified employees with life-threatening illnesses to perform the essential functions of their jobs.

Medical information on individual employees is treated confidentially. Otero County will take reasonable precautions to protect such information from inappropriate disclosure. Management as well as other employees has a responsibility to respect and maintain the confidentiality of employee medical information. Anyone inappropriately disclosing such information is subject to disciplinary action up to and including termination of employment. The Health Insurance Portability and Accountability Act (HIPAA) require Otero County to maintain the privacy of protected health information.

9.17 INCLEMENT WEATHER. The County Manager, after consulting with Elected Officials, may close offices and/or send employees home due to inclement weather, and all employees will be compensated for normal work hours.

9.18 LEAVE FOR UNFORSEEN CIRCUMSTANCES. The County Manager, after consulting with Elected Officials, may send employees home from work, with pay, due to unforeseen conditions beyond the County's control that prevent the employees from performing their duties.

9.19 MILITARY LEAVE.

- a. Paid Military Leave for Reserve or National Guard Activities - Paid military leave is granted for authorized reserve or National Guard activities for a maximum of fifteen (15) working days during a one (1) year period based on the Federal Government's fiscal year from October 1 to September 30. Military leave must be requested twenty (20) working days in advance. The employee must furnish proof of duty orders or other documentation prior to leave being granted unless the leave is for emergency purposes.
- b. Unpaid Military Leave - Employees voluntarily or involuntarily serving on active duty for more than fifteen (15) working days shall be placed on leave without pay. The employee taking unpaid military leave will not first be required to exhaust accrued annual leave.
- c. Employees Returning from Unpaid Military Leave - Any employee who leaves a position he has held with the County, other than a temporary position, to enter the armed forces of the United States, National Guard, or other organized reserve, and who serves on active duty and is honorably discharged or released from an active duty status and who is still qualified to perform the duties of a County position, may be re-employed in a comparable position, or to a position of like seniority, status, and pay. To be re-employed in a comparable position, the employee must make application for re-employment within ninety (90) calendar days after they are relieved from training or duty or from hospitalization of a service-related injury, continuing after discharge for a period of not more than one (1) year and a comparable position must be available with the County.

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

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

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

- a. Coordination With Attending Physician. An employee on leave due to an injury or illness can return to work only when Otero County receives the attending physician's written medical release authorizing such return. Employees who have been given a restricted duty or light duty release from their doctor shall report to the Human Resource Department prior to attempting to return to work. The County's Human Resource Department is responsible for providing the physician with a copy of the employee's job description, copies of job descriptions for potential restricted duty assignments, and written information explaining Otero County's return-to-work program.
- b. Job Descriptions. The Human Resource Department is responsible for working with supervisors to ensure that job descriptions accurately and completely describe the essential functions of each position.
- c. Return-to-Work Options. Arrangements to facilitate an employee's early return to work are made in consultation with the employee's attending physician and/or other qualified medical professionals. The following options will be explored:
  - (1) Return to prior position. An employee is offered the opportunity to return to his or her prior position if the attending physician certifies that the employee can perform the essential functions of the job with or without reasonable accommodations. The Human Resource Department is responsible for working with the employee's supervisor and attending physician (and third-party consultants, as necessary) to provide any reasonable accommodations.
  - (2) Restricted duty. Any employees who are not yet able to return to their former duties are offered a temporary restricted duty assignment that has been approved by the employee's attending physician. The Human

Resource Department is responsible for working with the employee's supervisor, the Human Resource Specialist, and the employee's attending physician to develop and implement the restricted duty assignment. The assignment can consist of the employee's regular job, with reduced working hours or reduced activities, or an alternative restricted duty position.

d. Limitations on Restricted-Duty Assignments. The following limitations apply to restricted duty assignments:

- (1) No guarantee of work. Otero County will endeavor to return employees to gainful employment as soon as possible by exploring possible restricted duty assignments. However, Otero County does not guarantee the availability of restricted duty work.
- (2) Workers' Compensation Benefits. Employees on workers compensation who return to work before they have reached maximum medical improvement (MMI) may be eligible for temporary partial disability benefits under New Mexico Workers' Compensation law. Employees in restricted duty positions are not permitted to supplement their workers compensation benefits by using their accrued vacation, personal, or medical/sick leave.
- (3) 8-Week limit. Restricted duty assignments are temporary arrangements intended to complement and facilitate the healing process. Restricted-duty assignments cannot exceed eight (8) weeks without approval from the Otero County Manager.

e. Medical Information. All employee medical information is held in strict confidence in accordance with state and federal laws.

f. Coordination With FMLA. Nothing in this policy should be construed as denying employees their rights under the Family Medical Leave Act or any other federal or state law.

