



**PERSONNEL  
POLICIES & PROCEDURES  
MANUAL  
EFFECTIVE JULY 1, 2020**

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<b>Policy #:</b>	HR-001
<b>Subject:</b>	INTRODUCTION & OVERVIEW
<b>Effective Date:</b>	July 1, 2020
<b>Approved by:</b>	County Executive & County Council

The Personnel Policies & Procedures Manual provides vital employment information to the employees of Cecil County, Maryland (hereafter referred to as the “County”). The manual details the County’s employment policies and information on compensation and benefits. All employees receive this Manual at New Employee Orientation and acknowledge receipt with an Acknowledgement Form.

This manual in no way creates an expressed or implied contract of employment. Further, the County Executive, the Appointing Authority responsible for County Government operations, may change the terms of this Manual without notice at any time. Revisions to the manual containing effective dates and updated information will be available to employees as policies and/or procedures change.

**HR-001A: Cecil County Overview**

The County is led by a County Executive and overseen legislatively by a five (5) member County Council elected by the citizens of the County.

County departments include the following:

Administration	Information Technology
Community Services	Land Use & Development Services
Economic Development	Liquor Board
Emergency Services	Parks and Recreation
Facilities Management	Public Works
Finance	Soil Conservation
Human Resources	

Although the County Executive is not the “Statutory Appointing Authority” for all positions within County government, these policies are intended to provide guidance for all County employees (including all positions funded by the County). Individual County agencies may have additional policies and procedures specific to their organizations that support and expand upon these policies.

There are five separate Appointing Authorities for the County, each with responsibility for specific areas, who may have additional policies and procedures which may differ from this Manual. In the event of a policy conflict, the Appointing Authority authorization will rule.

1. Sheriff – Sheriff’s Office personnel;
2. State’s Attorney – State’s Attorney’s Office personnel;
3. Administrative Judge of the Circuit Court of Cecil County – Circuit Court personnel;
4. County Council – Council personnel; and
5. County Executive – all other personnel.

Sheriff’s Office: Sworn law enforcement officers are covered by the provisions of the Law Enforcement Officers’ Bill of Rights as contained in the Annotated Code of Maryland. Sworn correctional personnel are covered by the provisions of the Correctional Officers’ Bill of Rights, as contained in the Annotated Code of Maryland effective October 2008.

Unclassified Positions: Employees in the following positions are considered unclassified and serve at the pleasure of their respective Appointing Authority, and therefore are not covered by the grievance procedures outlined in this manual:

Director:

Administration	Chief Deputy, Sheriff's Office
Community Services	Circuit Court personnel
Detention Center	Contractual personnel
Economic Development	Council Manager
Emergency Services	Deputy Director, Detention Center
Finance	District Manager, Soil Conservation
Human Resources	Executive Secretary to the Sheriff
Information Technology	Grant-Funded personnel
Land Use & Development Services	On-Call personnel
Law Enforcement	Deputy & Assistant State's Attorneys, Criminal Investigators and Executive Secretary
Parks & Recreation	Temporary personnel
Public Works	
Work Release	

If the County Executive creates a new department, the Director will automatically be an unclassified position. All of these organizations aid the County Executive in providing a quality of life consistent with the expectations of County citizens.

### **HR-001B: Equal Employment Opportunity**

The County is committed to equal opportunity employment and work force diversity. The County respects the multiplicity of ideas and the creativity generated by different cultures and backgrounds, and strives to create a workplace that promotes, values, and makes optimal use of individual styles and differences.

The County's policy requires equal employment opportunity in the employer-employee relationship. This includes recruiting, hiring, transfers, promotion, conditions of employment, compensation and benefits, training, social and recreational programs, discipline, layoff, recall, and termination of employment.

### **HR-001C: Non-Discrimination Policy**

The County will not discriminate against any applicant or employee based on age, citizenship, color, disability, marital status, national origin or ancestry, race, religion, sex, sexual orientation, gender identity, genetic background, sexual orientation, veteran status, pregnancy, or other conditions protected by law. This applies to the recruiting, hiring, training, assigning, and promoting of individuals, as well as administering all personnel actions.

The County generally has no position in which age, citizenship, color, disability, marital status, national origin or ancestry, race, religion, sex, sexual orientation, or veteran status is a bona fide occupational qualification. In only very specific positions, gender may be a bona fide occupational qualification, but only after stringent review by the Department of Human Resources. An example where gender may be a bona fide occupational qualification is Resident Assistant for the Domestic Violence Shelter.

Any incident or situation that an employee believes involves discrimination or harassment based on these defined personal attributes should be brought to the immediate attention of management or the Department of Human Resources. Retaliation for reporting or complaining of discrimination is prohibited.

## **HR-001D: Americans with Disabilities Act, including Pregnancy**

The County is committed to complying with the Americans with Disabilities Act (ADA) and state and local laws ensuring equal opportunity in employment for qualified persons with disabilities, including any law requiring reasonable accommodation for any temporary disability caused or contributed to by pregnancy. All employment practices and activities are conducted on a non-discriminatory basis.

Reasonable accommodations are available to disabled employees, where a disability affects the performance of the essential functions of the position and the accommodation necessary for the employee to perform those essential functions does not constitute an undue hardship on the County. Should an employee require an accommodation to perform the essential functions of his or her position, the employee should contact the Department of Human Resources to engage in an interactive process and assessment of possible accommodations.

An employee seeking reasonable accommodation may be required to provide medical documentation to establish the existence of the disability and the need for the requested reasonable accommodation. This policy is neither exhaustive nor exclusive. The County is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the ADA and all other applicable federal, state, and local laws.

## **HR-001E: Harassment-Free Work Place**

County employees shall act with integrity and demonstrate respect and professionalism. Employees are expected to conduct themselves in a professional and pleasant manner. The County has **ZERO TOLERANCE** for harassment of any kind. The County encourages the reporting of all information relating to workplace harassment without regard to the identity of the alleged harasser or victim. The County is committed to the prompt investigation of all complaints of harassment and prompt and effective corrective action to prevent such conduct.

**Harassment:** Prohibited harassment is conduct with the purpose or effect of unreasonably interfering with an individual's work performance, creating an intimidating, hostile, or offensive work environment, or otherwise adversely affecting an individual's employment opportunity. Harassment can be related to:

Age	Citizenship	Color
Disability	Marital Status	National Origin or Ancestry
Race	Religion	Gender Identity
Genetic Background	Veteran Status	Pregnancy
Sex/Sexual Orientation	Other Conditions (Protected by Law)	

Harassment may include, but is not limited to, the following:

- Verbal abuse and/or ridicule, including slurs
- Offensive gestures, language, or discussion of offensive matters
- Unwanted physical contact or touching
- Displaying and/or distributing offensive electronic mail, materials, writings, graffiti, or pictures
- Offensive jokes and/or comments included in email, instant messages, etc.

**Sexual Harassment:** Sexual harassment, according to the federal Equal Employment Opportunity Commission (EEOC), consists of unwelcome sexual advances, requests for sexual favors, and any other verbal or physical conduct of a sexual nature when:

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

Sexual harassment may include, but is not limited to, intentional physical conduct that is sexual in nature, such as:

- Touching, pinching or patting,
- Sexually oriented gestures, noises, remarks, or jokes,
- Comments about a person's sexuality or sexual experience, and
- Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials (including electronic mail messages) that are sexually suggestive, sexually demeaning, and/or pornographic.

Reporting and Investigating Complaints: An employee **must** contact their supervisor or the Department of Human Resources directly, in writing, if subjected to harassment, or a witness to harassment. Complaints are treated confidentially to the extent allowed for a thorough investigation and resolution.

Any supervisor who receives a report of, or has knowledge of, harassment must contact the Department of Human Resources immediately. Supervisors should clearly state the County's commitment to maintaining a work place that is free from any type of intimidating, hostile, or offensive behaviors and/or displays. This can be accomplished by making regular work area visits to ensure there are no visual displays of a sexual nature (pictures, slogans, posters, etc.) that could be considered offensive to others. Supervisors should immediately remove such materials and counsel any employee displaying them.

Each complaint of harassment will be fully investigated, and a determination of appropriate response will be made on a case-by-case basis.

Retaliation Prohibited: The County has **ZERO TOLERANCE** of harassment or any form of retaliation against an employee who has either complained about or cooperated in an investigation of alleged harassment or discrimination. All individuals involved in an investigation will be treated professionally and will not be subjected to retaliation or reprisal. Employees who are found to have engaged in retaliation or who fail to cooperate with investigations of harassment, discrimination, or retaliation complaints will be subject to corrective action, which may include involuntary termination.

Employees subjected to harassment should clearly tell the other party of their objection to such behavior. In addition, notification of the supervisor must occur immediately. Employees may also contact the Department of Human Resources if subjected to harassment, discrimination, or retaliation. The complaint will be treated confidentially to the extent possible, but absolute confidentiality cannot be guaranteed to the extent an investigation is required.

### **HR-001F: Silent Whistle Program**

The Silent Whistle Program allows County employees to confidentially report business abuse and or dishonesty, and to communicate ideas, suggestions, questions and concerns to management. Reports are handled through a third-party provider so employees may anonymously and openly share concerns or ideas. To make a report, log on to <http://ccgov.silentwhistle.com> or call 1-877-874-8416.

### **HR-001G: Work Place Violence**

The County strictly prohibits violence, threats of violence and/or any other forms of physical or verbal intimidation by or against employees or applicants. The County is committed to maintaining a safe work environment and has adopted the following guidelines to deal with intimidation, harassment, or other threats of (or actual) violence that may occur during business hours or on its premises.

For the purpose of this policy the term "work place violence" means any act or behavior, or threat thereof, intending to cause physical or which reasonably would intend to cause physical, mental, or psychological harm to a person or property, which is committed by County employees or third parties against County employees in the work place. This shall include acts or threats via telecommunications devices and shall include violent illegal acts such as disorderly conduct, assault and reckless endangerment.



Prohibited Actions (not all inclusive):

- Injuring another person physically;
- Engaging in behavior that creates a fear of injury to another person;
- Brandishing or using a weapon that is not required by the individual's *position* while on county premises or engaged in county business;
- Intentionally damaging personal and/or County-assigned property;
- Intimidation, which includes but is not limited to stalking or behavior intended to frighten or coerce;
- Threatening to injure an individual or to damage property, regardless of whether the party communicating the threat has the present or future ability to carry out the threat;
- Committing injurious acts motivated by, or related to, domestic violence or harassment; and
- Retaliating against any employee who, in good faith, reports a violation of this policy.

Procedures: All employees as well as third parties (relatives, vendors, citizens, contract personnel, former County employees, etc.) should be treated with courtesy and respect. Suspicious individuals or activities should also be reported as soon as possible to a supervisor. If an employee sees or hears a commotion or disturbance near the work area, he or she should not intercede.

- When the accused is known to be a County employee, the following procedures shall apply:
  - Any employee who believes they are the victim (or witness) to workplace violence is required to report the incident. If they believe there is immediate danger, they must call 911. If there is no immediate danger, and after assuring the employee's safety, a report must be made to the first-line supervisor and/or Director so the situation may be diffused and investigated immediately. If the Director is the alleged offender, the employee must report the situation directly to the Director of Administration.
  - The Director shall promptly take any steps necessary to diffuse the situation, including removing the alleged offender from the workplace immediately if necessary, and shall investigate and take disciplinary action if appropriate. The employee, who filed the complaint, as well as the alleged offender, shall be advised of the findings in writing.
  - Employees are encouraged to file a written complaint to report workplace violence, however, all complaints when known whether in writing or not, will be investigated. Accused employees shall have the right to submit a written statement, which will become a part of the record of investigation. All complaints and internal investigation results will be held in confidence except to the extent necessary to diffuse, investigate, and take appropriate action.
  - If discipline is determined to be warranted, the County disciplinary policies will be followed.
- When the accused is not believed to be a County employee, any employee who believes they are in immediate danger is encouraged to call 911 and report the incident to the police. Once the situation is diffused, the employee should follow the same steps in Section A1 above to notify the Director.
- A supervisor who receives a report or has knowledge of workplace violence must contact the Department of Human Resources immediately. Supervisors shall communicate the County's commitment to maintaining a workplace that is free from any type of intimidating, hostile, or offensive behaviors. In addition, employees should be made aware of the emergency contact numbers for all relevant personnel. The Department of Human Resources will provide periodic training/education to all employees and will provide information in the New Employee Orientation.

**NOTE:** In the event that an employee is sent for Employee Assistance counseling because of a workplace violence incident, the following applies: EAP counselors are prohibited by confidentiality regulations from disclosing information obtained from employees without written consent. An exception to this prohibition, however, is if an employee specifically threatens to harm himself, herself, or another person. In that case, the counselor advises the employee that the information will be reported to appropriate authorities, regardless of whether a written consent is provided.

<b>Policy #:</b>	HR-002
<b>Subject:</b>	EMPLOYMENT
<b>Effective Date:</b>	July 1, 2020
<b>Approved by:</b>	County Executive & County Council

### **HR-002A: Positions & Classification**

A position is the total collection of tasks, duties and responsibilities assigned to one or more individuals. All County positions are described by written job descriptions. A job description is a summary of the most important features of a position and includes:

- The general nature of the work performed (duties and responsibilities).
- The level of the work performed (skill, effort, responsibility and working conditions).
- Characteristics required for competent performance of job.

Job descriptions include required knowledge, skills and abilities to perform the position competently as well as minimum education, training, experience and any required licenses. The job description describes the general nature and level of work being performed by individuals assigned to the classification. It is not intended to be construed as an all-exhaustive list of responsibilities, duties and skills for the position. The job description also indicates the class (manual, trade, clerical, administrative or managerial), the level of work (entry, experienced, supervisory, managerial or master) and reporting relationships. Written job descriptions describe and focus on the position itself and not any specific individual who might fill the position. The County uses job descriptions for determining pay rates, recruiting employees for vacancies, assigning employees to appropriate positions, and managing employee performance.

Based on job descriptions, County positions are determined by Department Heads to be essential or non-essential. Essential employees are those who must report to work during the County Executive's authorization of Liberal Leave, Partial Day Closure or Full Day Closure during Severe Weather, or during Designated Emergencies/Extended Public Health Events. Essential employees receive additional compensation as described in Sections HR-006N and HR-006O.

Non-essential employees are those who are not generally required to report to work during the County Executive's authorization of Liberal Leave, Partial Day Closure or Full Day Closure during Severe Weather or during Designated Emergencies/ Extended Public Health Events, and who are compensated with Administrative Leave at their regular rate of pay for hours not worked. However, non-essential employees may, at any time, be designated as Temporary Essential Employees by the Department Head and be required to respond for specific period of time.

### **HR-002B: Employment Types**

The County provides several types of employment, which differ, based on hours worked, expected duration, Appointing Authority, applicable policies and available funds and benefits.

Regular Full-Time Employment: A position requiring eighty (80) hours or more per pay period (or seventy-six (76) hours per pay period for twelve-hour (12) shift employees in the Department of Emergency Services) with indefinite duration. These employees are eligible for full benefits. Classified employees shall serve a minimum probationary period of six (6) months.

Regular Part-Time Employment: Position requiring less than thirty-nine (39) hours per week with a fixed work schedule and indefinite duration.

- Employees hired as regular part-time at thirty to thirty-nine (30-39) hours per week are eligible for Paid Time Off (PTO), health care<sup>1</sup>, dental<sup>1</sup>, and vision<sup>1</sup> coverage, and the applicable pension system.
- Employees hired as regular part-time at less than thirty (30) hours per week are eligible for Paid Time Off (PTO) and the applicable pension system.

**Other Employment Types:** The following employment types serve at the pleasure of the Appointing Authority and are unclassified. Grievance procedures as described in the personnel policies do not apply in the case of discipline or discharge of these employees. They do not accrue benefits or employment rights based on length of service.

- **Temporary:** A Temporary employee is an at-will employee who serves at the pleasure of the County Executive in a position with duration not to exceed six (6) months.
  - A Temporary employee is entitled only to workers' compensation benefits and shall not accrue any leave or benefits pursuant to these Personnel Policies & Procedures.
  - The Director for whom a Temporary Employee is working is responsible for monitoring the performance of and disciplining such Temporary Employee.
- **On-Call:** Position filled at the discretion of the Appointing Authority based on business needs, generally for emergencies or short-term labor needs with minimum staffing requirements.
  - An On-Call employee is entitled only to workers' compensation benefits and shall not accrue any leave or benefits pursuant to these Personnel Policies & Procedures.
  - The Director for whom an On-Call employee is working is responsible for monitoring the performance of and disciplining such On-Call employee.
- **Contractual/Grant:** A Contractual/Grant employee is non-permanent, not in the compensation plan, hired pursuant to a written Personal Services Agreement that specifies the term of employment and the right to leave and benefits, if any. Often hired pursuant to a grant to perform a specific task or project in accordance with the terms of such grant.
  - Individual with specialized knowledge, skills and abilities needed to perform an assignment for a defined period retained by a Personal Services Agreement.
  - Contractual/Grant employee is at-will and may be dismissed at the pleasure of the County Executive, unless the contract terms specifically provide otherwise.
  - The Director for whom any Contractual/Grant employee is working shall be responsible for monitoring the performance of, and discipline, such Contractual Employee.
  - Contractual employee is not entitled to the Grievance Procedures set forth in these Personnel Policies & Procedures.
  - Contractual/Grant employee may be retained after the Personal Services Agreement if the funding source is approved by the County Executive and review by the Director of Human Resources.

Employment Type	Hours/Week	Duration	Probationary Period	Benefits Eligibility	Grievance Procedures
Regular Full-Time	40 Hours	Indefinite	<u>Sheriff's Office</u> – 18 months for sworn law enforcement deputies; <u>Sheriff's Office</u> – 12 months for sworn correctional deputies' <u>All Others</u> – 6 months	Full Benefits	Applies to classified employees
Regular Part-Time	Less than 39 Hours	Indefinite	6 months	<u>30-39 Hours/Week</u> PTO, Health Care, Dental, and Vision Coverage, Pension, and State/Federal Mandated Laws  <u>Less than 30 Hours/Week</u> PTO, Pension, and State/Federal Mandated Laws	Applies to classified employees
Temporary	Up to 40	6 months or less	Does not apply	None	Does not apply
On-Call	As needed	Indefinite	Does not apply	State/Federal Mandated Laws	Does not apply
Contract/Grant	Established through Personal Services Agreements		Does not apply	Established through Personal Services Agreements	

<sup>1</sup>Health Care, Dental and Vision Coverage for 30-39 Hours/Week employees effective in accordance with the deadlines imposed by the Federal Government, including any extensions.

### **HR-002C: Employment References & Verification**

Requests for employment references or verification for any County employee must be immediately referred to the Department of Human Resources. The Department of Human Resources will only respond to requests authorized by the subject employee. Information released will be limited to employee's dates of employment, position title, and salary, unless the employee authorizes additional information in writing.

An employee who elects to serve as an employment reference for another County employee must be certain to state that such reference is being provided on a personal basis and not as an official representative of the County. Written personal references may not be provided on official County letterhead. The County assumes no liability for personal references made by an employee acting in an individual and personal capacity.

### **HR-002D: Employment of Relatives/Nepotism**

The County does not discriminate in its employment and personnel actions with respect to its employees or applicants based on marital, familial, or residential cohabitation status. However, the County will not accept any application in which the employment of an employee's relative would result in the types of prohibited relationships identified below:

- No employee may appoint, employ, promote, advance, or advocate for the appointment, employment, promotion or advancement an individual to a County position if said employee exercises jurisdiction, supervision, or control of any individual who is related to the employee by blood, marriage, or adoption, or other close personal relationship, including a domestic partnership, or cohabitation.
- No employee shall otherwise be appointed, employed, promoted or advanced to a position within the jurisdiction, supervision, or control of any individual who is related to such employee except on the written approval of the County Executive (or designee).
- Other circumstances that exist which would place employees in a situation of actual or foreseeable conflict between the interest of the County and their own familial relationship.
- Should employees become related during the course of their employment, each individual must make a report to their respective Director and the Director of Human Resources within thirty (30) days of the date of the event. The Director and the Director of Human Resources shall determine if the relationship may result in a situation prohibited by this policy.

If one of the prohibited situations does occur, attempts will be made to find another position within the County to which one of the employees can transfer. All practical efforts will be made to arrange such a transfer at the earliest possible time. If accommodations of this nature are not feasible, then one of the employees at the County's discretion will be discharged.

For the purposes of this policy, relatives include spouses, parents, children, siblings, in-laws, grandparents, grandchildren, aunts, uncles, cousins, step-relatives, co-habitant or significant other. The County expects each employee who is aware of the potential conflict or perceived conflict of interest generated by the prospect of hiring a relative to disclose this to management immediately.

## **HR-002E: Conditions of Employment**

As a condition of employment, all candidates for employment must complete an employment application, including disclosure of past employers, and sign a release allowing the County to obtain copies of records such as credit reports, background checks, criminal histories, and driving records, as required. Candidates may be required to complete pre-employment drug testing and/or pre-placement medical examinations<sup>1</sup>.

Candidates may be employed after appropriate background investigations have been completed, meeting conditions related to eligibility for employment under immigration laws, and providing documentation that constitutes proof of identity and proof of right to work in the United States. Information obtained from the background investigation process, including information from professional and personal references will be used by the County only as part of the employment process and will be kept confidential.

**Background Investigations:** The County believes that employing the best-qualified individuals contributes to the County's overall strategic success. Pre-employment background checks are a critical part of the selection process and are to determine and/or confirm, within appropriate legal and professional limits, the qualifications and suitability of a candidate for the particular position for which the candidate is being considered. The County will perform background checks on all candidates for employment, if an employee transfers to a position, whether voluntarily or involuntarily, which requires additional background checks for that position, or at the request of a Director. The components of each candidate's background check will depend on the position.

Criminal backgrounds and credit histories are only utilized in making employment decisions when the applicant or employee's criminal history is position related and consistent with County policies, such as (1) the nature and gravity of the offense or conduct; (2) the time that has passed since the offense or conduct; and (3) the nature of the job held or sought. If these conditions are not met, or any information provided is found to be untrue or falsified by the applicant, employment will be denied, or active employment may be terminated.

<sup>1</sup> Results of physical examinations and pre-employment drug screening are filed in separate medical records and maintained in accordance with regulations, which protect the privacy and confidentiality of the candidate. To protect medical privacy, the Department of Human Resources only receives information, which indicates the candidate's affirmative or negative ability to meet pre-employment screening requirements.

## **HR-002F: Probationary Period**

Employees hired or appointed to a regular full-time or part-time position within the classified system serve at the pleasure of the Appointing Authority during any probationary period. An employee's eligibility to post for vacancies during the probationary period is at the discretion of the Director.

Discipline or discharge of a probationary employee is not subject to the grievance procedures of the County's Personnel Policies & Procedures Manual. An employee not successfully completing the probationary period may be subject to involuntary termination.

## **HR-002G: New Employee Orientation**

New employees of the County must participate in New Employee Orientation. Orientation includes important information to introduce new employees to County employment. A review of the Personnel Policies & Procedures Manual, payroll and benefits, is included.

## **HR-002H: Recruitment & Selection Practices**

The County's ability to provide excellent customer service to citizens is dependent upon our human assets. Therefore, it is critical that the County hires the best-qualified candidates while providing opportunities for advancement to current employees.

Employment vacancies are those positions authorized and funded during the budgeting process. Positions are advertised internally and to the public simultaneously. Candidates submit applications for vacancies to the Department of Human Resources via an electronic application on the County's website. The County's recruitment and selection process focuses on identifying and weighing job-related skills, knowledge, abilities and competencies necessary for performance of the work, screening applicants against those qualifications, and performing valid selection processes to select the best candidates.

The Department of Human Resources manages the recruitment and selection process and ensures that the activities are conducted in an efficient, fair, and organized manner, consistent with appropriate employment practice standards. The Department of Human Resources and the hiring authority conduct recruitment and selection ethically, professionally, and in a non-discriminatory manner.

## **HR-002I: Rehire**

A former employee who resigned in good standing is eligible as a rehire within one (1) year of the termination date. Rehires are able to resume their accrual rate for Vacation. Employees who are terminated for misconduct or resign in lieu of termination for misconduct are not eligible for rehire.

## **HR-002J: Separation**

Employment terminates at the end of the work shift of the last day worked. The County encourages an employee who is considering leaving County employment to inform their supervisor prior to the required two-week period to allow for advertising and filling the position as soon as possible. Accrued, unused Vacation and Personal is paid out in the final paycheck. Sick is not paid out. It is the supervisor's responsibility to notify Department of Human Resources when an employee informs them of the intention to separate from County employment.

When the employee has not returned County-owned equipment, property, uniforms, identification cards, fulfilled employment contract terms, or if more personal hours are used than earned, the appropriate amounts are deducted from the employee's final paycheck.

Employment with the County may end under several circumstances:

- **Quit**: An employee quits by leaving County employment without giving two weeks' notice. An employee who terminates employment without providing two weeks' written notice is not considered to have resigned in "good standing." An employee who quits is not eligible for rehire.
- **Resignation**: To resign in good standing, an employee must:
  - Provide two weeks' written notice of the intention to terminate employment, and
  - Work the full two weeks of the notice period or unless written Director approval is received. (Must have a physician's certificate for payment of any Sick taken during the notice period.)
  - Once the Appointing Authority accepts a resignation, it may not be withdrawn. An employee who resigns in "good standing" can only be rehired as a new employee.
- **Retirement**: An employee meeting applicable pension requirements and eligibility may apply for retirement benefits. Retirement can be in the form of early retirement, disability retirement or normal retirement. An employee who retires from the Maryland State Retirement must have a break in service of forty-five (45) days before they can be re-employed. Retiree health benefits may be available to those employees who have met the criteria of the Post-Retirement Benefits for Eligible Employees.

- Death: In the event of the death of an active employee, the employee's estate will be paid any owed compensation including accrued, unused Vacation and Personal and other entitlements, as appropriate.
- Termination: An employee can be terminated under situations, including but not limited to:
  - Inability to perform essential position functions: The employee is consistently unable to perform the essential functions of the position with or without reasonable accommodations, as defined under the ADA, when appropriate.
  - Failure to meet performance expectations: The employee fails to meet performance expectations after successive attempts to provide coaching, retraining, performance improvement plans, and performance counseling.
  - Serious or repeat violations of County rules and/or policies: An employee terminated for violations may be terminated the day the Appointing Authority reaches the decision to dismiss the employee.
  - Lack of work, lack of funds, reorganization, change in budget, or change in technology, resulting in reduction in force or elimination of a position: An employee terminated for these reasons may be recalled to the former position classification in the reverse order of the separation (i.e., those terminated first are eligible to return to their former position before those terminated last).
  - Exhaustion of all applicable leave entitlements (i.e. FMLA, Leave of Absence, etc.)
  - Termination of a County employee supervised by an employee of another governmental agency under a Memorandum of Understanding governing the employment of such County employee between said agency and the County.
- Involuntary Reduction of Work Hours & Pay: Due to a sudden unexpected lack of funds to operate, all employees, including probationary, contractual, and part-time employees, may be subject to furlough. Employees are strictly prohibited from performing any County work during furlough period, including checking work-related email and voice mail. Appointing Authority may manage situation differently due to the nature of the services provided.

### **HR-002K: Exit Interview**

The process of separation from employment or transfer to another Department may, upon the request of the employee or Department of Human Resources, include an exit interview conducted by the Department of Human Resources and the completion of an Exit Questionnaire. The exit interview shall be held immediately after notification by the employee of plan to transfer, resign or retire.

The purpose of the exit interview is to ensure that exiting employees are informed of their benefits and rights upon separation of employment from the County's service and to maintain accurate records on reasons for employee separations or transfers.



<b>Policy #:</b>	HR-003
<b>Subject:</b>	SALARY ADMINISTRATION
<b>Effective Date:</b>	July 1, 2020
<b>Approved by:</b>	County Executive & County Council

The County strives to attract, motivate and retain exceptional talent. To help accomplish this goal, the County has a market-based compensation program that establishes parameters for base pay and benefit programs. Total compensation includes cash compensation as well as benefits. The program is intended to compensate all employees on a fair, equitable basis and to recognize demonstrated performance and employee contributions.

### **HR-003A: Pay Structure(s)**

Employees hired into authorized positions are paid according to the pay scale as described below unless the position is ungraded or contractual. Each position is placed on the appropriate pay structure by assigning it to a pay grade. Departments and agencies have the authority to negotiate and determine placement within the specific pay grade, as long as the pay rate does not exceed the maximum of the pay grade or surpass the departmental budget. The Director cannot guarantee the requested salary to the candidate prior to approval from the Department of Human Resources. The request may include any of the following:

- Reason the candidate should be hired above Step 1 of the pay grade;
- Evidence of recruitment and retention issues (i.e. the existing candidate pool is minimal);
- Evidence the candidate has specialized or unique skills, certifications, licensing, and/or experience;
- Evidence is used to support a higher salary than the salaries of existing employees.

Pay ranges are established for each pay grade. The pay range sets minimum and maximum pay values for the position. Pay ranges are regularly compared to appropriate labor markets through surveys and studies. Ranges are adjusted, as needed, to reflect changes in competitive pay levels and economic factors such as significant increases in inflation or consumer prices and the County's ability to fund.

The pay scales include only the positions listed on the Position Allocation for the appropriate pay scale. Employees move through the pay ranges based on approval from the Appointing Authority and budgetary constraints. The Public Safety pay scales are applicable to employees who are regularly scheduled to work 24 hours/7 days per week operation in the Sheriff's Office (Patrol or Corrections) or Department of Emergency Services. Public safety includes emergency medical services, hazmat response, law enforcement, correctional officers and counselors, emergency management preparedness and mitigation and the 911 dispatchers.

#### **Shift Accumulator (Sworn Law Enforcement Officer – Patrol):**

- The employee's normal regularly scheduled shift shall be 11.25 hours, but salary is paid at a total of eighty (80) hours per pay period cycle. The payroll system tracks actual hours worked as well as hours paid. Annually, the accumulator will be zeroed out and if an employee is in an overage, these hours are added to their Vacation accruals. If the employee should owe, the time owed will be withdrawn from the employee's Vacation or Personal accruals (Sick accruals cannot be used).

### Annual Salary Increases:

- COLA or Pay Scale Adjustment: Employees on a pay scale (or non-contractual ungraded positions) would be eligible for an increase for Cost of Living Allowance (COLA) or pay scale adjustments if funded during the budgeting process.
- Step Increase: (if funded during the budgeting process)
  - Regular Full-Time Employee: A regular, full-time employee who has a Satisfactory or better performance appraisal and completed one (1) year of service may be eligible to receive a step increase. Step increases will be effective on the pay period following the anniversary of the employee's date of hire, if funded.
  - Regular Part-Time Employee: Any regular part-time employee who has a Satisfactory or better performance appraisal and has completed one (1) year of service may be eligible for a step increase. Step increases will be effective on the pay period following the anniversary of the employee's date of hire, if funded
  - Contract/Grant-Funded: If a Personal Services Agreement and grant funding provide for an increase, it would be effective upon renewal of the Personal Services Agreement.
  - On-Call, Temporary Employee: Ineligible for step increases.

### **HR-003B: Changes in Position**

Acting Pay: With Appointing Authority and budgetary approval, temporary placement into Acting Pay status may cover an extended medical leave. If an employee meets the position requirements and is temporarily placed into Acting Pay status in a higher pay grade classification, the employee is paid at the new pay rate effective at the discretion of the Director.

The pay rate is adjusted so the employee receives an increase equivalent up to 5% of the current rate and placed on the closest step or to the minimum of the pay range (whichever is greater). If Acting Pay warrants more than a one grade increase, the employee will receive up to a 5% increase (in addition to any other authorized salary increase) for the first grade, then 2.5% increase for any additional grades, up to a maximum increase of 10% and placed at the appropriate step of the new grade.

The pay rate is automatically adjusted to the rate approved by the County Executive at the completion of the Acting Pay status. The duration of the Acting Pay shall not exceed six (6) months. Acting Pay may not be used to cover scheduled vacations.

Attainment of Special Certifications or Degrees: An employee is encouraged to develop job-related skills, knowledge and abilities on a continuous basis. An employee may attain additional professional certification(s) and degrees pertinent to their position. Under these circumstances, the County Executive reserves the right to award an additional percentage increase of up to 5% and placed on the closest step or to the minimum of the pay range (whichever is greater) to recognize these accomplishments. Each Department will establish a tiered system for such attainments pertinent to the positions within the Department.

Additional Responsibilities: When an employee takes on additional responsibilities clearly beyond the scope of their current position (but not sufficient to justify an upgrade or employee does not qualify for Acting Pay), the County Executive reserves the right to award an additional percentage increase of up to 5% and placed on the closest step or to the minimum of the pay range (whichever is greater) to recognize the additional responsibilities. Period of Additional Responsibility will not exceed 12 weeks.

Demotion: A demotion may be approved by the County Executive (or designee) upon the recommendation of the Director, and shall be limited to those employees within the rank structure within that employee's division. Involuntary demotion may be imposed at any time as a means of discipline (in lieu of dismissal) or as a result of a less than satisfactory follow-up performance appraisal. The employee's pay will be adjusted to the step closest to, but not greater than rate prior to promotion.

Non-Compete Reclassification: Non-Compete Reclassification is a progression of jobs in the County's specific occupational fields ranked from highest to lowest based on level of responsibility and pay. These reclassifications establish a series of levels within a job family where the nature of work is similar. The job descriptions outline the skills, knowledge, and responsibility associated with each level required by the employee to develop a career path and move vertically.

An employee may receive up to 5% increase and is placed on the closest step or to the minimum of the pay grade (whichever is greater). If a position upgrade warrants more than a one grade increase, the employee will receive a up to 5% increase (in addition to any other authorized salary increase) for the first grade, then 2.5% increase for any additional grades, up to a maximum increase of 10% and be placed at the appropriate step of the new pay grade.

The Director may submit a request to the Department of Human Resources for approval to place a reclassified employee at a pay grade greater than 5% as long as the pay rate does not exceed the maximum of the pay grade or surpass the departmental budget. The request shall include the reason the employee is to be placed at a pay grade greater than 5%.

Position Upgrade: When a Director determines a position's duties have significantly changed, the Director recommends a review of the position for upgrade. A process is initiated to produce a position upgrade:

- The employee completes a written Job Analysis Questionnaire form (available from the Department of Human Resources), which is approved by the Director and submitted to the Director of Human Resources.
- The Director of Human Resources conducts an internal position evaluation, and, as necessary, a market comparison. Based on this data, the Director of Human Resources determines any appropriate changes to the position's grade level for the position. The upgrade recommendation is forwarded to the County Executive for final approval and implementation.
- Once the upgrade is approved, any employee in the affected position is assigned to the new class and grade on a date agreeable to the County Executive or other Appointing Authority and the Director. The employee receives a pay increase up to 5%, and placed in the new grade.
- The upgrade process normally takes place in advance of the annual budget process so that any necessary funds can be included in the upcoming fiscal year's budget.

The Director may submit a request to the Department of Human Resources for approval to place the upgraded employee at a pay grade greater than 5% as long as the pay rate does not exceed the maximum of the pay grade or surpass the departmental budget. The request shall include the reason the employee should be placed at a pay grade greater than 5%.

If a position upgrade warrants more than a one grade increase, the employee will receive up to 5% increase (in addition to any other authorized salary increase) for the first grade, then 2.5% increase for any additional grades, up to a maximum increase of 10% and be placed at the appropriate step of the new pay grade.

Promotion: An employee is selected for promotion when they can demonstrate the appropriate skills, knowledge, abilities, past performance and experience for the vacancy. The employee receives a promotional increase of up to 5%, and then placed in the pay grade of the new position. The new pay rate will not exceed the maximum of the new pay grade. Employee would receive up to 5% increase (in addition to any other authorized salary increase) and placed on the closest step or to the minimum of the pay grade (whichever is greater).

The Director may submit a request to the Department of Human Resources for approval to place the upgraded employee at a pay grade greater than 5% as long as the pay rate does not exceed the maximum of the pay grade or surpass the departmental budget. The request shall include the reason the employee should be placed at a pay grade greater than 5%.

If a promotion warrants more than a one grade increase, the employee will receive up to 5% increase (in addition to any other authorized salary increase) for the first grade, then 2.5% increase for any additional grades, to a maximum increase up to 10% and be placed at the appropriate step of the new pay grade.

A promoted employee serves a probationary period of 6 months (or 1 year for Sheriff's employee). Discipline or discharge of a probationary employee is not subject to the grievance procedures of the County's Personnel Policies and Procedures Manual.

**NOTE:** When an employee is transferred to a lower-graded position and later returns to a position in a higher grade, a second promotional increase will not be awarded. In this case, the employee will be placed in the appropriate grade at the closest step but not greater than the current rate or the maximum of the pay grade.

**Regular Part-Time To Full-Time Employment:** If a regular part-time employee is hired full-time in the same position, they keep their current step and original date of hire and will serve a new probationary period. Accrued Paid Time Off (PTO) not used will be converted to Personal accruals and must be used prior to the end of the calendar year.

#### Transfers:

- **Voluntary:** Non-probationary employees may request a transfer to another County department with a vacancy if they meet the required qualifications of the position. If the employee is transferred to an equal or lesser-paid position within the same pay scale, the employee is placed in the grade and step closest but not greater than their current pay rate unless the current pay rate is above the maximum of the pay grade for the new position. In this case, the employee's pay rate is reduced to the maximum of the new pay grade. A transferred employee serves a probationary period of six (6) months (or eighteen (18) months for Sheriff's employees). If an employee transfers to a different pay scale, they are placed in the step closest to, but not greater than their current salary, of the appropriate grade for the position.
- **Involuntary:** An employee may be involuntarily transferred from one department to another or from one position classification to another. Involuntary transfers may include, but not limited to:
  - Technological change
  - Lack of funds
  - Lack of work
  - Reorganization
  - Reduction in force
  - An employee's inability to obtain or retain necessary job-related certifications

Involuntary transfers resulting from a reduction in force are made after considering employee expertise, experience and length of service. Significant weight is given to performance evaluations most recently preceding the reduction in force.

An involuntarily transferred employee is moved to a position at the step closest but not greater than the current rate or the maximum of the pay grade and serves a probationary period of six (6) months or eighteen (18) months for Sheriff's Office employees.

<b>Policy #:</b>	HR-004
<b>Subject:</b>	PAYROLL POLICIES
<b>Effective Date:</b>	July 1, 2020
<b>Approved by:</b>	County Executive & County Council

**HR-004A: Payroll Period**

The payroll period consists of two consecutive work weeks with each week starting Saturday at 12 a.m. and ending Friday at 11:59 p.m. Non-exempt employees are required to complete an electronic time entry for submission to the Finance Department – Payroll for calculation of pay. Electronic time entry is a legal documents and must be completed accurately and timely. The hours paid are for the hours worked during the previous two-week period. There are 26 biweekly pay periods annually. Pay day is every other Friday.

**HR-004B: Timely & Accurate Submission of Time Entry/Time Off**

Accurately and honestly recording time worked is the responsibility of every employee. Supervisors are responsible for reviewing time entry for accuracy and approving them biweekly. Federal and state laws require the County to maintain an accurate record of time worked in order to calculate pay and benefits. Employees shall provide timely and accurate submission of hours worked, and any leave used, to the supervisor, Director, or designee. Advance approval is required for time off.