**SECTION X  
MISCELLANEOUS**

- 10.1 DESIGNATED WORK AREAS. All employees are to be at their designated work areas on time and ready to work. They shall work until the scheduled quitting time, unless permission of the supervisor has been obtained for different work hours. Employees shall not litter work areas and will keep them neat and clean. Employees will limit socializing due to responsibilities and duties to the County and the taxpayer.
- 10.2 PERSONAL BUSINESS. Personal business shall not be conducted during work hours. Personal cell phones will be turned off during work hours and usage will be restricted to emergencies only.
- 10.3 SAFETY. The County is committed to having all work conducted in a safe manner. All safety precautions shall be followed in accordance with the OTERO COUNTY SAFETY POLICY.
- 10.4 COUNTY PROPERTY. Employees shall not misuse County property, records, or other material in their care, control, or custody; nor shall any County property, records, or other material be removed from the premises of the County offices unless written permission by the Department Head or Elected Official has been given.
- 10.5 COUNTY VEHICLES. No County vehicle will be taken out of Otero County without permission of the Elected Official or Department Head and employees shall notify the Elected Official or Department Head of their destinations and itineraries. County vehicles shall be used for County business only. County vehicles may not be taken home with the exception of law enforcement personnel and those employees designated by the Elected Official or County Manager, in writing, as being subject to call out after hours. County vehicles shall not be used for personal business, except as is incidental in commuting and as determined by the Department Head, Elected Official or County Manager.
- 10.6 DRESS AND APPEARANCE. Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and affect the business image Otero County presents to customers and visitors. Employees shall follow the Otero County Dress Code Policy.

During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions. Employees who appear for work inappropriately dressed will be sent home and directed to return to work in proper attire. Under such circumstances, employees will not be compensated for the time away from work unless such time is designated as annual leave by the employee.

Consult your Elected Official or Department Head if you have questions as to what constitutes appropriate attire as well as referring to the Dress Code Policy.

10.7 WEAPONS IN THE WORK PLACE. Otero County believes it is important to establish a clear policy that specifically addresses weapons in the workplace. Otero County prohibits all employees who enter County property from carrying a handgun, firearm, or prohibited weapon of any kind onto the property regardless of whether the person is licensed to carry the weapon or not.

This policy applies to all County employees, elected, contract and temporary employees, regardless of whether or not they are licensed to carry a concealed weapon. The only exceptions to this policy will be Sheriffs Deputies, Detention Center Transport Officers, Animal Control Officers and members of recognized Law Enforcement Agencies such as the Alamogordo Department of Public Safety, State Police, Border Patrol, District Attorney Investigators and Forest Service Enforcement personnel.

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

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

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

SEARCHES. The County reserves the right to conduct searches of any person, vehicle or object that enters onto County property. Pursuant to this provision, the County is authorized to search lockers, desks, toolboxes, lunch sacks, clothing and any other item in which a weapon may be hidden. Additionally, the County may

search a vehicle owned by it and used by the employee, and a vehicle owned by an employee that is being used to conduct business on behalf of the County, regardless of whether the vehicle is located on County property at the time. Searches may be conducted by County management or the Sheriffs Department. To the extent that the search is requested by the County and the employee is present, the employee may refuse the search; provided however, that such refusal can result in disciplinary action up to and including termination for refusal to cooperate. The County reserves the right to conduct searches on its property or authorizes searches by the Sheriffs Department on its property without the employee being present.

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

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

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

**10.8 WORKPLACE VIOLENCE.** Otero County provides a safe work place for all employees. To ensure a safe workplace and to reduce the risk of violence, all employees should review and understand all provisions of this **WORKPLACE VIOLENCE POLICY**.

All employees, including managers and supervisors, are responsible for using safe work practices, for following all directives, policies and procedures, and for assisting in maintaining a safe and secure work environment.

a. **PROHIBITED CONDUCT.** Otero County does not tolerate any type of workplace violence committed by or against employees. Employees are prohibited from making threats or engaging in violent activities. This list of behaviors, while not inclusive, provides examples of conduct that is prohibited.

1. Causing physical injury to another person;
2. Making threatening remarks;
3. Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
4. Intentionally damaging County property or property of another employee;
5. Possession of a weapon (Refer to Section 10.7) while on County property or while on County business;
6. Committing acts motivated by, or related to, sexual harassment,

harassment or domestic violence.