Late, inaccurate, or incomplete submission of time entry or time off by the employee or the department may result in the delayed processing of pay. In such cases, manual checks shall not be issued but the additional pay will be reflected in the next regularly scheduled paycheck. If the employee has accrued Vacation or Personal it will be reduced to cover any unsubmitted hours worked. When the time is submitted, the leave used will be reversed. Repeated instances of failure to submit timely and accurate time entry or time off may result in disciplinary action for the employee and supervisor.

**HR-004C: Overtime**

Work may be performed on an overtime basis to meet emergencies or other situations that cannot reasonably be met during regular work hours. Overtime is an acceptable alternative to hiring more employees. When overtime is assigned, employees are given as much advance notice as is reasonable. Because operating needs may change, employees may not always be given advance notice of overtime. All overtime must be authorized in advance by the supervisor and documented with justification for the overtime.

Directors shall exercise professional discretion in the utilization of overtime within their departments. Temporary adjustments in working hours or realignment of duties within the department should be considered as alternatives to the use of overtime. Overtime may be approved only when deemed necessary in the Director’s professional judgment consistent with this policy. Overtime shall be considered necessary only in emergency situations, where additional effort is needed to complete a critical task under time constraints. Directors shall ensure that all overtime hours are recorded on the employee’s time entry and appropriate documentation is included. A quarterly overtime report will be provided to the Director of Administration by the Finance Department for review.

Position descriptions indicate whether they are exempt or non-exempt from the overtime provisions of the Fair Labor Standards Act.

- Employees in official, executive, administrative or professional positions are exempt from overtime pay requirements of the FLSA, as provided pursuant to the Wage and Hour regulations of the Department of Labor and will not be afforded overtime compensation.

- Non-exempt employees are eligible for overtime compensation or offset time. The availability of budgetary funds and the Appointing Authority will determine if hours will be processed as overtime compensation or offset time. However, all regulations outlined by the Fair Labor Standards Act (FLSA) will be followed in the administration of overtime compensation.
  - If offset time is used in lieu of overtime compensation for a non-exempt employee, the offset time must be taken during the same week (hour-for-hour) the employee works the extra hours.
  - If the offset time **cannot be taken in the same week, overtime compensation will be paid** according to FLSA rules as more fully set forth in this Policy.
  - Offset time anticipated to be earned in the 2<sup>nd</sup> week of a pay period cannot be taken in the 1<sup>st</sup> week of the same pay period; it would be paid in accordance with the overtime compensation policy.
  - Offset time cannot be carried over into another pay period.
- Hazardous Material (HazMat) Employees: When covering a hazardous material (hazmat) incident outside of a regularly scheduled shift, HazMat employees will be paid for hours worked at a hazmat site at the appropriate rate of pay, and will not be eligible for overtime for or based upon such hours worked.

Department	Regular Overtime Compensation*	Emergency Work	Unscheduled Response
Sworn Law Enforcement (Patrol)	Time & ½ is paid for hours worked in excess of 11.25 hours in a single day; if employee works any hours on scheduled day off, time & ½ is paid for those hours; hours not worked due to holiday, vacation, and personal are counted as hours worked.	Not Applicable	Not Applicable
Sworn Law Enforcement (Non-Patrol)	Time & ½ is paid for hours worked in excess of eight (8) hours in a single day; if employee works any hours on scheduled day off, time & ½ is paid for those hours; hours not worked due to holiday, vacation, and personal are counted as hours worked.	Not Applicable	Not Applicable
Correctional Officers	Time and ½ paid for hours worked in excess of forty (40) hours in a single workweek; hours not worked due to holiday, vacation, and personal are counted as hours worked.	Not Applicable	Not Applicable
Work Release Officers	Time & ½ paid for hours worked in excess of forty (40) hours in a single workweek; hours not worked due to holiday, vacation, and personal are counted as hours worked	Not Applicable	Not Applicable
Emergency Services [effective pay period starting 07/03/10]  12-hour shifts: Regular schedule is 7 twelve-hour days per pay period: * 4 twelve-hour shifts (48 hours/week) and * 3 twelve-hour shifts (36 hours/week)	Time & ½ is paid for hours worked beyond forty (40) hours in a single workweek; hours not worked due to vacation, sick, holiday and personal hours are not counted as hours worked for calculation of overtime pay.  <b>NOTE:</b> If on leave for the two (2) week pay period, eighty-four (84) hours will be charged to accruals (48 + 36). Maximum of forty-eight (48) hours will be charged to leave accruals in one (1) week.	When covering an open shift or attending mandatory training beyond the regularly scheduled workweek, compensation will be paid at time and ½.  <b>NOTE:</b> Any training attended that is not mandatory will be paid at a straight rate of pay, unless hours worked are over forty (40) hours in the week training is attended.	Not Applicable
All other Departments	Time & ½ paid for hours worked in excess of forty (40) hours in a single workweek; hours not worked due to holiday, vacation, and personal are counted as hours worked.	All paid absences will be counted as hours worked	Automatic two (2) hours overtime compensation in addition to actual time worked for approved unscheduled response.

\*Director has ability to declare an emergency to have sick counted as hours worked.

## **HR-004D: Holiday**

Holidays (see HR-006D) falling within an employee's scheduled paid Vacation or Sick are counted as holiday pay and do not reduce the employee's leave balances. If an employee is on unpaid leave the day before or after the holiday, the holiday will not be paid.

Regular full-time employees are eligible for holiday time off with pay at a rate of eight (8) hours per holiday at their regular rate of pay provided that the employee would have worked on that day had it not been an observed holiday.

The following exceptions apply to specified departments:

- 24-hour Operations (Law Enforcement, Detention Center, Community Corrections, Domestic Violence, and Emergency Services):
  - Employees provided holiday time equal to the adopted holiday listing each year to be used as follows:
    - Employees working on an observed holiday to meet operating needs will receive additional pay up to the employee's normal regularly scheduled shift hours at the regular rate of pay; or
    - Employees not scheduled to work on an observed holiday will earn eight (8) hours of holiday time that may be scheduled off at a later date. Unused holiday time, although earned on a calendar year basis, may be carried over until June 30<sup>th</sup> of the following year.
- Parks and Recreation, Community Services (Cecil Transit, Animal Services):
  - Employees working on an observed holiday to meet operating needs will receive additional pay up to the employee's normal regularly scheduled shift hours at the regular rate of pay.
- Wastewater Division:
  - Employees required to work on any of the six (6) major holidays (New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas) may elect to receive up to eight (8) hours holiday pay (if there is funding in the departmental budget) for those days in lieu of offset time.
  - An employee scheduled to work non-major holidays is required to offset the hours within the same pay period cycle or be paid for up to eight (8) hours at the regular rate of pay.
- Solid Waste Division:
  - An employee required to work on the Friday after Thanksgiving Day may elect to receive up to eight (8) hours holiday pay (if there is funding in the departmental budget) for that day in lieu of offset time.
  - An employee scheduled to work a holiday is required to offset the hours within the same pay period cycle or be paid for up to eight (8) hours at the regular rate of pay

## **HR-004E: Shift Differential**

Due to the County's service responsibilities, some employees are required to operate on a shift basis. Shift differential is paid to compensate the employee for disruption to family life or normal day/night schedules. Shift workers are those non-exempt full-time employees who replace or are replaced by another employee in a 24/7 operation or are assigned to work on a shift basis (Facilities Management, Domestic Violence Shelter) and work a qualifying shift. The rate of shift differential pay is set by the County Executive and may be adjusted from time to time.

- Shift Differential will be paid to eligible full-time and regular part-time employees who work any hours of a qualifying shift (as determined by the individual department based on operational needs); and
- If an employee is held over from a regularly scheduled shift into a qualifying shift, they will be paid shift differential in addition to any overtime hours paid.
- Employees responding to emergency calls are ineligible to receive shift differential for those hours.

## **HR-004F: Unscheduled Response**

Some County employees have important safety-related duties during specific emergency situations. These departments include non-exempt, essential full-time employees of the Public Works, Facilities Management, Information Technology, Parks and Recreation, Community Services (Cecil Transit, Animal Services), and Land Use and Development. As required and monitored by the supervisor, these employees will receive an automatic two hours or according to department policy in overtime compensation at the one and one-half rate for any call out situation, to recognize and compensate employees for the disruption to their off duty schedules.

## **HR-004G: Compensatory Time**

The purpose of this policy is to set forth the procedure to establish guidelines for the administration and use of compensatory time. The policy applied to all exempt Cecil County employees as an incentive for working on an extraordinary project. The accrual of compensatory time is limited to exempt employees. By definition, an exempt employee may work any number of hours in a single work week and not receive overtime pay. Positions are executive, administrative, professional, computer/technological positions, and positions otherwise exempt from overtime pay. Providing compensatory time to exempt employees as a reward for working extended hours does not affect employees' exempt status.

Before compensatory time may be approved or accrued, the employee must sign a Compensatory Time Agreement. The signed Compensatory Time Agreement will be kept in the employee's personnel file in the Department of Human Resources.

Administration of Compensatory Time: Directors shall be responsible for administering the provisions of this policy within their respective departments and shall ensure that all compensatory time earned is promptly reported to the Department of Human Resources.

- Directors shall exercise extreme discretion in the utilization of compensatory time within their departments.

The Director must ensure that exempt employees do not take unauthorized compensatory time without prior approval. Failure to obtain such prior approval may result in disciplinary action.

Use of Compensatory Time: Employees must schedule compensatory time off in advance with their supervisor. The granting of compensatory time is at the discretion of the supervisor and is subject to the business needs of the department. The use of compensatory time is requested in the same manner as Vacation, Sick and Personal.

- Employee must use compensatory time within a rolling 12-month calendar.
- Compensatory time shall be taken before any vacation or personal.
- Maximum 24 hours compensatory time may be carried over to next rolling calendar year.
- Upon exempt employee's termination, there will be no payout of compensatory time in excess of 24 hours.



## **HR-004H: Travel Compensation**

Employees required to travel in a privately owned car on approved County business shall be reimbursed for mileage at the prevailing rate set by the County Executive.

- An employee will not use a privately owned vehicle for County business unless the vehicle is insured in accordance with the laws of Maryland and such Employee is an approved and insured driver of such vehicle.
- In the event of an accident, the private insurer shall be responsible for providing a defense and indemnification for any liability of Employee.
- Employee shall promptly notify the Department of Human Resources of any accident or mishap that occurs during Employee's use of such private vehicle and shall complete an accident report and provide whatever other information about the incident as is deemed necessary and appropriate. Failure to comply with this requirement will be subject to disciplinary action.
- Employees who opt to use their personal vehicle when a County fleet vehicle is available will be reimbursed at one-half the prevailing rate set by the County Executive.

## **HR-004I: On Call**

At times, employees are required to remain "on-call", meaning they must be available to report to work at a moment's notice. Employees receiving On Call pay are ineligible for Unscheduled Response pay.

**Scheduling:** Departments required to maintain a rotating schedule of on-call participants. Schedule will be issued on a monthly basis. If an employee leaves the County, their position on the rotation will be filled with a new employee assigned to rotation for their shift, or times will be reassigned throughout the rotation team, or a new rotating schedule will be issued. Every effort will be made to ensure the same person does not work the same major holidays recognized by the County.

**Compensation:** Employees in the on-call program will be paid a flat rate of \$125 per week while on call. Employees will receive their regular rate of pay if called in to work. A minimum of 2 hours will be paid for each trip to County premises to address call-in issues, or in compliance with state and local laws. If the actual time worked is greater than 2 hours, the employee will be paid for the actual amount of time spent at work. For non-exempt employees, hours reported will be paid at the applicable overtime rate as deemed by the FLSA, state, and local laws.

**Responsibility:** Each employee is responsible for providing on-call coverage for the shifts assigned to them on the rotation schedule and are not allowed to swap schedules without first notifying their supervisor. Employees are provided with 2 weeks to review the schedule and notify their supervisor of any conflicts and required changes prior to implementation.

Each employee on-call will be required to be available for their full shift. While on-call, the participant must be prepared to come to work at all times and respond to calls within 30 minutes and be within a 30-mile driving distance of the worksite. Under no circumstances can an employee on-call refuse to respond. Failure to respond within the appropriate timeframe may result in disciplinary action, up to and including termination. If a participant is sick and not able to fulfill their on-call duties, the supervisor will designate a replacement until the employee is able to fulfill their assignment.

**Purpose:** To define the conditions under which County employees may be additionally compensated for being placed in an "On Call" status to respond to calls to duty during their non-duty time.

**Statement of Policy:** The County's policy is to compensate employees who serve in an "On Call" status and are required to respond to a call to duty within one hour or less. A call to duty may include responding telephonically or reporting to a work site. While the County recognizes that this time may not be considered to be compensable working time under the provisions of the Fair Labor Standards Act, the County does so because of any slight inconvenience this may create for employees.

Definition: The County recognizes that there are many positions which, by the nature of the job, require an employee to be called to work at unscheduled times, when unforeseen situations occur. In most situations, employees in these positions do not receive additional compensation until such time as they respond to a "call to duty". However, in some cases, employees are required, as a condition of employment, to respond to a call to duty on a scheduled basis, within one hour or less of receipt of such a call to duty. In such instances the employee will be considered to be in an "On Call" status. Employees, who are unable to work due to illness, cannot serve in an "On Call" capacity during that same 24-hour period.

Procedure: Employees who are specifically scheduled by their Appointing Authority or immediate supervisor to be available to respond to a call to duty within one hour will be compensated at the rate of \$125 per week when serving in an "On Call" status.

- Supervisors define the job titles eligible for on-call pay, based on operational needs.
- The Director will decide specifically which employee(s) will be assigned to on call status.
- On-Call status cannot be scheduled concurrently with regularly scheduled work hours.
- Employees will be considered engaged by the County from the time they leave home (or when they receive the call) until the work is completed. This time will be considered worked time and will be recorded as such on the time record by the employee. Circumstances causing an increase in travel time should not be included in the time worked.
- On-call pay cannot be taken when an employee is utilizing:
  - Vacation
  - Sick
  - Bereavement
  - Military
  - Administrative Leave or Suspension
- Employee may lose their on-call compensation if they do not meet the following criteria:
  - Thoroughly check the working status of the means of contact before on-call status begins and maintain it in operational mode at all times.
  - When contacted, must answer or return the call within fifteen (15) minutes.
  - Arrive in the work unit within 60 minutes or less after receiving the call, if required.
  - Arrive in a condition "fit" for duty.
- When an employee is called back to the office, work time will be paid at the employee's regular rate of pay or at his or her overtime rate if the employee has already worked the required hours.
- Employees shall not be required to remain at the office while in on-call status.

<b>Policy #:</b>	HR-005
<b>Subject:</b>	PERFORMANCE APPRAISALS
<b>Effective Date:</b>	July 1, 2020
<b>Approved by:</b>	County Executive & County Council

### **HR-005A: Performance Appraisals**

Performance appraisals are utilized to evaluate and review employee performance; to recognize work quality; to identify areas of improvement; and to guide employees in maximizing job knowledge, skills and abilities. Performance appraisals provide a structured opportunity for the supervisor to meet with the employee to discuss the supervisor's expectations, the employee's strengths and weaknesses, and other issues that affect the position and the employee's ability to succeed.

### **HR-005B: Probationary Review**

During the probationary period, employees serve at the pleasure of the Appointing Authority and are subject to greater performance review, coaching and leave usage restriction. Supervisors are expected to communicate frequently throughout the probationary period to guide performance. Feedback is most effective in rewarding good performance or correcting performance problems when observed.

- At three (3) months and six (6) months of employment as a new employee, the supervisor completes a Probationary Review to determine whether the employee's performance and development are proficient. The review is provided to the Department of Human Resources.
- If an employee transfers to a new position, the supervisor completes a Probationary Review after six (6) months in the new position to determine whether the employee's performance and development are proficient. The review is provided to the Department of Human Resources.
- In both cases, at the six (6) month Probationary Review:
  - If performance is "Proficient", the employee has successfully completed the probationary period and granted regular status in the classified system.
  - If performance is "Somewhat Below Proficient Levels" but the employee may achieve proficiency with additional time, the supervisor may extend the probationary period for an additional six (6) months at a minimum.
- If, at any time during the probationary period, the supervisor determines that performance is not proficient and that the employee's performance is "Well Below Proficient Levels" and unlikely to meet expectations with a probationary period extension, the employee is terminated/demoted.
- Failure to conduct a written Probationary Review within the probationary period does not deprive the County of its right to terminate a probationary employee at will and without cause with the concurrence of the Director of Human Resources.

Discipline or discharge of a probationary employee is not subject to the County's Policies and Procedures grievance procedures.

### **HR-005C: Performance Appraisals**

Each permanent employee shall receive a performance appraisal to discuss performance and specific achievements on the anniversary of the employee's date of hire. Supervisors are expected to maintain a working file for each employee that documents specific accomplishments, commendations and/ or needed performance improvements of the employee for the next formal appraisal period. The supervisor completes a Performance Appraisal reviewing the prior year's performance.

After meeting with the supervisor to discuss the Performance Appraisal, the employee shall sign the appraisal. The signature by itself shall not signify that an employee agrees with the appraisal. The signature shall signify that the employee has received the appraisal and is aware of its content. The employee may add appropriate comments. The employee receives a copy of the Performance Appraisal and the original is forwarded to the Department of Human Resources for the personnel file.

An overall rating of Exemplary or Satisfactory on the Performance Appraisal is required for an employee to be eligible for a step increase, if budgeted. An employee who receives an overall rating of Needs Improvement or Unsatisfactory is not eligible to receive a step increase and is subject to a Performance Improvement Plan.

**HR-005D: Performance Appraisal Systems**

The following chart summarizes the major features of the County’s performance appraisal systems:

	<b>Performance Appraisal for Non-Public Safety and Department of Emergency Services</b>	<b>Performance Appraisal for Sheriff’s Office (Law Enforcement &amp; Corrections)</b>
<b>Key Performance Factors</b>	Non-Supervisory Appraisal <ul style="list-style-type: none"> <li>• Customer Service</li> <li>• Position Knowledge</li> <li>• Productivity</li> <li>• Communication</li> <li>• Teamwork</li> <li>• Initiative</li> <li>• Attendance</li> </ul> Supervisory-Managerial Appraisal <ul style="list-style-type: none"> <li>• Customer Service</li> <li>• Supervision/Leadership</li> <li>• Job Knowledge/Skills</li> <li>• Communication</li> <li>• Relationship with Management</li> <li>• Budgeting &amp; Fiscal Management</li> <li>• Planning &amp; Organization</li> <li>• Innovation &amp; Creativity</li> <li>• Professionalism</li> <li>• Risk Management</li> </ul>	<ul style="list-style-type: none"> <li>• Position Knowledge &amp; Creativity</li> <li>• Attitude</li> <li>• Communication</li> <li>• Interaction with Others</li> <li>• Productivity &amp; Work Quality</li> <li>• Assertiveness &amp; Motivation</li> <li>• Problem Solving/Decision Making</li> <li>• Concern for Quality</li> <li>• Personal Growth</li> <li>• Judgment</li> <li>• Attendance</li> </ul>
<b>Performance Rating</b>	<ul style="list-style-type: none"> <li>• Exemplary</li> <li>• Satisfactory</li> <li>• Needs Improvement</li> <li>• Unsatisfactory</li> </ul>	<ul style="list-style-type: none"> <li>• Commendable</li> <li>• Satisfactory</li> <li>• Needs Improvement</li> <li>• Unsatisfactory</li> </ul>
<b>Pay Increase</b>	If funded and approved, the employee is eligible for a step increase. Ungraded employee is eligible for a percentage increase based on approved budget.	If funded and approved, the employee is eligible for a step increase. Ungraded employee is eligible for a percentage increase based on approved budget.
<b>Frequency of Performance Appraisal</b>	A Probationary Progress Review for new/promoted employee is done at (3) three and/or (6) six months of employment. Non-probationary employee appraisals are done on the anniversary date.	A Probationary Progress Review for new/promoted employee is done at (3) three and/or (6) six months of employment. Non-probationary employee appraisals are done on the anniversary date.

**HR-005E: Performance Improvement Plan**

If an employee receives an overall rating of “Needs Improvement” or “Unsatisfactory” on a Performance Appraisal, the supervisor shall prepare a Performance Improvement Plan that identifies the steps required for improvement and continued employment. The contents are discussed with the Director of Human Resources in advance of issuing to the employee. Following the initial delivery of the Performance Improvement Plan, follow-up meetings are scheduled at thirty (30) days and sixty (60) days, at a minimum. A copy of the signed Performance Improvement Plan shall be provided to the Department of Human Resources and placed in the employee’s personnel file.

Employees that show satisfactory improvement during the Performance Improvement Plan, after a minimum 30 days from the start of their Performance Improvement Plan may be eligible for a step increase, if budgeted. Any employee that fails to show significant and sustained improvement during the Performance Improvement Plan shall be subject to termination.

**HR-005F: Special Performance Appraisal:**

When an employee has a change of position or supervisor, the out-going supervisor will complete an ending performance appraisal on the employee.

<b>Policy #:</b>	HR-006
<b>Subject:</b>	LEAVE
<b>Effective Date:</b>	July 1, 2020
<b>Approved by:</b>	County Executive & County Council

### **HR-006A: Administrative**

Administrative is a paid absence from work without charge to earned leave. The County Executive (or designee) may grant administrative leave to employees when special activities or unforeseen events occur that prevent employees from reporting to duty. Administrative with pay may be authorized for full-time and regular part-time employees and includes, but is not limited to, the following:

- Jury Duty: The employee must submit a Certification of Jury Duty to the Department of Human Resources in order to receive pay for the leave. Employee must also give the supervisor adequate prior notice and provide satisfactory evidence of performance of those duties.
- Election Judge: The employee may use one (1) hour of administrative for each hour of service as an election judge, up to a total of eight (8) hours for each day of service. The employee must furnish satisfactory evidence that they served as an election judge on the day(s) for which they are charging the administrative leave.
  - If more than one (1) employee is performing early election judge service, the department is charged with ensuring proper staffing and requests may be denied.
- Relief of Duty:
  - Investigation of an incident or charge;
  - Removal from a position; or
  - Determination of fitness for duty.
- Subpoena: Witness in work-related, or other than personal, civil or criminal case or an administrative proceeding.
- Other Circumstances: County determines that granting administrative is in the best interest of the County.
- Determination of Fit-for-Duty Completed:
  - Employee immediately removed from County premises if behavior or performance endangers anyone's health or safety, or impedes the ability to conduct County business pending receipt of a confirming medical opinion or other resolution up to forty (40) hours.

### **HR-006B: Bereavement**

Full-time permanent employees (including probationary employees) shall be paid for three (3) days of bereavement. A part-time permanent employee shall be paid on a pro-rated basis of the three (3) days bereavement based on their full-time equivalent. Bereavement shall be provided only for the death of an employee's spouse, child (including stepchild and legally adopted child), parent or parent in-law (if employee married to child), grandparent or grandchild, sibling or sibling in-law, or death of anyone living in the employee's household. Bereavement must be taken within two (2) weeks from the date of death, unless Director authorizes alternate usage. Vacation or personal may be requested if the employee requires additional time off to attend to matters associated with the event.

Employees should notify supervisor of the death and need for bereavement as soon as reasonably possible. Employees must provide documentation of funeral services (obituary, funeral home booklet) to the Department of Human Resources to receive pay for this leave.

## **HR-006C: Employee-to-Employee Leave Donations**

Employees may voluntarily donate unused Sick, Vacation or Personal accruals to another employee. An employee who donates Sick to another employee must maintain a Sick Leave balance of at least 240 hours after the donation is deducted. An employee who donates leave shall designate the recipient of the leave. If an employee who receives leave does not use all of the donated leave, the remaining hours of leave shall be automatically transferred to the County's Sick Leave Bank.

To qualify for leave from the Employee-to-Employee Leave Donation Program, an employee must:

- Have exhausted all available Vacation, Personal, Sick and Sick Leave Bank because of:
  - A personal, serious, and prolonged medical condition that exists at the time the leave is donated; or
  - A catastrophic illness or injury of a member of the employee's immediate family for whom the employee is needed to provide direct care. Catastrophic illness or injury is defined as a condition that is incapacitating or life threatening as certified by a health care provider. An employee may use leave from another employee to care for a family member only after obtaining approval from the employee's appointing authority. The Appointing Authority's approval is discretionary, and denial may be based on any reason which is consistently applied and is not illegal or unconstitutional.
- Qualify for the use of Sick under the requirements of the County's Personnel Policies & Procedures;
- Must provide sufficient medical documentation to substantiate absence for the time period covered by the Employee-to-Employee Leave request;
- Documentation includes a return to work date;
- Must have leave records that do not reflect past attendance problems or leave abuse; and
- Not used more than 9 months of leave in a rolling 12 months from the Sick Leave Bank, Employee-to-Employee Leave Donation Program, and all other forms of paid leave.

**NOTE:** The County Executive may authorize extensions of donated leave based on documented special circumstances.

## **HR-006D: Family & Medical Leave Act**

**Purpose and Definition:** The Family and Medical Leave Act (FMLA), provides a means for employees to balance work and family responsibilities by taking unpaid leave for certain reasons. FMLA is consistent with the County's interest in promoting family stability and economic security. FMLA provides up to twelve (12) weeks of unpaid job-protected leave to eligible employees for the reasons, including, but may not be limited to:

### **Basic Leave Entitlement:**

- Incapacity due to pregnancy, prenatal medical care or childbirth;
- To care for the employee's child after birth, or placement for adoption or foster care (i.e. baby bonding);
- To care for the employee's spouse, child (under age 18 unless he/she is "incapable of self-care because of a mental or physical disability"), or parent, who has a serious health condition; or
- For employee's serious health condition that makes him/her unable to perform one or more essential position functions.

**Military Family Leave Entitlements:** Eligible employees with a spouse, child or parent on active duty or called to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

**Serious Health Condition:** A serious health condition is an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the essential functions of their position, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

**Eligibility:** An employee is eligible to apply for FMLA if they have worked for the County for at least one (1) year and for 1,250 hours over the twelve (12) months preceding the requested leave.

**Requesting and Providing On-Going FMLA Documentation –** Where the initiating reason is foreseen, the employee should provide the County thirty (30) days advance notice. Where the leave is requested to attend to an emergency, the request should be made as soon as possible and no later than the 4<sup>th</sup> consecutive day of absence. Failure to submit the required forms timely will result in the FMLA entitlement being delayed.

**Employer Designated:** The County may designate an employee's leave as FMLA based only on information received from the employee or the employee's spokesperson (e.g., if the employee is incapacitated, the employee's spouse, adult child, parent, doctor, etc., may provide notice to the employer of the need to take FMLA).

**Medical Certification Process:** The County may communicate with the health care provider to authenticate or clarify the patient's health condition as part of the certification process. In addition, if it is deemed that additional information is required, a written notice will be provided to the employee listing what information is lacking. The employee has seven (7) calendar days to respond to the request for additional information.

If there is a question regarding the FMLA request or documentation provided by the employee, the County has the right to require a second, and, as necessary, third medical opinion to justify or refute the need for FMLA.

An employee approved for FMLA will be able to receive up to twelve (12) weeks of job-protected leave in a rolling 12-month period to manage the FMLA-qualifying event. An employee on FMLA to attend to their own serious health condition or for a dependent that qualifies under the basic leave entitlement is first required to exhaust all accrued paid leave time (Vacation, Sick, and Personal) concurrent with FMLA and then the balance of the FMLA is unpaid time off.



Spouses working for the County are both eligible for FMLA. However, the aggregate leave period for both employees may be limited to twelve (12) weeks during any 12-month period if the leave is for birth of the employee's child, the adoption or placement of a foster child, or to attend to a sick parent.

Intermittent Leave: Time off under this policy may also be granted on an intermittent or reduced schedule leave, subject to the guidelines in this policy and when medically necessary, in accordance with the provisions of FMLA. An employee approved to use intermittent FMLA must submit an Employee Work Status form indicating any work restrictions, and prognosis date indicating return to full duty.

Benefits While on FMLA: Employees are able to continue health benefits during the period of leave under the same conditions applicable to active employees. Employees are required to continue contributions for each pay period. The law further provides that the County may recover from the employee any premiums it pays if the employee fails to return to work after the leave period. There will be no accruals of Vacation or Sick during this time.

Fitness-For-Duty Certification: The County may require that the certification specifically address an employee's ability to perform the essential functions of their position; and, where reasonable safety concerns exist, may require a fitness-for-duty certification before an employee returns to work after taking intermittent leave.

Return from FMLA: If returning from FMLA as scheduled, employees are granted service credit for the period of the leave. If qualified and available to return to work, employees are reinstated to their same position and salary in effect at the beginning of the leave (plus the benefit of any applicable salary adjustment that may have occurred during their absence), or to a position of like status and pay, unless the County's circumstances have changed so as to make it impossible or unreasonable to do so. If an employee fails to return as scheduled, employment is terminated effective the last day covered by FMLA.

An employee approved to return from FMLA must submit an Employee Work Status form indicating any work restrictions, and return to work date indicating return to full duty.

Employee Protections Under FMLA: No employee will be discriminated against for proper use of leave afforded under the provisions of the FMLA. Employee concerns regarding discrimination are to be reported to the employee's supervisor or to the Department of Human Resources.

The County will not interfere with, restrain, or deny an employee's exercise of rights under FMLA. Direct questions or concerns that involve rights under FMLA to the Department of Human Resources.

Outside Employment During FMLA: Employees on FMLA are restricted from secondary employment, including volunteer work. If found performing secondary employment, including volunteer work, employee may be subject to disciplinary actions.

FMLA Notices and Information: Each County department has FMLA notices posted that outlines provisions of the Act.

## **HR-006E: Healthy Working Families Act**

To comply with this Act, the County will provide paid leave to those employees working 12 hours or more per week, who are ineligible for other leave accruals. Employees covered by this policy will receive 40 hours each January 1<sup>st</sup>. Unused leave will not roll over from year to year. There is no payout of this leave at termination. Employees hired after January 1 will receive a lump sum of hours at hiring based on the total amount of sick and safe leave that the employee would earn over the course of the remaining year at a rate of 1 hour of paid leave for every 30 hours worked, but may not use leave until after the 106<sup>th</sup> day of employment.

**HWFA Use:** Leave may be used to cover:

- Care for or to treat the employee's or family member's mental or physical illness, injury or condition;
- Obtain preventative medical care for the employee or employee's family member;
- Absence from work is necessary due to domestic violence, sexual assault, or stalking committed against the employee or the employee's family member; or
- Maternity or paternity leave.

**Supervisor Notification:** Timely notification of the need for leave is critical to maintaining adequate staffing levels. An employee who cannot report to work for any reason must follow the normal call in procedures for the department. If the leave is foreseeable, the employee must provide notice 7 days before use. All Leave use exceeding three (3) consecutive days require a physician certificate.

**HWFA Restrictions:** Leave for which the employee does not meet notification requirements or for which the employee does not provide appropriate documentation will be considered as an unauthorized absence and will not be paid.

The supervisor notifies the employee in writing when an absence is considered to be an unauthorized absence and forwards a copy of the notification to the Department of Human Resources for inclusion in the employee's personnel file and documents the unpaid status on the employee's time entry.

**Secondary Employment:** Employees on leave are restricted from secondary employment including volunteer work. If found performing secondary employment, including volunteer work, employee may be subject to disciplinary actions.

**HWFA Balance Upon Termination:** Upon termination unused leave is not paid out in the final check. If the employee is re-employed within 37 weeks from the date of termination, the unused leave is reinstated.

**Employees Excluded from this Policy:** Employees who regularly work less than 12 hours a week, or individuals younger than age 18 before the beginning of the year.

## **HR-006F: Holidays**

The County observes the following as paid holidays:

New Year's Day	Columbus Day
Martin Luther King Day	General Election Day (every other year)
Presidents Day (3 <sup>rd</sup> Monday in February)	Veterans Day
Memorial Day (last Monday in May)	Thanksgiving Day (4 <sup>th</sup> Thursday in November)
Independence Day	Day after Thanksgiving
Labor Day (first Monday in September)	Christmas Day

The actual calendar dates that will be scheduled and observed by the County as holidays will be announced at the beginning of each calendar year. From time to time, the County Executive may add or delete paid holidays.

## **HR-006G: Leave of Absence**

**Medical:** Employees who exhaust FMLA, or whose absence does not qualify under FMLA, may apply for a Medical Leave of Absence. This leave may be with pay (if the employee has available leave) or without pay (if available leave is exhausted) and must be for a continuous period (not intermittent leave). A written request must be submitted for approval by the employee's supervisor, who forwards the request to the Director of Human Resources. (See Benefits while on Leave without Pay.)

If the employee's application for a Medical Leave of Absence is rejected (or if the maximum approved is exhausted) and the employee has not returned to work, the employee may be terminated or, if eligible, may apply for disability status under applicable provisions of the pension/retirement plan for which they are eligible.

**Personal:** A Personal Leave of Absence may be approved for study, training, personal emergency reasons, or running in a primary or general election for a recognized political office. Leave may be with pay (if the employee has available Vacation, Personal, or PTO) or without pay (if all available leave is exhausted).

A full-time or regular part-time employee who has completed the initial probationary period may request a Personal Leave of Absence without pay to attend to personal, non-medical reasons. Employees are eligible for a Personal Leave of Absence after exhausting paid leave, but should make application prior to the paid leave being actually exhausted. A written application, which includes the nature, cause and duration of the leave, is submitted to the Appointing Authority via the Department of Human Resources. (See Benefits while on Leave without Pay.)

A Personal Leave of Absence is granted at the sole discretion of the Appointing Authority. A Personal Leave of Absence may be approved for a specific duration of not less than one (1) week, nor longer than 6 months, and is based on recent length of continuous service. Requests for less than one (1) week can be approved by the Director and submitted on the electronic time entry. A Personal Leave of Absence will count for disciplinary purposes.

**Duration of Leave of Absence:** If granted, the maximum amount of extended leave available to the employee is based upon most recent length of continuous service with the County at the time the original Leave of Absence commenced, as follows:

<b>Amount of Service</b>	<b>Maximum Duration of Extended Leave (in a rolling 12-month period)</b>
Up to 2 years	1 month
2 years to 4 years	2 months
4 years to 6 years	3 months
6 years to 8 years	4 months
8 years to 10 years	5 months
Over 10 years	6 months

Benefits while on Leave of Absence : During any full month an employee is on an approved Leave of Absence, salary increases and fringe benefits (other than insurance) provided by the County, such as leave accruals, paid holidays and other paid leave, shall cease until the employee returns to active duty with the County. Upon return to active duty, all salary increases, and fringe benefits will be retroactively adjusted.

The selected insurance coverage(s) shall continue while the employee is on leave status as long as the employee pays the contribution(s). At the time of exhaustion of approved leaves and termination of employment, health insurance coverage(s) may be continued only if the employee contributes to its cost in accordance with the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA).

Reinstatement from Leave of Absence: An employee returning from a Leave of Absence may be reinstated to the position the employee held prior to the leave, with past credited service and at the same pay level, provided the employee has met all provisions of the authorized leave. The County does not guarantee reinstatement to the same position held prior to the leave and may place the employee in another County position, as available.

Failure to Return from Leave of Absence: An employee who fails to return to work on the approved date will be terminated from employment. Additionally, if the County determines that the employee has violated County policies during the leave, the Appointing Authority may notify the employee that the leave has been terminated, that the employee must return to work, or that the individual's employment has been terminated.

#### **HR-006H: Leave Without Pay**

If all available paid leave is exhausted, Leave Without Pay may be available for personal emergency reasons, serious health conditions, etc. Regular full-time and regular part-time employees must request Leave Without Pay through the supervisor. Once the employee's cumulative Leave Without Pay requests through the supervisor exceeds two (2) weeks during a rolling calendar year, a written request must be submitted to the Department of Human Resources and Appointing Authority for review and approval before using additional Leave Without Pay.

Benefits while on Leave Without Pay: During any full month an employee is on unpaid leave, salary increases and fringe benefits (other than insurance) provided by the County, such as leave accruals, paid holidays and other paid leave, shall cease until the employee returns to active duty with the County. Upon return to active duty, all salary increases, and fringe benefits will be retroactively adjusted.

The selected insurance coverage(s) shall continue while the employee is on leave status as long as the employee pays the contribution(s). At the time of exhaustion of approved leaves and termination of employment, health insurance coverage(s) may be continued only if the employee contributes to its cost in accordance with the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA).

#### **HR-006I: Military**

The County complies with the Uniform Services Employment and Reemployment Rights Act (USERRA) and strongly supports employee military service to the state and the nation. To ensure proper treatment under these laws, including grant of military leave, an active employee who is a member of the Uniformed Services must provide the supervisor with official notification from the appropriate military authorities (official military orders).

Military coverage includes the following:

Annual Training Duty (limited to fifteen (15) days in one calendar year): Eligible employees are granted military leave with pay not to exceed one hundred twenty (120) hours. Actual payment will be the amount of the employee's regular base salary for work time missed (up to 120 hours), less the gross military earnings. To ensure prompt payment for the leave, the employee must submit appropriate documentation on the military leave and earnings statement to the Finance Office within thirty (30) days of the leave.

Extended Leave (in excess of 15 days): Written requests for military leave in excess of fifteen (15) days must be submitted to the immediate supervisor. An extended leave will be treated as an unpaid leave of absence.

Active Duty (due to act of war or national emergency declared by the President or Congress): Employees who are called to active duty in one of the Uniformed Services will be paid the difference between the amount of their base salary and the gross military earnings. This amount will be determined upon receipt of an earnings statement from the military. The earnings statement must be received as soon as possible (not to exceed three (3) months) in order to determine the payment due. Until the required documentation is received in the Finance Office, the leave will be unpaid.

Continued Benefits While on Military Leave: While on Military leave, employees who are enrolled in the health insurance or optional benefit plans are responsible for maintaining contributions. Employees need to pay contributions monthly directly to the County or, if continuing to receive paychecks from the County, contributions will be taken through payroll deduction.

#### **HR-006J: Paid-Time-Off**

Regular Part-Time (RPT) employees are eligible for PTO equal to their full-time equivalent (FTE); i.e. positions with a .5 FTE would receive four (4) hours/month, positions with .75 FTE would receive six (6) hours/month. Hours are awarded at the beginning of each fiscal year or prorated based on date of hire and can be used for Holiday, Vacation or Sick. No rollover from one fiscal year into the next is permitted or if the regular part-time employee is hired full-time.

Payout will be prorated for the months worked. The amount of hours paid in any two-week period cannot exceed the amount of hours regularly scheduled. PTO may be taken in 1/2 hour increments. If a regular part-time employee is hired full-time, their accrued Paid Time Off (PTO) not used will be converted to Personal accruals and must be used prior to the end of the calendar year.

#### **HR-006K: Personal**

Employees on payroll as of January 1<sup>st</sup> are awarded forty (40) hours of Personal and may be used in 1/2 hour increments. Employees shall inform their supervisor or designee as soon as possible for the need to use Personal. Departments shall determine the minimum notification time required based on work assignments. If such notification is not received, the absence is considered to be unauthorized. If the request creates a hardship on the department the request may be denied.

All leave requests exceeding eighty (80) consecutive hours must be approved by the County Executive or designee. Personal must be used by December 31<sup>st</sup> or it is forfeited; it cannot be carried over from one calendar year into another. If employment starts or is severed during the calendar year, the leave is prorated based on the chart below. If a terminated employee uses more Personal hours than earned, a deduction of the hours will be made from the final paycheck.