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

c. **RISK REDUCTION MEASURES.** Hiring: The Human Resource Office takes reasonable measures to conduct background investigations to review candidate's backgrounds and reduce the risk of hiring individuals with a history of violent behavior. Safety: The Safety Officer conducts annual inspections of the premises to evaluate and determine any vulnerability to workplace violence or hazards. Any necessary corrective action will be taken to reduce all identified risk areas. Individual Situations: While Otero County does not expect employees to be skilled at identifying potentially dangerous persons, employees are expected to exercise good judgment and to inform their supervisor, department head, elected official and/or the County Manager if any employee exhibits behavior, which could be a sign of a potentially dangerous situation. Such behavior includes:

1. Discussing weapons in a threatening manner related to the workplace, or bringing them to the workplace;
2. Displaying overt signs of extreme stress, resentment, hostility, or anger;
3. Making threatening remarks;
4. Sudden or significant deterioration of performance;
5. Displaying irrational or inappropriate behavior.

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

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

10.9 E-MAIL AND INTERNET USE. The e-mail system and internet access are provided by the County to assist in the conduct of County business. This includes any hardware and/or software and all information created, sent, received or otherwise accessed through the e-mail system as well as through the internet.

The County, at any time, reserves and intends to exercise the right to review, audit, intercept, access and disclose any and all information created, sent, received or otherwise accessed through the e-mail system or through the internet. This includes information that has been deleted from an employee's computer; as such information may be stored on the computer's backup system.

The electronic mail system hardware is County property. Additionally, all messages composed, sent, or received on e-mail are and remain the property of the County. They are not the private property of any employee.

- a. **PASSWORDS.** The use of passwords for security does not guarantee confidentiality. The county may require that all passwords be disclosed.

The use of passwords does not imply that the e-mail system or the use of the Internet is for personal confidential communication nor that the use of the email system or the internet are the property right of an employee.

- b. **PROHIBITED USES.** The e-mail system and the use of the internet are not to be used to create, send, receive or otherwise access any offensive or disruptive information. This includes information which contains sexual implications, racial slurs, gender-specific comments or any other comment that offensively addresses someone's age, sexual orientation, religious or political beliefs, national origin or disability. In addition, the solicitations of funds, any illegal or unethical activity or any activity that can reasonably be construed to be detrimental to the interests of the County are specifically prohibited.

Notwithstanding the County's right to retrieve and read any e-mail messages, employees may not intentionally intercept, eavesdrop, record, read, alter, or receive another person's e-mail messages without proper authorization.

- c. **RETENTION OF INFORMATION.** E-mail messages and information accessed through the internet may be subject to the provision of the Public Records Act of the State of New Mexico.
- d. **APPLICABILITY.** The e-mail system and access to the internet shall be used only by County employees unless otherwise authorized by the County

Manager in writing. Employees of temporary agencies who are assigned to work for the County are also subject to the provisions of this policy.

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

10.10 SOCIAL SECURITY NUMBER PRIVACY. Otero County's goal is to ensure, to the greatest extent possible, that employees' social security numbers are maintained confidentially. Social security numbers will not be released to anyone outside Otero County, except as required by law. Social security numbers will be made available internally on a business related 'need to know' basis only.

More than four sequential digits of a social security number will not be included on any document mailed outside Otero County, except as required by law, nor will it be publicly displayed in any manner. The social security number will not be used in the ordinary course of business except as the County may determine that it is necessary to verify an individual's identity or to administer employee benefits, such as health insurance. Documents containing social security numbers shall not be removed from County offices. Any documents that include social security numbers that are discarded are to be shredded.

Any violation of this policy will result in disciplinary action, up to and including termination of employment.

10.11 HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY COMPLIANCE. Otero County is required to maintain the privacy and security of Protected Health Information (HIPAA). HIPAA regulations will be followed in administrative activities undertaken by staff when it involves PHI in any of the following circumstances: health information privacy, health information security and health information electronic transmission. Documents containing PHI shall not be removed from County Offices.

Otero County will consider any breaches in the privacy and confidentiality of PHI to be serious and any violation of this policy will result in disciplinary action, up to and including termination of employment.

10.12 AMERICANS WITH DISABILITIES ACT. Otero County shall provide reasonable accommodations as defined in Title I of the ADA to qualified employees with a disability as defined by the Americans with Disabilities Act (ADA) to perform the essential job functions and/or to enjoy equal benefits and privileges of

employment. Human Resources shall serve as Otero County's ADA Coordinator in matters of reasonable accommodation.

If an employee believes an accommodation(s) is necessary in order to perform his/her essential job functions or to enjoy equal benefits and privileges of employment, it is the employee's responsibility to submit a written request to Human Resources indicating the employee's condition and how the employee believes it affects his/her ability to perform their job duties. The request should state the accommodation(s) the employee is requesting and any alternatives. The employee must also submit medical documentation to support the request for an accommodation.