To receive Personal, an employee must be at work on January 1<sup>st</sup>. Employees on extended leave shall not receive Personal until returning to work and the leave will be prorated as if a new employee.

Employee on Payroll as of January 1 <sup>st</sup>	Employee who Terminates During the Calendar Year	Newly Hired Employee for the Calendar Year
Eligible for 40 hours to use anytime during the calendar year	January through March: Eligible for 10 hours	January through March: Eligible for 30 hours
	April through June: Eligible for 20 hours	April through June: Eligible for 20 hours
	July through September: Eligible for 30 hours	July through September: Eligible for 10 hours
	October through December: Eligible for 40 hours	October through December: Ineligible for hours

**HR-006L: Sick**

The County provides Sick leave to protect an employee and the employee’s family from loss of income due to an employee’s incapacitating illness or injury. In addition, the County promotes employee health through supporting employee utilization of preventive services provided by health insurance plans. Employees are encouraged to conserve Sick leave in the event of a long-term illness or period of incapacitation. Use of Sick leave by the employee for the purpose of own illness, or that of a family member, that is documented by an approved medical provider is not counted for disciplinary purposes or included in an employee’s annual performance appraisal.

Sick Leave Accrual: Full-time, active employees will accrue Sick from date of hire at the rate of ten (10) hours for each full month worked.

Employee Sick Leave: After the successful completion of the initial 6-month probationary period, employees will receive sixty (60) hours of Sick leave. Sick leave may be taken in ½ hour (or multiple) increments, up to the employee’s normal regularly scheduled shift, or for consecutive days up to the total number of accrued Sick leave hours. Sick leave may be used to cover:

- An employee’s personal, non-work-related illness or injury;
- A physical incapacity associated with an employee’s pregnancy;

Sickness in Family: Non-FMLA absence: An employee may use accrued unused Sick leave for an absence that does not qualify for FMLA for the illness or injury of an individual living in the employee’s household (or employee’s parents).

**NOTE:** A Leave of Absence (HR-006F) will count for disciplinary purposes.

FMLA Approved Absence: An employee can use accrued unused Sick leave to care for a spouse, child (under age 18 unless he/she is “incapable of self-care because of a documented mental or physical disability”), or parent, who has a serious health condition.

- Physician’s Certificate: An employee must submit a physician’s certificate to the Department of Human Resources if Sick leave is taken in excess of three (3) consecutive workdays and it should indicate an expected return to work date. An employee refusing to submit a physician’s certificate will not be entitled to paid Sick leave.
- Fit-for-Duty Certification: Upon receipt of a confirming medical opinion requested and received by the County, the Appointing Authority may place employee in Sick leave status pending corrective treatment or other resolution of the matter.

Use of Sick leave for the above instances are subject to the County’s approval. Management will closely monitor all sick absences and may request a physician’s certificate from the employee at any time.

An employee with an extended period of non-work related illness or injury who exhausts accrued Sick, Vacation and Personal leave, may be eligible to apply for and receive additional leave from the Sick Leave Bank or Employee to Employee Donation programs to allow for continued time off for recuperation. Alternatively, the employee may be eligible for leave under FMLA or a Medical Leave of Absence. (See HR-006B: Family and Medical Leave, page 22.)

Supervisor Notification: Timely notification of the need for Sick leave is critical to maintaining adequate staffing levels. An employee who cannot report to work for any reason shall inform the supervisor or designee to ensure staffing requirements are met, and to inform the supervisor of the type of leave to be used to cover the absence. If such notification is not received, the absence is considered to be unauthorized. The employee must report absence on each subsequent day, as indicated above, until one of the following are met:

- Return to work;
- Family and Medical Leave Act approved - Employee on long-term Sick leave (paid and/or unpaid) must contact their department weekly for the duration of their absence; or
- Approved Medical Leave of Absence - Employee on long-term Sick leave (paid and/or unpaid) must contact their department weekly for the duration of their absence.

All absences three (3) days or more require the supervisor to notify the Department of Human Resources and the employee to provide a physician certificate to include return to work date.

Sick Leave Restrictions: Supervisor may require the employee to provide written verification to the Department of Human Resources from a physician of the necessity of the absence prior to authorizing the absence. Sick leave for which the employee does not meet notification requirements or for which the employee does not provide appropriate requested verification will be considered as an unauthorized absence and will not be paid. Supervisor notifies the employee in writing when an absence is considered to be unauthorized and forwards a copy of the notification to the Department of Human Resources for inclusion in the employee's personnel file and documents the unpaid status on the employee's time entry.

Secondary Employment: Employees on Sick leave (paid or unpaid) are restricted from secondary employment including volunteer work. See HR-002E and HR-008J for additional information.

Excessive Sick Leave Use: To provide excellent customer service to the County's citizens, it is essential that employees report for scheduled work shifts. County policies recognize that employees will occasionally miss work shifts due to illness, injury or personal responsibilities. However, excessive use of attendance policies, including absenteeism, tardiness, or leaving work early, compromised County operations and burdens co-workers. When excessive use patterns are observed, the supervisor encourages the employee to correct the behavior. If initial informal discussions with the employee fail to correct the absence problem, the supervisor proceeds to take formal disciplinary actions.

Excessive use of undocumented Sick leave can be defined as a consistent pattern of unscheduled absences which have a negative impact on the employee's ability to accomplish the duties and requirements of their position, such as but not limited to:

- Any pattern of Sick leave usage, such as the use of six (6) days in a six (6) month period, one or two days at a time, to include habitual sick leave absences before and after weekends or holidays.
- An employee who consistently maintains a low Sick leave balance after three (3) years of service, without sustaining a major illness during that time period.

An employee who exhibits excessive abuse of Sick leave will be required to provide an original physician's certificate, signed by the physician, for all absences. The employee will be notified in writing by the Supervisor of such requirement.

Sick Leave Balance upon Retirement: Upon retirement, accrued unused Sick leave may be applied to an employee's pension under applicable rules and regulations of the pension plan.

Transferring Leave: If there has been no break in service from resignation or involuntary termination, employees transferring from one County funded position to another may transfer their accrued unused Sick leave.

Light Duty: Employees must be able to perform all of the activities and responsibilities of the position to which assigned. Injuries and illnesses may temporarily render an employee unable to perform all duties. Therefore, the County seeks to have temporarily injured or ill employees return to work in a timely fashion, compatible with the medical condition of the employee and workplace safety. Employees authorized for light duty must have a return to work date.

Light duty will be considered, at the County's discretion, unless an employee is totally disabled or medically determined unable to work. Light duty will be authorized for a maximum period of three (3) months per rolling calendar year. If additional time beyond three (3) months is required, the employee shall submit a written request and medical documentation to substantiate the request to the County Executive (or designee).

Sick Leave Balance upon Termination: Accrued unused Sick leave is not paid out.

### **HR-006M: Special Administrative Limited Leave**

In addition to benefits under Workers Compensation, personnel who are injured in the line of duty shall be eligible for Special Administrative Limited Leave. Special Administrative Limited Leave is a benefit that may be granted if the employee is disabled from work as a result of an injury or illness sustained in the performance of said employee's work. This leave will not be granted for absences or illnesses that may occur in performing normal office or clerical duties, but shall be restricted to absences or illnesses caused when performing uniquely dangerous governmental duties such as roadwork or law enforcement duties. Granting of this leave shall be discretionary to the Appointing Authority.

Special administrative limited leave may be granted only when all other leave has been exhausted including FMLA, Sick, Personal and Vacation. While on special administrative limited leave, an employee shall not be paid wages or salary and shall not accrue retirement benefits, vacation, or additional leave time, but shall be eligible for continuing health care coverage for the employee, spouse and/or children at their own expense. Special administrative limited leave shall expire, if not sooner, no later than two (2) years from the date of relevant work-related injury or illness.

An employee shall file a written request with the Director of Human Resources for consideration for special administrative limited leave. The request shall include the following: a detailed description of when, where and how the injury or illness occurred, a certification from a physician that the employee is unable to return to work, and a statement of when the employee's other forms of leave shall be exhausted. Upon receipt of the request, the Director of Human Resources shall have the request reviewed by staff in a prompt fashion and shall also review the request with the employee's supervisor(s) and shall grant the request subject to final approval by the Appointing Authority if the following conditions having been met:

- The employee sustained an injury or illness as a direct result of the performance of employment duties of a dangerous nature; and
- The employee is unable to work as a result of the injury or illness; or
- The employee is able to perform light duty; the employee has submitted a request to do so and is awaiting approval to return to work.

An employee on special administrative limited leave shall be required to submit continuing medical reports of status and ability to return to duty as required by the Director of Human Resources which shall not be in less than 60-day intervals. Failure to provide such reports shall result in termination of the special administrative limited leave unless the Director determines that the employee has used best efforts to obtain such an updated report but, through no fault of the employee, has been unable to do so. The employee shall submit to an independent medical evaluation when requested by the Director to do so.



Upon notification of approval, special administrative limited leave will expire on the earlier of:

- The date the Director terminates the leave for failure to provide updated medical reports;
- The date when the employee's medical practitioner or an independent medical examiner certifies that the employee may return to full or light duty and if light duty, the employee has been notified that light duty is available;
- The earliest effective date on which an employee who is approved for a disability retirement may retire;
- The date when the employee fails to comply with any reasonable directive of the Director;
- The expiration date indicated on the notification of approval given to the employee. If no such date is stated, this leave shall expire no later than two (2) years from the date of the work-related injury or illness.

The County will be subrogated to the rights of the employee to the extent of the costs of any benefits provided. If, within ninety (90) days after such leave has been granted, the employee has not made a claim against a responsible third party, the County may make a claim or join in an action against said third party in its own name for its own benefit. Any action brought by the County under these circumstances will not bar any other claim the employee may choose to make.

### **HR-006N: Severe Weather Conditions**

The County provides vital services to the public; therefore, it is critical that Departments are open for business as scheduled. However, in the interest of the welfare and safety of its employees, the County may curtail some, or all, routine operations due to severe weather. During severe weather events, employees have a continuing obligation to report for work as normally scheduled or as required by the supervisor. Television, radio stations and/or supervisor's notification will be used to disseminate weather-related announcements as well as the County's website, [www.ccgov.org](http://www.ccgov.org).

**NOTE:** Severe weather events impacting operations beyond 5 days will be considered a Designated Emergency, and if County work sites are closed to the public and to employees, employee compensation as described in HR-006O will apply.

#### **Open/ Liberal Leave:**

- All personnel are expected to report as scheduled; however, the County Executive may authorize Liberal Leave. Liberal Leave allows non-essential employees to use Personal or Vacation leave if severe weather conditions prevent them from reporting to work on time, or not at all. However, employees must report their tardiness or absence to the supervisor. Essential employees must report to work.
- Employees who opt not to report to work shall be charged Vacation, Personal or Leave Without Pay for the entire day; and
- Employees who report to work late shall be charged Vacation, Personal or Leave Without Pay for the hours not worked.

**Partial Day Closure:** The County Executive may authorize the partial closure of County offices during the business day:

- Non-essential shall be paid Administrative Leave for the hours not worked during the partial day closure at their regular rate of pay without charging leave time;
- Non-essential employees already at work when the County closes shall be paid Administrative Leave for the remainder of the assigned workday at the regular rate of pay without charging leave time;
- Non-essential employees who choose to leave before a closure announcement is made will be charged Vacation or Personal, or Leave Without Pay for the remainder of the day;
- Non-exempt, essential employees will receive an additional \$1.00 per hour and additional Compensatory leave accruals for up to eight (8) hours worked during a partial closure. Exempt essential employees will receive up to eight (8) hours of Compensatory leave accruals only.

- Essential employees who do not report for work shall be charged Vacation or Personal, or Leave Without Pay, for the time not worked and may be subject to disciplinary action for failing to report to work. Essential employees who call in sick will be required to provide a physician's certification.

**Full Day Closure:** The County Executive closes County offices due to severe weather, normally based on the declaration of a State of Emergency by the Governor and/ or the County Executive:

- Non-essential employees are not required to report to work and will be paid Administrative Leave for the full day the County offices are closed. If the employee was previously scheduled for Vacation, Personal, or Sick for the day, hours will be charged to the pre-approved leave.
- Non-exempt, essential employees will receive an additional \$1.00 per hour and additional Compensatory leave accruals for up to eight (8) hours worked during a full closure. Exempt essential employees will receive up to eight (8) hours of Compensatory leave accruals only.
- Essential employees who do not report for work shall be charged Vacation or Personal, or Leave Without Pay, for the time not worked and may be subject to disciplinary action for failing to report to work. Essential employees who call in sick will be required to provide a physician's certification.

**Building Closures:** When a County building is closed due to a physical plant issue (electrical, heating, water, etc.), only non-essential employees assigned to that building will be paid Administrative Leave for hours not worked. Non-exempt, essential employees will receive an additional \$1.00 per hour and additional Compensatory leave accruals for up to eight (8) hours worked during a partial closure. Exempt essential employees will receive up to eight (8) hours of Compensatory leave accruals only.

**Compensatory Time Accrual Limits:** Essential employees are limited to earning 40 hours of Compensatory leave accruals during a Severe Weather event.

**NOTE:** Full-time, non-exempt, non-essential employees who are not generally required to respond to emergencies, may be designated as Temporary Essential Employees for a period of time by the Department Head and required to respond. When a non-essential employee is temporarily assigned as essential during a closure, they will receive an additional \$1.00 per hour and up to 8 hours additional Compensatory leave accruals for hours worked during the closure.

### **HR-006O: Designated Emergencies/Extended Public Health Event Closures**

Depending upon the severity of an emergency event, the County Executive may authorize the full closure of any or all County offices that mandates no public or routine employee access, and institute temporary emergency operations policies during designated emergencies, including Extended Public Health events. In these circumstances, special compensation policies are put in place. This is normally based on the declaration of a State of Emergency, or Stay-At-Home Order, by the federal government, the Governor, and/ or an Executive Order by the County Executive. The following describes how employees are compensated during a mandatory closure of any or all work sites:

**Non-Essential Employees & Essential Employees/ Telework-Eligible:** Non-essential employees are not required to report to the work site and will be paid their base pay via Administrative Leave for the full day County offices are closed. Essential employees who are telework-eligible conduct daily duties as normal and receive base pay. Non-essential and telework-eligible employees do not receive special compensation during mandatory closures.

**Mandatory Employees:** Mandatory employees are those essential employees whose duties preclude them from teleworking, and whose presence at the work site during full closures is mandatory to perform essential functions of the job description. Mandatory employees are determined to fit one of the following categories, and will receive additional compensation, Special Duties Compensation, as described below:

Tier I: First Responders/ Public-Facing: First responders and public-facing employees include, but are not limited to, Sheriff's Office (Law Enforcement, Corrections) Emergency Services (Dispatch, Paramedics), Department of Public Works (Roads, Solid Waste, Waste Water), Department of Community Services (Help Center, Domestic Violence, Animal Services, Transit, Home-Delivered Meals), Parks & Recreation, and Facilities Management.

- Tier I Compensation:

- Non-exempt employees will receive additional cash compensation of a flat amount for each pay period worked during the declared emergency. The amount will be determined by the County Executive based on the County's existing budgetary constraints at the time of the emergency. In addition, they will receive up to 16 hours maximum of Compensatory leave accruals per pay period for hours worked.
- Exempt employees will receive up to 16 hours maximum of Compensatory leave accruals per pay period for hours worked.

Tier II: Mission-Critical: Mission-critical employees include those performing functions vital to the County's non-public facing business operations (including, but not limited to Finance, Information Technology, Land Use & Development, and who must report to their work location to execute these duties. Mission-critical employees are designated by Department Heads. Eligibility will be determined on a case-by-case basis, and will include consideration of criteria such as whether an employee is mission-critical, whether the employee is still reporting to their work location, whether an employee has been directed to act outside their typical scope of responsibilities, etc.

- Tier II Compensation:

- Non-exempt employees will receive additional cash compensation of a flat amount for each pay period during the declared emergency. The flat amount will be one-half (1/2) of the amount to be paid to Tier I employees during the emergency as determined by the County Executive. In addition, they will receive up to 8 hours maximum of Compensatory leave accruals per pay period for hours worked.
- Exempt employees will receive up to 8 hours maximum of Compensatory leave accruals per pay period for hours worked.

Special duty compensation will be provided only for hours actually worked. For example, employees who are working a modified weekly rotating schedule will receive Special Duties Compensation only for the hours worked. Department Heads, Deputy Directors, and certain other executive management staff members will not be eligible for Special Duties Compensation.

Compensatory Time Accrual Limits:

- First Responders/ Public-Facing employees are limited to earning 20 days (160 hours) of Compensatory leave accruals during a Designated Emergency/ Extended Public Health Events.
- Mission Critical employees are limited to earning 10 days (80 hours) of Compensatory leave accruals during a Designated Emergency/ Extended Public Health Events.

If County Executive authorizes restricted public access (appointments only) and limited staffing levels for some or all County offices, during designated emergencies, including extended Public Health events, the County is considered to be open, and employees do not receive special compensation.

## **HR-006P: Unauthorized Absence**

Absence from any part of the work period for which the employee fails to properly notify supervision or fails to provide verification (i.e. no call, no show) will be considered an Unauthorized Absence and will not be paid. The absence will count for disciplinary purposes. If the employee does not have Vacation or Personal leave available, the absence will be paid according to the Leave Without Pay policy.

## **HR-006Q: Vacation**

**Eligibility:** Full-time active employees will accrue Vacation from date of hire and receive 48 hours Vacation after successful completion of continuous 6 months employment. The rate at which employees accrue Vacation is based on length of service with the County per the chart below.

<b>Service</b>	<b>Vacation Accrual</b>
Less than 5 years	8 hours/month worked
6 – 10 years	12 hours /month worked
11 - 15 years	14 hours/month worked
16 - 19 years	16 hours/month worked
20+ years	18 hours/month worked

<sup>1</sup> Sheriff's Office sworn employees may use vacation after six months of continuous employment.

**Scheduling:** Vacation is generally granted at the convenience of the employee; however, the supervisor may deny requested leave if the employee's absence creates coverage gaps that negatively impacts the Department's daily business operations. Employees should submit requests to schedule Vacation to the supervisor at least two (2) weeks in advance. If there is a scheduling conflict between two (2) or more employees within a department, the Director shall grant Vacation leave with consideration of the length of service of the employees. All leave requests exceeding eighty (80) consecutive hours must be approved by the County Executive or designee.

Vacation may be used in ½ hour increments or consecutive days at a time up to the total number of hours accrued and unused.

**Carryover:** Vacation may be accrued to a maximum carryover of three hundred twenty (320) hours from one fiscal year to the next. Accrued, unused Vacation in excess of three hundred twenty (320) hours at the start of a new fiscal year will be forfeited. In certain circumstances Vacation (above three hundred twenty (320) hours) may be carried over into the new fiscal year based on recommendation from the Director and final approval of the County Executive.

**Transferring Leave:** Provided there has been no break in service from resignation or involuntary termination, employees transferring from one County funded position to another may transfer their accrued unused Vacation.

**Termination:** A terminated employee is paid in a lump sum for any unused Vacation accruals upon resignation, severance, discharge, or death. (Employees leaving the County within their first six (6) months of employment will not be paid out for accrued vacation).

**Rehired County Employees:** Rehired County employees may accrue based on prior years of full-time or part-time service if they are reemployed with the County within one (1) year of resignation (see HR-002K).

### **HR-006R: Volunteer Hours**

The County supports volunteer activities that enhance and serve the communities in which we live and work. The intention of this policy is to permit employees to give back and support the community. At the same time, the County recognizes that participating in these types of activities enriches the lives of its employees.

Eligible Charitable Organizations: Currently, the County works with many agencies and organizations to meet our county's needs. Their partners include agencies and organizations working with homelessness, hunger, poverty, elderly, literacy, youth, justice, environmental, community development, and emergency services. To be eligible for this program, employees must participate in one of the above areas, or an area approved by their supervisor.

Amount of Time: All full-time regular employees may volunteer eight (8) hours each fiscal year. These Volunteer Hours are considered paid time and must be in no less than four (4) hour increments. The pay rate is the employee's current base pay on the day(s) time is taken. The Volunteer Hours are submitted as Administrative leave and the charitable organization must be listed in time entry. With approval from the employee's supervisor, vacation may be used if a longer time span is needed.

### **HR-006S: Workers' Compensation**

All employees are insured by worker's compensation insurance while on duty for the County if meeting the criteria for a compensable claim under the Maryland Worker's Compensation statute. Workers' compensation insurance pays for reasonable, necessary, and causally related medical bills that resulted from a compensable worker's compensation claim. Worker's compensation also covers a portion of the covered employee's salary if the employee is disabled or unable to work due to the work-related injury or illness as defined by statute.

When an employee sustains a job-related injury or illness, prompt and effective medical treatment is the first priority. An employee who sustains an illness/accident while on the job is recommended to seek treatment. Physicians provide treatment and referrals to appropriate specialists and provide follow-up case management and fitness-for-duty determinations. The County and its Third-Party Administrator will utilize the medical documentation to the extent necessary to make a determination regarding approval of the claim.

Reporting & Eligibility: The injured employee notifies supervisor immediately, and after receiving any emergency attention, the employee who sustains an on-the-job injury or illness must complete a Risk Management Report of Incident and submit it to the Department of Human Resources no later than the beginning of the next business day. Failure to report a workplace injury or illness may result in disciplinary action.

The County's third-party Workers' Compensation administrator will review the information provided and determine whether the injury is compensable under Maryland's Workers' Compensation statute. If the claim is deemed compensable, then applicable medical and wage benefits must be supported by sufficient medical evidence. If applicable, use of FMLA will be concurrent with any workers' compensation absences.

If the County's third party Workers' Compensation administrator determines the injury or illness to be compensable under the Maryland Workers' Compensation laws, the County will pay the first three (3) calendar days (in addition to the date of injury/illness) of any compensable disability (per the medical documentation) as defined by Maryland's Workers' Compensation Law, in full, for any days the employee was normally scheduled for work. On the fourth day of compensable disability, the employee will be eligible for temporary total disability benefits as defined by the Maryland Workers' Compensation Law. The current law defines this benefit as equal to 66 2/3 of the employee's average weekly wage as defined by the Maryland Workers' Compensation Law (subject to the state mandated maximum for the year of injury). Please read section "Return from Leave" section below for information regarding refusal of modified duty and its possible effect on temporary total disability benefits.

If the injury or illness is determined to be compensable by the County's third-party Workers' Compensation administrator, all Sick and Vacation used will be credited back to the employee's leave record. After reconciling payments from the County's third party Workers' Compensation administrator, employee will receive all future payments directly from the County's third party Workers' Compensation administrator for the duration of the employee's compensable work-related injury or illness as defined by the Maryland Workers' Compensation Laws and Regulations and will not receive a County paycheck until the employee returns to work.

Return from Leave: All employees are required to obtain an Employee Work Status form from their physician, physician assistant or certified nurse practitioner. The Employee Work Status form must be turned into the Department of Human Resources no later than one (1) day from the medical visit. The County will make every effort to accommodate an employee's restrictions provided that they are provided by a licensed medical provider. Since work functions as a form of occupational therapy, employees are encouraged to return to work as soon as possible. If an employee refuses an offer by the County of modified duty, then the County will notify the third party Workers' Compensation administrator to terminate the employee's temporary total disability benefits, and the employee will not be reimbursed for any personal or unpaid leave that the employee has used.

An employee requiring professional medical treatment for a work-related injury or illness may not return to work until approved by the treating physician and the director or designee. Employees may return to work on regular full duty status; regular part-time duty status; or limited/light duty status, or may be terminated based upon the physician's instructions and availability of positions and available leave. Employees are required to provide an Employee Work Status form from the treating physician allowing the return to work.

- Regular Full Duty:
  - Employees are required to return to work on the return date specified by the treating physician, or on an alternate date as scheduled by the employee's supervisor or Department Head.
  - Upon return from Worker's Compensation Leave, employees shall be returned to their original position if available; however, if that position is not available, the employee is assigned:
    - To work in a position as closely related in duties, hours, and pay to the previous position as possible; or
    - If there are no appropriate positions available, employment is terminated.
- Regular Part-Time Duty:
  - Employees are required to return to work on the return date specified by the treating physician or on an alternate date scheduled by the supervisor or Department Head.
  - Employees returning to work part-time duty status shall be paid for hours actually worked.
  - Employees may be retained in a part-time duty status for a period not to exceed six (6) months; after that period, employee shall be returned to full duty, placed in another position, if available, or terminated.

- Light Duty Status:
  - Employees are required to accept light duty assignments whenever the assignment meets the criteria outlined by the physician's instructions on the Employee Work Status form.
  - Employees placed on light duty assignments, if available, immediately upon receipt of the Employee Work Status form. If no light duty is available in the employee's department, the supervisor notifies the Department of Human Resources to determine if the employee can be placed in another position that meets the employee's abilities and medical restrictions.
  - Employees who refuse to accept available light duty may be subject to disciplinary action, up to and including termination.
  - Employees may be retained on light duty status for a period not to exceed six (6) months; after that period, the employee shall be returned to full duty, placed in another position, if available, or terminated.
  - If light duty status is not available within the employee's medical restrictions, Worker's Compensation may continue. Extensions may be granted by the Director of DHR on a case-by-case basis.
  
- 100-Hour Rule
  - Employees will be provided 100 hours per rolling calendar year of County-paid Worker's Compensation Leave upon returning to work. Allowable uses:
    - Part-time duty status - to make up the difference between regular full duty hours and any restricted hours the physician approves the employee may work.
    - Medical appointments – to cover time missed at work due to attending medical appointments related to the Workers Compensation injury/ illness:
      - Employees are encouraged to schedule these appointments after hours, during lunch, or immediately before or after their regular shift, if possible. Hours are authorized hours based on distance from work/ home to medical provider.
    - Once the 100 hours is exhausted, the employee is paid only for actual hours worked, or may elect to use other available accrued leave.
    - The Department of Human Resources is responsible for advising the employee of electronic time entry requirements related to each type of return-to-work status, and notifies Finance to activate Worker's Compensation Leave for affected employees.

The County may place another individual in a position that is vacant during an employee's extended recuperation from a workplace injury or illness. Upon the employee's return to work, the County is committed to place the returning employee in a similar comparable position, as one becomes available, at no decrease in salary. If an employee is not expected to return or refuses an offer of modified duty which accommodates the employee's medical restrictions, and/or has exhausted all leaves for which he or she is eligible, including FMLA, the County or the appropriate Appointing Authority may terminate the employee or recommend that the employee apply for permanent disability status under the retirement/pension system, as appropriate.

<b>Policy #:</b>	HR-007
<b>Subject:</b>	BENEFITS
<b>Effective Date:</b>	July 1, 2020
<b>Approved by:</b>	County Executive & County Council

The County offers a variety of benefit programs designed to protect employees and their families, as well as programs that aid employees in planning for the future. Contact the Department of Human Resources for additional information or to review the summary plan description on a specific benefit plan. The County Executive may make changes to the benefits available to employees to maintain a balanced budget and to be fiscally responsible.

**HR-007A: Accident & Disability Insurance**

The County offers a voluntary payroll-deducted Accident and Disability Insurance program. The plan will be fully explained by an insurance agent so to customize the coverage.

**HR-007B: Cancer/Intensive Care Insurance**

The County offers a voluntary payroll deducted Cancer/Intensive Care insurance program. Plans are explained by an insurance agent to obtain optimal coverage based on the employee's and/ or dependent(s) needs.

**HR-007C: COBRA<sup>4</sup>**

Some events may cause an employee and/or his or her dependents to lose group health coverage and/or the Flexible Spending Account:

- Employee's termination of employment for any reason except gross misconduct;
- Employee's reduction in hours to fewer than the number required for plan participation;
- Employee's divorce or legal separation from spouse;
- Employee's death;
- Child's loss of dependent status as defined under the plan;

When such events occur, the individual losing the group health plan coverage is offered the opportunity to continue their coverage for a period of time at their expense<sup>2</sup>. Employees are responsible for notifying the Department of Human Resources within thirty-one (31) days in the event of a divorce, legal separation, or children becoming ineligible under the County's group health insurance plan. This notification initiates a sequence of events culminating in notifying the qualified individual of their opportunity to enroll in COBRA coverage. Employees who terminate employment will be notified by the County of their opportunity to continue their coverage. The Department of Human Resources should be contacted for any further information.

**HR-007D: Credit Union**

Employees may join one of the affiliated credit unions that offer checking and savings accounts; personal, automobile and home equity loans; and discounted admissions to area attractions. Optional payroll deduction with direct deposit to a credit union is provided for employee convenience.

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<sup>2</sup> This is provided in compliance with the federal Consolidated Omnibus Budget Reconciliation Act (COBRA).



### **HR-007E: Deferred Compensation**

The County provides a tax-advantaged plan (under Internal Revenue Service code 457) in which an employee (working 30+ hours per week) can contribute a portion of their compensation to defer income tax payments. To encourage participation, when funding is available the County provides a limited dollar-for-dollar match per participant who is:

- Employed and contributing on the last pay of June; and
- On payroll when the disbursement is made to the third-party administrator in August.

An eligible employee may complete an application, enroll on-line or meet with the on-site representative. Contractual employees may participate, but receive no County matching funds.

### **HR-007F: Dental Insurance**

Employees may be eligible for Dental Insurance. Coverage provided is based on services rendered.

### **HR-007G: Direct Deposit**

The County processes employee base hours worked, overtime, expenses and premiums on a regular schedule. To ensure the greatest reliability in receiving paychecks, the County encourages the use of direct deposit into a maximum of three (3) participating financial institution.

Employees receive many benefits as a result of using direct deposit. In addition to benefits provided by financial institutions to direct deposit customers, direct deposit ensures that pay is in the employee's bank account on the date of payment, does not rely on conditions which might impede the U.S. mail, and is generally free to the account holder.

### **HR-007H: Employee Assistance Program**

The County's EAP provides confidential counseling services at no cost to full-time employees and their dependents (for specific details, please consult the Department of Human Resources). Services include adolescent counseling, substance abuse assessment and treatment, marital counseling, legal, bereavement, financial or workplace issues. Counselors are available 7 days/week, 24 hours/day.

### **HR-007I: Employee Continuing Development**

The County encourages employees to develop workplace skills for current and future assignments. These benefits are available to non-probationary active employees who wish to continue to develop their skills mandated as required for current and future positions by their supervisor. These include:

Training Sessions: The supervisor, during performance appraisal meetings, may identify training and educational sessions that may support the employee's long-term career goals.

Mandated Training: Employees may be reimbursed for reasonable expenses associated with attending mandated training. Prior to reimbursement, employee agrees in writing to repay expenses paid by the County if they leave prior to two (2) years after completing the mandated training.

- An employee who leaves employment prior to completing required service must repay the expenses paid by the County, proportionate to the required service.
- The signed agreement permits the County to recover these expenses in the employee's final paycheck, as necessary.
- Appointing Authority has the discretion to waive the reimbursement, as appropriate.

Tuition Reimbursement: When funding available, an employee may elect to enroll in college courses for credit deemed appropriate to the position or employee's development related to County positions.

- Reimbursement Agreements are approved by the Director of Human Resources.
- Upon satisfactory course completion, the employee will be reimbursed provided the employee received prior approval.
- The employee agrees the County may deduct expenses from the final paycheck, if the employee leaves County employment within six (6) months of course completion.

**HR-007J: Employee Incentive Program**

Various incentive and reward programs may be approved by the County Executive to recognize employee customer service, performance or participation in County-sponsored activities.

**HR-007K: Flexible Spending Account (FSA)**

A Flexible Spending Account (FSA) is a benefit that allows employees to pay for dependent care and most non-covered medical expenses (co-pays, prescriptions, dental and vision expenses, etc.) with pre-tax income. Employees enroll during an open enrollment period designated by the County with benefits starting in January.

**HR-007L: Health Care Coverage**

The County provides health care coverage to employees and eligible dependents which covers a significant portion of the costs for eligible medical expenses arising from a personal illness or injury. Therefore, the coverage protects the employee and their family from resulting financial losses or hardships.

The County offers regular full-time and part-time employees health care options through a third-party-administered, County-funded insurance program. All plans cover the same types of services and procedures, but may differ in respect to deductibles, coinsurances, and out-of-pocket expenses.

Newly hired, eligible regular full-time employees and part-time<sup>1</sup> employees working 30-39 hours per week may enroll in health care coverage within forty-five (45) days of continuous employment, depending on start date. Employees may make changes due to a life event within thirty-one (31) days of the life event or during open enrollment.

**HR-007M: Post-Retirement Health Reimbursement Account**

HRA provides reimbursement of premiums associated with a retiree’s medical/prescription insurance purchased through the market exchange or individual market. Reimbursement for premiums associated with other employer provided coverage (retiree or spouse) and cost for dependent coverage is not eligible for HRA reimbursement.

Retiree will be eligible to receive an HRA if:

- Enrolled in the County’s Employee Benefit Plan for at least one (1) full year immediately prior to retirement; and
- At least 15 continuous years of full-time service with the County; and
- Approved for service retirement under the applicable retirement plan; or
- Approved for a disability retirement from the applicable retirement plan.

The County will contribute a fixed amount per year based on the retiree’s years of continuous service. This is an annual “Use it or Lose it” plan, and any unused funds will be contributed back to the County. Reimbursement requests for premiums through December 31st each year can be submitted monthly, quarterly, bi-yearly, or yearly; but must be received within 90 days of year end.

Annual County Contribution:

- 15 to 19 years or service           \$1,500
- 20 to 24 years or service         \$2,000
- 25 or more years of service      \$2,500

### **HR-007N: Health Savings Account**

Employees enrolled in the County's High Deductible Health Care Coverage are enrolled in a County funded HSA. The County contributes \$500/year for individuals and \$1,000/year for families. The participant can contribute additional funds, as well as chose fund investment options.

The HSA can be used to cover deductible, co-pays, and coinsurance costs. The HSA funds roll over each year and goes with the employee when they retire or resign.

### **HR-007O: Life Insurance & Accidental Death/Dismemberment**

To provide income replacement to the surviving dependents of an employee in the case of an employee's death, the County pays the entire cost to provide regular full-time employees working 40 hours per week term life insurance (for specific details on the coverage, please consult the Department of Human Resources). The coverage amount will be adjusted at the beginning of each fiscal year.

### **HR-007P: Meal Allowance**

A County employee who is required to work extended hours associated with job-related travel, seminars and conferences may qualify for a meal allowance.

### **HR-007Q: Pension Systems**

It is mandatory for eligible County employees to participate in either the Maryland State Employees' Retirement and Pension System or the Cecil County Pension Plan for Public Safety Employees. To obtain complete plan information, please refer to the applicable plan document for full details.

	<b>Maryland State Employees' Retirement and Pension Plan</b>		<b>Cecil County Pension Plan for Public Safety Employees</b>
	<b>Employed as of 6/30/2011</b>	<b>Employed on or after 7/1/2011</b>	
Vested	5 years	10 years	5 years
Member Contributions	7% of base pay contributed through payroll deduction	7% of base pay contributed through payroll deduction	8% of base pay contributed through payroll deduction (up to 25 years of service)
Normal Retirement Eligibility	30 Years of Service <u>or</u> age 62 with 5 years of eligibility service; age 63 with 4 years, age 64 with 3 years, age 65 with 2 years	Rule of 90 – age and service must equal 90; OR Age 65 with 10 years of eligibility service	25 years of eligibility service regardless of age; OR Age 55 with 5 years of eligibility service
Eligibility Service (determines vesting & when you can retire)	Minimum of 500 regular hours worked in a fiscal year		One month is earned for each full month worked
Creditable Service (determines benefit amount)	Earn one month of creditable service for each month of employment; May include periods of service in the Armed Forces of the United States		Earn one month of creditable service for each month of employment; May include periods of service in the Armed Forces of the United States

### **HR-007R: Prescription Plan**

The Prescription Plan is included in the cost of the Health Care Coverage. Prescriptions may be obtained at a pharmacy or through a mail-order program (maximum quantities apply).

### **HR-007S: Sick Leave Bank**

The Sick Leave Bank is a voluntary benefit designed to provide additional Sick leave to an employee who, due to a serious illness or off-the-job injury, exhausts accrued paid leave.

To participate, an employee must contribute eight (8) hours of accrued, unused Sick leave (or if none available; accrued, unused Vacation) to the bank during the open enrollment period. Employee's currently in the bank, an eight-hour day will automatically be deducted from Sick leave accrual (or if none available, accrued, unused Vacation) unless the Department of Human Resources is notified by the employee in writing that they no longer wish to participate.

For purposes of confidentiality, the Director of Human Resources serves as the administrator of the Sick Leave Bank and reviews all requests. Appeals of administrative decisions may be made to the Director of Administration, whose decision shall be final and binding.

To be eligible to draw time from the Sick Leave Bank, an employee:

- Must be regular full-time employee;
- Completed probationary period and/or have completed six (6) continuous months of employment with the County;
- Must contribute to the Sick Leave Bank;
- Unable to work due to a serious, documented, non-job-related illness or injury;
- Absences related to elective procedures are examples of those that do not qualify;
- Unable to perform "light duty" functions as authorized by designated department and approved by treating physician.
  - An employee who refuses "light duty" functions and has exhausted available FMLA does not qualify for sick leave bank use;
- Intermittent absences do not qualify;
- Must have an estimated return to work date from the treating physician;
- Must have exhausted all other accrued paid (Sick, Vacation, Personal) leave time.
  - Employee will not accrue leave for any month that they use the sick leave bank.)
- Leave records must not reflect unauthorized absences or discipline for attendance issues;
- Must complete the appropriate application (available from the Department of Human Resources) and submit documentation from the health care provider;
- Supervisor/Director and Director of Human Resources reviews and approves application.

Employee is encouraged to apply for Sick Leave Bank use before exhausting own leave if anticipating being out of work for an extended period. The Department of Human Resources will notify the applicant as to the status of the request within five (5) working days of receipt of application. If approved, the employee will receive a maximum of two hundred-forty (240) hours of additional Sick leave from the bank. Any employee needing additional days must reapply. Employees may not receive more than four hundred-eighty (480) hours Sick leave from the bank in a rolling 12-month period.

### **HR-007T: Vision Insurance**

An employee participating in the Health Care Coverage is eligible for Vision Insurance. The insurance provides an employee and their dependents annual eye exams, glasses, or contact lenses.

### **HR-007U: Voluntary Term Life Insurance**

The County offers optional voluntary term life insurance for employees to purchase life insurance for themselves, spouse, and dependent children that best suit their needs.

<b>Policy #:</b>	HR-008
<b>Subject:</b>	STANDARDS OF CONDUCT, PERFORMANCE & DISCIPLINE
<b>Effective Date:</b>	July 1, 2020
<b>Approved by:</b>	County Executive & County Council

### **HR-008A: Overview**

The County's Standards of Conduct, Performance & Discipline are designed to protect the well-being and rights of all employees and citizens. This section also includes disciplinary processes and consequences.

The County has adopted and communicated Standards of Conduct and Performance to:

- Clearly state expectations for all employees;
- Establish a fair, objective and consistent process for correcting or treating unacceptable conduct or work performance; and
- Create distinctions between less and more serious infractions; and
- Create guidelines for appropriate responses.