Human Resources will forward the written request to the County Manager or Elected Official along with an opinion of the reasonableness and availability of the requested accommodation(s). The County Manager or Elected Official will make the final determination as to whether or not the accommodation and/or any alternative accommodation will be granted.

10.13 EXIT INTERVIEW. The Department Head, Elected Official or their designee shall issue a Separation Notice to the terminating employee. The Separation Notice indicates the reason for termination, evaluates the employee's performance and if rehire action is recommended. The employee will contact Human Resources to schedule an exit interview with the County Manager or Human Resources on his last day of employment and will arrange for the return of County property including, but not limited to:

- Picture Identification Card
- Office keys
- County-issued credit cards
- Company manuals or policy books
- County-issued cell phones and/or laptops.

RETIREMENT PLAN. Any employee enrolled in PERA will complete a Termination Notice designating one of the disbursement options. Human Resources will submit the completed form to PERA.

BENEFITS. Medical, dental, vision and life insurance will normally end on the last day of the month in which the employee's last day of employment occurs. Employee has the option to convert to individual like insurance, and/or to continue medical, dental and vision benefits in accordance with the Consolidated Omnibus Budget Reconciliation Act ("COBRA") regulations. Human Resources will notify the organization administering the insurance program of the employee's termination.

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

**SECTION XI**  
**ORGANIZATION, MANPOWER, PAY AND POSITION**  
**CLASSIFICATION SYSTEM**

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

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

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

11.3 PAY COMPENSATION SYSTEM OVERVIEW. The pay compensation system includes provisions for:

- a. entry level wages;
- b. transfers;
- c. demotions;
- d. cost of living wage increases;
- e. promotion wage increases; and
- f. longevity pay;
- g. performance awards

The pay system includes the following charts:

Chart A - Organizational Structure and Manpower Allocation Chart  
B - General Wage and Position Classification Chart C -  
General Wage Schedule Chart

The County Commission may at their discretion amend Charts A, B, and C and Position Specifications by resolution when deemed appropriate.

#### 11.4 ORGANIZATION, MANPOWER AND PAY SYSTEM CHARTS:

The County will maintain an Organizational Chart of the structure of positions within the County and includes all regular positions. This chart also outlines the allocated number of authorized positions to be filled each fiscal year. The Organizational Chart is included as part of this policy by reference and is maintained as a separate document. A copy of this chart is available in the Human Resources office.

The County will maintain a General Wage & Position Classification Chart. This chart classifies each County position within specific wage levels based on the overall qualifications of the position. Each level on this chart includes only the positions, which are established as having relatively equivalent overall qualifications as defined in the position specifications for each position. The General Wage & Position Classification Chart is included as part of this policy by reference and is maintained as a separate document. A copy of this chart is available in the Human Resources office.

The County will maintain a General Wage Schedule Chart for each 80-hour position. The General Wage Schedule outlines the regular wages for each level of positions in the General Wage and Position Classification Chart.

The County will maintain a General Wage Schedule Chart for each 84-hour position. The General Wage Schedule outlines the regular wages for each 84-hour position in the General Wage and Position Classification Chart.

#### 11.5 ENTRY LEVEL WAGES. All new employees are normally hired at the entry-level position, Step 1 of the Wage Schedule for the level of position, which has been vacated or otherwise approved for hire by the County Commission.

At the discretion of the County Manager and the Elected Official, a vacant position may be filled at a higher rate than Step 1 where there exists sufficient information to support such action.

#### 11.6 TRANSFERS. Transfers are lateral movements on the chart. Employees transferring from one position to another receive no increase in pay. Refer to Section 4.3b, Transfers Between Departments.

#### 11.7. DEMOTIONS. A demotion is any downward movement on the chart whether voluntary or involuntary. Employees who are demoted shall maintain the same step for pay purposes (i.e. C-5 demoted to B-5).