The County's values and policies summarize expectations for employees as they perform their position. Supervisors and employees work together to develop clear expectations for specific position behaviors and performance. The County expects employees to achieve results by acting in accordance with the County's values. When an employee fails to meet these expectations, violates work rules, or otherwise acts in ways contrary to our values, corrective action may be taken.

The purpose of performance management, which includes regular performance appraisals and corrective action, is to give specific feedback that allows employees an opportunity to change behavior and improve performance. When corrective action is taken, employees are provided an explanation of the reasons for the action and what further corrective action is possible if behavior or performance fails to improve. The failure to improve may result in further corrective action, which may include termination of employment.

### **HR-008B: Applicability**

All employees are expected to comply with these Standards of Conduct and Performance. Disciplinary policies, intended to encourage correction of inappropriate behaviors and when appropriate, suspend or dismiss employees, apply to all classified employees. Conduct that fails to conform to the County's values or expectations may be subject to accelerated discipline.

### **HR-008C: Performance Expectations for Employees**

In addition to the Standards of Conduct and Performance, there are critical performance expectations of County employees. These pertain to any time employees are at work (including rest breaks, meal breaks, and any non-work times during the workday) or when otherwise representing the County in an official or work-related capacity:

**Timely and Regular Attendance:** Employees are expected to report on time for each and every work shift. Absences must be scheduled and approved in advance by supervision. Unexpected absences should be avoided; however, when unavoidable, employees should report an unexpected absence as per applicable department policy.

**Dedicated and Efficient Service:** While at work, employees are expected to attend fully to their assigned duties during their entire work shift. Distractions and personal business should be minimized.

**Satisfactory Work Performance:** Employees have been carefully selected for each position based on their qualifications relative to the position requirements. As such, employees are expected to meet established performance expectations. When conditions arise that prevent effective performance or completion of assignments, employees are expected to report such conditions to management. When instructions are unclear, procedures are uncertain, or working conditions unsafe, employees are responsible for reporting these problems to management.

### **HR-008D: Personal Appearance**

The County expects employees to maintain a personal appearance that promotes a professional and favorable image of the County. Employees are expected to be dressed and groomed appropriate to the work environment and assignments. Employees may be required to wear uniforms, safety shoes or other safety equipment while at work; failure to do so may result in a safety violation resulting in disciplinary action. Employees in correctional positions may not wear any civilian clothing while on duty.

The County recognizes that employees with limited access to the public may be permitted to dress casually in the workplace. In addition, casual dress may be authorized by the County Executive as an incentive for participating in certain County-sponsored activities. Business casual dress is defined as neat, clean clothing, without holes or tears, and clothing which is not provocative and sufficiently covers the body. Employees are not to wear clothing with written messages or depictions. Additionally, for employee protection, appropriate footwear that will protect an employee's feet is required. Due to the variety of business conducted in County Departments, Directors may determine the dress code that is appropriate to the office using the guidelines cited here.

### **HR-008E: Confidentiality of Records, Hearings & Meetings**

Personnel records, applications for employment or promotion, medical records, performance evaluations, disciplinary records, letters of reference, scholastic records and other documents related to County employment (or applicants for employment), are confidential in nature unless otherwise stipulated in state or federal regulations. They are only to be made available to the person in interest (or legally designated representative) or to the duly elected or appointed officials who supervise the work of the person in interest; or to those involved in disciplinary proceedings, or in compliance with a summons from a court or administrative agency.

Disciplinary hearings, grievance hearings, meetings to review applicants for employment, or other meetings of a similar nature involving employee issues, are not open to the general public. Exceptions to these principles can only be made with the written consent of the person in interest and the mutual concurrence of the proper County authorities.

### **HR-008F: Expectations for Supervisors**

The supervisor's primary goal is to help employees fulfill their job duties while following the County's values. A supervisor's role is to describe expectations for acceptable behavior and to model those behaviors. Additionally, the supervisor works with employees to set measurable goals, objectives and performance expectations for their positions.

When an employee is unable or unwilling to either fulfill job duties, or follow the values, the supervisor's role is to manage the performance or restate/revise expectations to guide the employee toward success. Depending on the severity of the situation, the supervisor takes appropriate corrective action through the use of informal or formal means.

### **HR-008G: Corrective Measures & Processes**

To improve performance, supervisors use a number of corrective measures. These measures include: coaching and counseling, performance appraisal, performance improvement plan, disciplinary action (Group Offenses), probation, suspension, demotion/reduction in pay, and/or removal from position.

Supervisors are responsible for removing employees immediately from County premises if behavior or performance endangers anyone's health or safety, or the ability to conduct County business is affected. Under these circumstances, supervisors are expected to take such action immediately, without waiting to prepare supporting documentation.

**Counseling:** Initial observances of performance and behavior problems should be approached through counseling. Counseling is a one-on-one meeting between the supervisor and employee to alleviate minor performance problems. A supervisor should make note of each counseling meeting in the supervisor's working file. If repeat counseling on the same matter becomes necessary, notes are used to prepare documented counseling or disciplinary action that becomes part of an employee's personnel file and may be grieved pursuant to the applicable section.

**Documented Counseling:** Documented counseling is a verbal discussion that is documented by completion of an Employee Warning/ Disciplinary Report. Documented counseling should be used to document a repeat violation of a relatively minor infraction, minor violation of policy or procedure, or to alert an employee of unsatisfactory performance that could result in a poor Performance Appraisal and/or disciplinary actions. A copy of the Employee Warning/ Disciplinary Report is forwarded to the Department of Human Resources for processing of any discipline and inclusion in the employee's personnel file

**EAP Referral:** Supervisors are encouraged to consider EAP referral prior to or in addition to applying corrective action. EAP referral is not considered a substitute for corrective action for a serious violation of Standards of Conduct and Performance.

**HR-008H: Group Offenses**

The list below includes types of rule infractions that interfere with safe, orderly and efficient County operations. It provides guidelines for disciplinary action, with sample offenses placed in one of three groups based on severity of the infraction. Each level is associated with progressively more severe personnel action(s) and longer retention in the official record for subsequent infractions. These are illustrative, but not all inclusive. The County has discretion to take disciplinary action when an employee's action is judged to impede County operations.

<b>General Guidelines and Descriptions of Group Offenses</b>			
	<b>Group I Offenses</b>	<b>Group II Offenses</b>	<b>Group III Offenses</b>
<b>General Description</b>	Least severe - Corrective action maintains productive work force.	More severe - One (1) additional incident normally warrants removal from job.	Most severe - Act and/or behavior of a serious nature that warrants removal without prior warning or counseling.
<b>Procedure</b>	Supervisor issues Employee Warning/Disciplinary Report as soon as practicable after the observed/identified behavior problem. Includes justification for infraction, and employee is provided a reasonable opportunity to respond.	Director issues Employee Warning/ Disciplinary Report as soon as practicable after the observed/ identified behavior problem. Includes justification for infraction, and employee is provided a reasonable opportunity to respond.	Director issues Employee Warning/Disciplinary Report as soon as practicable after the observed/identified behavior problem. Includes justification for infraction, and employee is provided a reasonable opportunity to respond.
<b>Review</b>	Director of Human Resources	Director of Human Resources	Director of Human Resources
<b>Consequences</b>	Cumulative: Three (3) active Group I offenses may result in suspension without pay up to five (5) working days.  Four (4) active Group I offenses may result in removal from job unless mitigating circumstances justify demotion or suspension up to thirty working days.  Employee placed on position probation up to one (1) year and/or forfeiture of up to five (5) days vacation.	Cumulative: Discipline includes written notice or notice and suspension without pay for up to ten (10) working days.  One (1) additional Group II offense results in removal from job unless mitigating circumstances justify demotion or suspension up to thirty (30) working days.  Employee placed on position probation up to one (1) year and/or forfeiture of up to five (5) days vacation.	Discipline includes written notice and removal from job, unless mitigating circumstances justify the use of demotion or suspension without pay up to thirty (30) working days in lieu of termination.  Employee placed on position probation for up to one (1) year and/or forfeiture of up to five (5) days vacation.  <b>ZERO TOLERANCE</b> (noted on following chart with "+") offenses incur immediate termination.
<b>Retention</b>	Active for 2 years from issue date	Active for 3 years from issue date.	Active for 4 years from issue date

<b>Group I Offenses</b>	<b>Group II Offenses</b>	<b>Group III Offenses</b>
Unsatisfactory attendance or excessive tardiness.	Failure to report to work as scheduled (Unauthorized Absence).	Consecutive Unauthorized Absence totaling three (3) days.
Undocumented Sick leave not protected by FMLA and/or Leave Without Pay that reflect a pattern of abuse.	Additional undocumented Sick leave not protected by FMLA and/or Leave Without Pay following notification of Group I offense.	One undocumented additional Sick leave following notification of Group II offense.
Abuse of County work time.	Leaving work site without permission or, for 24/7 operations, leaving work site prior to being replaced.	Failure to complete, receive or maintain mandated training or certification.
Smoking in a County owned, leased and/or operated building, vehicle or property, customer or vendor premises.	Violation of Information Technology Policy HR-012.	*Violating safety rules, horseplay or other misconduct endangering own safety or safety of others.
Inappropriate workplace attire.	Failure to follow supervisor's instructions (insubordination), perform assigned duties, or comply with written policy.	*Participation in any kind of work slowdown, sit-down or concerted interference with County operations.
Initial failure to complete time entry or time off requests as required.	Refusal to work assigned overtime.	*Fighting, acts of physical violence, or threatening/coercing individuals associated with any County agency; substantiated workplace harassment.
Unauthorized posting or removal of notices from County bulletin boards or premises.	Unauthorized use or misuse of County property or records.	*Falsifying records, such as (but not limited to) vouchers, reports, insurance claims, time records, leave records, or other official County documents.
Minor moving traffic violation or speeding ticket while using County owned/leased vehicle.	Providing discourteous or unprofessional customer service to the public or co-workers.	*Accumulation of 6+ points on driving record restricting employee from performing the position; at fault (chargeable) accident with citation while operating a County owned/ leased vehicle.
Failure to report secondary/self-employment to supervisor.	Taking anything of value for personal use with the implied expectation of acting on the gifter's behalf, rather than in the best interests of the County.	*Willfully/negligently damaging, defacing, theft, or unauthorized removal of County property, records, or another individual's property.
At fault vehicle accident without citation while operating a County owned/leased vehicle.	Selling or soliciting on County property without prior authorization from the appropriate Appointing Authority.	*Use of alcohol or unlawful use/possession of controlled substances during working hours, on County premises or vehicles; a positive drug and/or alcohol test or refusal to test.
	Disruptive behavior, obscene, harassing or abusive language.	*Unauthorized possession or use of firearms, dangerous weapons or explosives.
	Conduct or behavior that would bring discredit to the County, or discredit to the reputation of another employee (including through social media).	*Criminal convictions for off-the-job behavior. Gambling on County property or during work hours.
		*Unethical behavior as outlined in the Ethics Code, including continued participation in Secondary/Self Employment deemed unethical.
		*Sleeping or inappropriate action (i.e. sexual activity) during County work hours.
		*Violation of Employment of Relatives/ Nepotism Policy.



## **HR-008I: Guidelines for Use, Mitigating Circumstances**

Specified corrective action should not be exceeded unless the offense is sufficiently severe to warrant immediate removal from the position. Mitigating circumstances may influence the Director of Human Resources, Director and/or Appointing Authority to reduce the severity of the action. Depending on the specific situation, mitigating circumstances may prompt consideration of demotion, transfer and/or suspension as alternatives to removal from the position. Where suspension in lieu of removal is used, the suspension will not exceed thirty (30) workdays for a Group III offense, or an accumulation of Group I or Group II offenses.

## **HR-008J: Position Suspension**

Position suspension is the barring of an employee from work for a period of time (not to exceed five (5) working days) and the withholding of the wages for the employee. An employee who receives a position suspension shall not receive an annual merit increase during the fiscal year of the suspension. No position suspension shall be imposed without the approval of the Director of Human Resources, or the Appointing Authority.

Immediate removal from the position is warranted when an employee is unable to meet essential position requirements and, therefore, unable to perform the position. A position suspension may be issued for, but are not limited to:

- Serious infraction of County Policies and Procedures;
- Loss of certification or license (including driver's license) required for the position;
- Behavior that creates an imminent threat of danger to the employee, other employees or citizens.

An employee may be immediately removed from the work area prior to receiving written notice. This will occur when the employee's continued presence:

- May be harmful to self or other employees or citizens;
- Impedes the County's exercise of its functions; or
- Could jeopardize the County's fulfillment of its duties to the public or to other employees.

When this occurs, the employee receives written notice as soon as possible after removal and given an opportunity to respond prior to being placed on suspension without pay or permanently removed from the position.

An employee may also be suspended for up to ten (10) days with pay (Administrative leave) pending completion of a disciplinary investigation of misconduct or rules infraction. The employee is notified of the suspension in writing from the Director. The employee will be treated as follows depending on the investigation outcome:

- Employee determined not to have violated Standards of Conduct: The employee returns to work as soon as possible after the resolution of the investigation.
- Employee violated rules and discipline warranted: Suspension begins as determined by the Director with past time on suspension changed to time off without pay.
- Investigation unresolved after ten (10) days, employee returns to work pending a final decision unless immediate removal is warranted.

**Suspension, Pending Resolution of Criminal Charges:** An employee who is charged with committing an indictable offense while in the execution of their position may be suspended without pay at the discretion of the Appointing Authority until such time the case has been resolved by the appropriate court. Once court action or investigation is concluded, the employee may be reinstated if acquitted, disciplined, or if found guilty removed by use of written notice.

Suspended employees shall not be allowed on County premises, nor shall they be allowed to work except to fulfill previously scheduled court obligations or to file and process a grievance.

### **HR-008K: Employee Pay & Benefit Status While on Suspension**

The Director must notify the Department of Human Resources immediately when an employee is suspended without pay, and/or subsequent removal, demotion, transfer or reinstatement, to maintain accurate payroll records. The County Executive, based on the recommendation of the Personnel Board (HR009E), may return an employee to work with full, partial or no back pay. Any interim earnings the employee received while suspended offset back pay awards.

Health/Dental/Vision Care Coverage: Selected coverage(s) shall be continued while the employee is on suspension as long as the employee pays the contribution(s). At the time termination of employment, coverage(s) may be continued only if the employee contributes the full cost of the coverage (employee and employer costs) in accordance with the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA).

### **HR-008L: Discipline Records**

Any records related to employee discipline shall be maintained in the employee's personnel file in the Department of Human Resources. During the active life of the action, subsequent infractions will result in more severe disciplinary action. Once a written notice is no longer active it is no longer considered in determining disciplinary action for a subsequent offense; however, it is retained in the personnel file.

### **HR-008M: Secondary/Self Employment**

Outside employment will be permitted only if such employment does not represent a conflict of interest or adversely affect performance. Employees must complete a Request for Secondary/Self Employment and submit to their supervisor for review. The supervisor will forward a recommendation to the Director. The Director will review and note any concerns of a potential conflict of interest, and issue a recommendation to the Department of Human Resources for review. If the Department of Human Resources assessed a potential conflict, the request is forwarded to the Ethics Commission for consideration. Final determination is at the discretion of the Ethics Commission.

Employees approved for any type of continuous Leave of Absence or FMLA from County employment, are prohibited from working secondary/self-employment while on leave until the outside job duties are approved by the Director of Human Resources.

<b>Policy #:</b>	HR-009
<b>Subject:</b>	GRIEVANCE PROCEDURES
<b>Effective Date:</b>	July 1, 2020
<b>Approved by:</b>	County Executive & County Council

### **HR-009A: Overview**

The County is committed to resolving employment disputes in a fair, equitable and timely manner, protecting employees against reprisals or retaliation, and minimizing operational disruptions. The Grievance Procedures describe a multi-step process for eligible employees to address and resolve employment concerns.

Grievance: Formal complaint filed with respect to the matters listed below, provided an employee has suffered or incurred an adverse employment impact as a result of the matter grieved.

### **HR-009B: Applicability**

The Grievance Procedures apply to classified full-time and part-time employees. Recently hired probationary, temporary, on-call, and contract/grant employees, have no rights under the County's grievance procedure system and may not file a grievance.

The following matters may be grieved:

- Disciplinary action against a classified full-time or part-time employee;
- Violation, misinterpretation or improper application to a classified employee of laws or regulations governing or applicable to the employee/employer relationship;
- Allegedly improper or unreasonable act directed at a classified employee by a supervisor, employee, or other person, including an act of coercion, restraint, reprisal, harassment, or intimidation; or
- Improper, inequitable, or unreasonable application of compensation policies or benefits, which may include salary, pay differentials, awards, overtime, leave, insurance, retirement, and holidays.

The Grievance Procedures are not applicable under the following circumstances:

- Actions taken in accordance with the Law Enforcement Officers Bill of Rights.
- Actions taken in accordance with the Correctional Officers Bill of Rights.
- Supervisory determination of position responsibilities or assignments, and performance standards, as well as actual performance ratings.
- Pay classifications approved by the Council or any other action taken per the direction of the County Council, County Executive, and/or Appointing Authority.
- Adverse action taken against employees in their probationary period, contractual/personal services employees, or other employees exempted (excluded) in the Personnel Manual.
- Non-selection for a position or for a promotion.
- Oral and written warnings not filed within the employee's official personnel records.
- An action that terminates "Acting" capacity or temporary pay.
- Withholding a merit increase due to unsatisfactory performance.
- Employee terminations or separations due to position elimination, reduction in force, reorganization, exhaustion of all approved leaves, or loss of funding.

### **HR-009C: First Step - Discussion of Problem, Attempt to Resolve**

Requires an employee to try to resolve the problem or issue with the supervisor. This step should be initiated within five (5) working days of the action giving rise to the grievance. If the problem or issue cannot be settled through this oral discussion:

- Within five (5) working days after the event that caused the problem or issue, employee files written grievance with supervisor and/or Department of Human Resources.
- Within five (5) working days after receipt of the written grievance, the supervisor and/or Department of Human Resources will meet, discuss, and attempt to resolve the grievance with the employee.
- Within five (5) working days following the meeting, the supervisor and/or Department of Human Resources will submit a written response to the employee.

Any grievance filed not in compliance with the above timeline shall be time-barred. If the grievance involves the employee's supervisor, the grievance will move directly to the Second Step.

### **HR-009D: Second Step - Written Grievance to Director**

If the employee is dissatisfied with the supervisor's decision regarding the submitted grievance:

- Within five (5) working days following completion of the First Step, the employee may submit a written grievance to the Director and/or Department of Human Resources.
- After receipt of the written grievance, the Director will investigate the written grievance via an interview with the employee and any others believed to have knowledge of the issue. Relevant documentation is also reviewed.
- Within twenty (20) working days from the receipt of the written grievance, the Director will submit a written response to the employee.

Any written grievance not filed in compliance with the above timeline shall be time-barred.

### **HR-009E: Third Step - Written Grievance to County Executive (or designee)**

If the employee remains dissatisfied with resolution of the grievance after pursuing Director appeal:

- Within five (5) working days following completion of the Second Step, the employee may submit a written request to the Director of Human Resources for a review by the County Executive (or designee).
- The written request must present:
  - The employee's version of the facts giving rise to the grievance;
  - Any provisions of the County Policies and Procedures Manual alleged to have been violated by the action; and
  - The employee's proposed action to resolve the grievance.
- Within twenty (20) working days from receipt of the employee's written request, the County Executive (or designee) will review the employee's request, and any documentation obtained through the grievance process and provide a written response to the employee.

Any written grievance not filed in compliance with the above timeline shall be time-barred.

### **HR-009F: Fourth Step - Personnel Board Hearing & Findings**

If the employee remains dissatisfied with the resolution of the grievance after pursuing above steps, within five (5) working days following receipt of County Executive's (or designee) response, the employee may submit a written request for Personnel Board hearing.