- 11.8 COST OF LIVING WAGE INCREASES. The County Commission may consider an across the board cost of living wage increase prior to approval of the budget each fiscal year or as otherwise approved by the Commission. Such increases include a systematically applied wage increase in each step of the Wage Schedule. Cost of living increases for full-time classified employees, contract employees, or grant funded employees will normally become effective July 1 of each fiscal year or as otherwise approved by the County Commission. Probationary employees will receive any cost of living increases at the end of their probation period.
- 11.9 PROMOTION WAGE INCREASES. Employees above Step 4 receiving promotions shall maintain the same step for pay purposes (i.e. Level B, Step 5 promoted to Level C, Step 5). Employees below Step 5 receiving promotions may be offered wages between Steps 1 and 4 at the discretion of the County Manager or Elected Official.
- 11.10 UNDER CLASSIFICATION. The County Manager or Elected Officials, may, at their discretion, place an employee one level below the authorized level for that position for review and evaluation purposes not to exceed six (6) months prior to promoting an employee permanently to the authorized position.
- 11.11 JOB DESCRIPTION REQUIREMENTS. Each position within the General Wage & Position Classification Chart has a written Job Description which includes specifications for minimum qualifications, education, experience, abilities, skills, license, or certification requirements, and a description of duties and responsibilities required of the position. Job Descriptions for each position are included as part of this policy by reference and are maintained in a separate document entitled Otero County Job Descriptions.
- 11.12 EQUIVALENCE. Specifications for positions within each specific level of the General Wage & Position Classification Chart (Chart B) must have similar duties, responsibilities and qualifications.
- 11.13 GRANDFATHER CLAUSE. Any employee whose job description is revised is not subject to the experience, education, or certification requirements of the new job description.
- 11.14 EDUCATION OR CERTIFICATION FINANCIAL ASSISTANCE PROVISIONS. Please see Section 8.8 in this Ordinance.
- 11.15 CONTENTS OF PERSONNEL FILE. Subsequent to hiring, a separate record file shall be prepared and maintained for each employee. These records shall be kept in the County Personnel Office. It is the responsibility of each Department Head, Elected Official or County Manager to insure that the records of the employees are completed and up-to-date. The file shall contain a minimum of the following records:

- a. The original application form;
- b. The originating personnel action showing occupation, position classification, date of beginning employment and salary;
- c. Copies of personnel action forms;
- d. Copies of all performance evaluations, if applicable;
- e. Copies of all favorable or unfavorable letters or memorandums such as letters or certificates of appreciation or records of other outstanding achievements regardless of origination;
- f. Records or certificates of educational training or orientation achievement completion;  
Records of disciplinary actions such as reprimands, suspensions, demotions or termination; and
- h. Application for retirement program.
- i. Other related actions and forms concerning payroll deductions, insurance payment records, etc;
- j. Other related records and/or forms required to be kept by State or federal law; and
- k. Medical pre-existing disability form. This should be in a separate confidential file along with all other medical records.

**11.16 ACCESS TO PERSONNEL FILES.** Personnel files are the property of Otero County and access to the information they contain is restricted. Only supervisors, legal personnel and management personnel of Otero County who have a legitimate reason to review information in a file are allowed to do so.

Employees who wish to review their own file should contact the Personnel Department, giving a minimum of two (2) hours notice. Employees may review their own personnel files in Otero County's Administration office and in the presence of an individual appointed by Otero County to maintain the files.

**11.17 ADDITIONAL RULES.** Employees shall obey all additional rules, directives and requests stated verbally or in writing by their supervisors. Employees are generally required to follow all standards, rules, procedures, and policies that are normally expected in the work place.

**THIS ORDINANCE, SUPERSEDES AND REPLACES AND REPEALS THE PROVISIONS OF OTERO COUNTY ORDINANCE NUMBER 98-01 AND ALL SUBSEQUENT AMENDMENTS THERETO PRIOR TO THE DATE OF ENACTMENT OF THIS ORDINANCE.**

**PASSED, SIGNED, AND ADOPTED** this 27<sup>th</sup> day of March 2007.

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

County  
(Seal)

airperson

Witness my Hand And Seal Of  
Office Robyn Silva  
County Clerk, Otero, NM **Michael Nivision, Member**

Deputy

*Donna Williams*



**OTERO COUNTY  
ORDINANCE NO. 07-01**

**AN ORDINANCE REPEALING AND  
AMENDING PROVISIONS  
CONTAINED IN THE  
OTERO COUNTY PERSONNEL  
ORDINANCE NO. 98-01**

**WHEREAS**, the Board of County Commissioners of Otero County has adopted Otero County Ordinance No.98-01; and

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

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

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Otero County, New Mexico, that Otero County Ordinance No. 98-01 be amended as attached.

**ADOPTED** this 27<sup>th</sup> day of March, 2007.

**BOARD OF COUNTY COMMISSIONERS  
OF OTERO CO      NEW MEXICO**

Clarissa McGinn, Vice-Chairperson

Michael Nivison, Member

Approved as to form and legal sufficiency  
Daniel A. Bryant, County Attorney

**CE NO. 07-01**  
(March 27, 2007)