The County Personnel Board is an independent body with broad representation that reviews the written record of the grievance, the employee's position regarding the grievance, relevant data and supervisor, Director, and County Executive (or designee) analysis and recommendations. The Director of Human Resources presents all available written information and data to the Board in advance of the scheduled hearing. The Board reviews the written record of the case and may issue an administrative decision if there is adequate information. A letter of finding is issued to notify all parties of the Personnel Board's decision.

Hearings: Where warranted, the Personnel Board may grant a hearing. Granting a hearing is at the sole discretion of the Personnel Board, except where a loss of income has occurred (such as a suspension without pay, termination of employment, or demotion with a reduction in pay). In those instances, the employee is entitled to a hearing upon request. The Personnel Board may opt to forego a hearing and issue an administrative decision on a matter in which an agency has previously conducted a hearing on the same or substantially similar facts and an adequate written record is available for review.

Grievance hearings are held during normal working hours. The grievant and employee witnesses are paid for work time lost while attending the hearing. However, the County is not responsible for any expenses for witnesses called by the employee but not employed by the County. Hearings that have not been scheduled within sixty (60) days of request (through no fault of the Board) will not be heard.

Hearing Process: The County Personnel Board convenes the hearing as soon as reasonably possible with the employee, the employee's representative (as requested), the appropriate Director, and witnesses with direct knowledge of the issue at question as called by either party.

- Within twenty (20) working days following the hearing:
  - The County Personnel Board issues its findings in writing to the employee, the County Executive (or designee), and the Department of Human Resources.

Possible Outcomes: The Personnel Board may consider any applicable matters and affirm, increase, decrease or cancel disciplinary actions taken. Included are terminations, suspensions, demotions, and written warnings that could eventually result in future suspension or termination. Employees encountering problems with any other aspect of their employment relationship, including matters specifically excluded above (see Applicability), may seek redress through the immediate supervisor, Director, or Director of Human Resources (one not being exclusive of the other). The decision of the County Personnel Board is final and binding on both parties.

Personnel Board: The Personnel Board consists of three members and an alternate. Three members constitute a quorum for conducting business and rendering a valid decision. Members serve a term as outlined below. Members are appointed as follows:

- Three members and one alternate chosen by the County Executive with at least one member being a person working in the area of Human Resources Management with each to serve a two-year term. A member may be reappointed for an unlimited number of terms.
- The County Attorney represents management at Step Four, as required. The Personnel Board also has access to legal counsel as warranted.

Process: Personnel Board members elect a Chairperson for each case reviewed. In the absence of a regular member, the alternate participates. The Director of Human Resources acts as the Secretary to the Personnel Board and issues to all parties the notices of hearing and procedures to be followed.

Reinstatement Recommendations by Personnel Board: Where the Personnel Board recommends reinstatement of a separated, suspended, or demoted employee, County Executive approval is required to award full or partial back pay for the period of separation or demotion as deemed appropriate.

### **HR-009G: Time Limitations**

Employees must meet time limits to appeal to subsequent levels in the Grievance Procedure process, otherwise the appeal is time barred and determined to be settled on the last answer of the County. If the County fails to respond within prescribed time limits, the employee may immediately appeal to the next level. If both parties mutually agree to extend time limits, appeals can proceed past time limits as prescribed.

The times set forth may be extended, provided all parties agree to such an extension of time in writing.

### **HR-009H: Employee Representation**

An employee has the opportunity to be accompanied at each step in the grievance process by another fellow employee. The employee representative may accompany the employee at the Fourth Step. Alternatively, the employee may retain legal counsel, at the employee's expense, to attend the hearing. In either case, all meetings between the employee and employee's representative occur outside of working hours.

<b>Policy #:</b>	HR-010
<b>Subject:</b>	HEALTH & SAFETY
<b>Effective Date:</b>	July 1, 2020
<b>Approved by:</b>	County Executive & County Council

**HR-010A: Overview**

The County is committed to providing a safe workplace, free of recognized hazards. Safety is the responsibility of every employee. Employees are to stay alert for possible unsafe conditions and to report any unsafe act or condition immediately to their supervisor or department head.

**HR-010B: Requirements & Responsibilities**

The following covers general safety rules for all employees. Specific safety rules supplementing these rules may be posted in the work area, provided during safety training, or reviewed by supervision in periodic safety meetings.

- Employees are responsible for following safety rules, safe work practices and accident prevention measures.
- If you witness or discover any accident in which another employee or citizen is involved, immediately call 9-1-1 and report the situation to your supervisor or department head.
- All work-related injuries, regardless of how slight the injury must be reported immediately to your supervisor or department head.
- Employees must adhere to all instructions given by the treating physician or designated first aid personnel.
- Employees are responsible for maintaining a neat, orderly, and safe work area, free of recognizable hazards.
- Employees must wear personal protective clothing and utilize safety equipment and machine guards, as required.
- Only designated personnel will operate machinery and County vehicles. All equipment and vehicles will be operated in accordance with safe operating procedures and instructions. Employees who operate equipment or drives a County vehicle must adhere to the County Driver’s Guideline policy and State laws. Supervisors may refer to the policy for questions or policy clarifications or contact the Department of Human Resources.

**HR-010C: Reporting of Claims**

Subject to certain limitations and circumstances, Maryland law requires the County to provide *information* to the public upon request. The County’s loss control efforts are promoted by uniformity in responding to requests for information pertaining to litigation, claims and alleged losses. Information standards have been adopted for specific situations:

Incident resulting in property damage and/or personal injury: Any employee involved in the incident and any employee witnesses complete a written report form and submit the forms to the Director (or the highest officer of the Department or Agency), with copies to the Department of Human Resources.

Receipt of any notification of a filed or anticipated claim against the County or any of its departments: Any employee receiving notice of claim or suit papers should note the date of receipt, and immediately forward to the Department of Human Resources with a copy to the County Attorney.

Receipt of any summons to appear as a witness to testify or provide evidence or documents concerning any new or pending claim before any court or government agency: The employee should immediately contact and forward a copy of the summons to the County Attorney. If the summons is relevant to a claim being defended by another attorney assigned by the County’s insurance carrier, the employee shall instead contact the Department of Human Resources who shall forward the summons to the assigned defense counsel.

Receipt of any request for information involving any claim against the County, any of its departments or agencies (either verbal or in writing): The employee receiving the request should direct the requesting party to the County Attorney or to the Department of Human Resources. No information shall be provided without receiving approval from the County Attorney or assigned defense counsel. If such request is in writing, the written request shall immediately be forwarded to the County Attorney or assigned defense counsel for response.

### **HR-010D: Driver's Guidelines**

Employees in some positions will be required to operate a County vehicle. Following is an overview of guidelines pertaining to operation of a County vehicle:

- Employees operating County vehicles must have driving records approved by the Department of Human Resources, using the Motor Vehicle Administration's point system.
- The employee must inform the supervisor and/or the Director of Human Resources of changes to their driving record.
- Driving records of employees who operate County vehicles will be reviewed by the Department of Human Resources every two years, or as requested.
- The Department of Human Resources will administer a driver's safety course for all employees who operate County vehicles; this course shall be completed every three (3) years or, as required.
- Employees will remain eligible to operate County vehicles as long as they remain employed by the County, hold a valid driver's license, have no more than five points on their driving record, and follow all Cecil County Motor Vehicle Operators Regulations, as listed below.

### **HR-010E: Motor Vehicle Operators Regulations**

The Director of Administration and Director will approve the need for a vehicle assigned to a person and whether the vehicle is assigned for take-home use. The vehicle, whether for use during working hours or for take-home use, is the property of the County and, therefore, subject to search or inspection at any time by the appropriate management personnel.

- Employees must obey the laws of the state/jurisdiction you are driving.
- No alcoholic beverages or drugs are permitted to be used or carried within the vehicle at any time.
- Unauthorized personnel are not allowed to ride in or operate the vehicle at any time.
- Employees are responsible for operating the vehicle in a safe manner. Abuse of the vehicle may lead to suspension or termination.
- Accidents must be reported immediately to the following:
  - Police agency in the jurisdiction where the accident occurs;
  - Director and/or supervisor; and
  - Department of Human Resources

Report mechanical problems as soon as possible to the Director and/ or supervisor and take the vehicle to the vehicle maintenance contractor for any necessary repairs.

- Maintain the appearance of the vehicle, including removing litter.
- Use all factory-installed safety equipment in the manner intended.



The following point system will be followed:

Status	Current Point Total	County Action
Valid	0, 1, 2, 3	Eligible to operate County motor vehicle
Valid	4, 5	Eligible to operate County motor vehicle; memorandum sent to Director/Elected Official making them aware of the situation and asking them to review it with employee.
Valid	6+	Cannot drive County motor vehicle. Memorandum sent to Director/Elected Official along with a copy of driving record. If not driving County vehicles limits an employee's ability to perform duties/ <i>position</i> , said employee will be terminated.

**HR-010F: Tobacco Use**

The County has established the following regulations regarding tobacco use, including the use of lighted tobacco, oral tobacco, or vaporized tobacco equipment, in the workplace:

- Tobacco use is prohibited in all County-owned, leased, or operated facilities
- Tobacco use is prohibited in all County-owned or leased vehicles
- Tobacco use is prohibited inside all citizen dwellings and all commercial or industrial customer facilities serviced by County employees
- Tobacco use is permitted on County property in specific designated areas

Employees and visitors to County government facilities are expected to honor this policy. Directors and supervisors are responsible for enforcing this policy in the areas under their supervision. Employees found in violation of this policy will be subject to corrective action, which may include discharge.

<b>Policy #:</b>	HR-011
<b>Subject:</b>	COMPUTING & ELECTRONIC COMMUNICATIONS
<b>Effective Date:</b>	July 1, 2020
<b>Approved by:</b>	County Executive & County Council

### **HR-011A: Overview**

This policy sets forth the County's administrative procedures relating to the access to and use of the County's computer, email, Internet, network infrastructure, telecom, and smart phones (County and personal) during work hours. By establishing this policy, the County seeks to:

- To ensure that individual and group behavior is consistent with the County's expectations and requirements to any applicable legislation and/or regulation;
- To ensure adequate and proper use of the County's systems, equipment and resources, so County business is carried out in a manner consistent with its mission; and
- To provide those who are affected by this policy with the means and tools to fulfill tasks, perform work activities, and assume responsibilities in a fully effective manner.

### **HR-011B: Scope & Applicability**

This policy shall apply to any user of the County's computer, email, Internet, Wi-Fi, smart phone, telecom, and/or network systems including:

- Any employee of the County;
- Any person who uses the County's computer, email, Internet, Wi-Fi, smart phone and/or network systems during a contract, an exchange of services, a mandate, a training period, a cooperative undertaking or otherwise;
- Any person provided an access code or password by an authorized County representative for the purpose of using the computer, email, Internet, smart phone, and/or network systems; and
- Any client, supplier, subcontractor, visitor, volunteer or other person using a computer, email, Internet, Wi-Fi, smart phone and/or network systems.

### **HR-011C: Definitions**

For purposes of this Policy and unless the context obviously indicates another meaning, the following words and expressions shall have the following meaning:

**Computer Resources and Computer System:** Collectively or individually, hardware and software, as well as computer and telecommunications resources and Wide Area Network (WAN) equipment, provided to the user by the County. Also includes computer equipment, telecommunications equipment, software, networks, information systems, information and data (text, visual, audio or other), located in or on any computer equipment or accessory, email, Internet and/or network systems.

**Email System:** System allowing the non-interactive communication of messages composed of text, data, images, or voice, between a sender and one/several receivers through telecommunications links.

**Equipment:** Any computer equipment or equipment which relates to the Computer System, including any computerized work station, computer, printer, monitor, cable, keyboard, as well as any accessory, including those used to receive, process, conserve, reproduce and transmit information or data; all email equipment or relating to the email system; and all equipment used to access or relating to the Internet and/or network systems.

Instant Messages: A type of communication enabling the user to create a private chat room with another individual in order to communicate in real time over Microsoft Outlook or the Internet, analogous to a telephone conversation but using text-based, not voice-based, communication.

Internet System: A system allowing access to the World Wide Web by telecommunications links using computer resources.

Network System: Video, voice and data network, including routers and storage devices, owned and/or maintained by the County.

Social Networking: a mediated communication that allows users to interact through chatting, send messages, email, video, voice chat, file share, participate in blogs and discussion groups.

User: Any guest, vendor, or person employed or contracted by the County or providing volunteer services to the County.

### **HR- 011D: Ownership**

For the purpose of this policy and notwithstanding the County's real legal status with regard to it, the computer system, or any part(s) thereof, which is made available to users shall be deemed to be the exclusive property of the County. Consequently, the user shall not have any right (real or presumed) of ownership, confidentiality, or privacy while using said system. All IT equipment must be accounted for in Information Technology (IT) Asset Management database and must have all security and management tools installed and updated as required.

The County shall be deemed to be the exclusive owner of all information, messages, data and files in the computer system or emanating there from, in any form whatsoever (electronic, digital, printed, audio, video or other), whether or not such information, messages, data and files have been created, received or stored with the help of such system(s). Consequently, the user shall not have any right (real or presumed) to property, confidentiality, or privacy in regards to such information, messages, data and files.

### **HR-011E: Installation, Repair, Removal & Maintenance of Hardware/Software**

Requests for service must be submitted to the Help Desk and will be scheduled by the Information Technology (IT) Department. Any after normal business hour emergencies require direct communication with the IT Department by calling (410) 996-5205. This will ensure that all tickets requesting software installations are properly licensed.

### **HR-011F: Personal Use**

County owned and/or maintained computer systems are to be limited for County-related business. However, personal use is permitted so long as it conforms to this policy and is on the user's own time. Personal use is not to interfere with responsibilities or the performance of assigned duties and responsibilities. It shall not interfere with County operations or affect the efficiency or availability of the computer system. The user shall not have any right (real or presumed) to confidentiality or privacy in regards to such information, messages, data, and files.

Without prior approval from your supervisor and the IT Department, no personally owned equipment shall be connected to the County's network. IT will only support County-owned equipment.

## **HR-011G: Email Use**

The County's internal email system allows a user to send and receive messages both internally and externally. All messages composed, sent, or received on the email system are and remain the property of the County. The County email must be used for all business-related items. Any received email on the County address may not be forwarded to a non-County email address for personal use. The County reserves the right to review, audit, monitor, access, and disclose all messages created, sent, or received through the email system. The user shall not create offensive or disruptive messages. The user shall not attempt to send messages anonymously or through sites that render them anonymous and intercede, read, or delete another user's message.

The confidentiality of any message should not be assumed by the user. The user must be aware that even if email messages are deleted, they can be restored from the email archive server. Management may request access to employee's email account with due cause via written approval from the Department of Human Resources. The assignment of a County email address is a privilege that is not to be abused.

Any employee who violates this policy or uses the email system for improper purposes shall be subject to disciplinary action as outlined in the Policies and Procedures Manual for Cecil County up to and including termination. Authorized users should use the County-wide distribution (all users) list for County business only. Bulk advertisement and mass distribution is prohibited for the following list (but is not limited to):

Personal solicitations	Political announcements	Birthday notices
Birth announcements	Fundraiser announcements	
Chain letter	Religious propaganda	

Users shall not distribute County-wide or other system distribution lists of County employees email addresses to third parties under any circumstances.

**Email Disclaimers:** An email disclaimer will be automatically attached to all out going emails due to confidential information contained in messages.

**Junk Mail & Virus Filtering:** The County, as a means to protect its computer systems and data, will scan all incoming emails for viruses. In the event that a virus is found, that email will be blocked and deleted. Junk mail filtering occurs when either the subject line or text contains inappropriate words. Blacklisted addresses will also be filtered.

## **HR-011H: Prohibited Use**

While accessing and using the County's computer system, users shall not, deliberately or negligently, commit an act, which constitutes illegal or unacceptable behavior. List includes, but is not limited to:

- Obtain, attempt to obtain, allow, or tolerate unauthorized access to use someone else's access code or password to access the computer system unless performing authorized installation, repair and/or maintenance duties.
- Use an access code or password to access the computer system other than by means of the County's computer resources or from a location other than ones from where the County performs its operations without prior approval from their immediate supervisor.
- Reveal access code or password to a third party unless required for performance of authorized installation, repair and/or maintenance duties.
- Conceal or disguise one's real identity, that of the workstation, the equipment used or account upon accessing or using the computer system.
- Misuse computer related or other resources upon accessing or using the computer system. County resources will not be used for outside financial gain.
- Encrypt, code, render invisible or render inaccessible any electronic message, computer file or dossier relating to County business.

- Intentionally creating, installing, transferring or downloading viruses, files or software containing viruses, or files or software dangerous for the integrity of the computer system which would cause a failure, whether partial or total, temporary or permanent, or a deterioration of the performance of the computer system.
- Engage in computer pirating including the exchange of pirated software or any other illegal computer activities. All software installs must be properly licensed.
- Copy, reproduce, transmit, distribute, publish or participate in the copying, reproduction, transmission, distribution or publication of any work (literary or otherwise), software, software component or documentation relating thereto, unless the copyright holder has expressly given authorization to do so or unless the user has valid title to current license entitling them to make a back-up copy thereof.
- Transmit, by telecommunications or otherwise, any software or other information, technical or otherwise, digital, opinions or documents (e.g. texts, images, audio, video, etc.) thereby violating laws relating to export controls.
- Install any software or software component (including updates and software corrections), on any equipment or accessory on the computer system without the prior consent of the IT Department.
- Modify, alter, or destroy data, software, software components, documents, information systems, and computer resources other than in the normal course of functions or activities.
- Access, publish, transmit, download, receive and send using via email or fax, print, copy, exchange or store or any support of any nature of digital information, opinions or documents (e.g. text, images, audio, video, etc.) which are harassing, discriminatory, abusive, offensive, inflammatory, malicious, threatening, hateful, violent, slanderous, fraudulent, racist, sexist, sexual, obscene, immoral or illegal. This specifically includes, but is not limited to, information related and described as the following:
 

Criminal Skills	Hate Speech	Violence
Weapons	Gambling	Drugs, Alcohol & Tobacco
Sexually Explicit	Glamour/Intimate Apparel	Pornographic
Personal & Dating	Religious/Anti-Religious	Nudity
Militants/Extremist	Computing/Internet Hacking	
- Alter the hardware or software configuration of the computer system without prior consent of the IT Department.
- Compromise or circumvent the security measures protecting the computer system, or exploit the weaknesses of such security measures, whether by direct or remote access.
- Read or otherwise become informed of any electronic message or computer file destined to someone else without that person's permission.
- Modify, alter or erase, or attempt to modify, alter, or erase all or part of the content of a computer or of a computer network belonging to someone else without the permission of such person.
- Lead to believe, through signature of messages or otherwise, that he/she is expressing an opinion on behalf of the the County unless duly authorized to do so.
- Interfere with network performance by utilizing unnecessary bandwidth such as downloading sizable computer files, which may easily be obtained off-line. Examples of such include, but are not limited to: watching movies, streaming or using resources for non-County related business that significantly degrades the performance of other users.
- Engage in virtual exchanges, such as on-line shopping, pyramid systems, or computer games, whether in real or deferred time, for purposes not benefiting the County. The County reserves the right to delete any such systems and/or games from any and all County owned and/or maintained computer systems. All on-line County purchases with a County credit card must have permission from an authorized County representative.

- Send, publish, or provide access to any confidential information or document belonging to or concerning the County.
- Access resources to use Commercial Instant Messages (IM) service (Commercial Instant Messaging services include but are not limited to, IM services provided by private/commercial companies, for non-County related matters.
- Access and/or engage in chatting and social networking.
- Undermine the reputation of the County, its employees, clients, subcontractors and/or suppliers.
- Access the computer system for political, charitable, trade union, or personal financial gain purposes or for the purpose of soliciting or promoting propaganda.
- Taking a physical printout of, or sending or forwarding a document, to an external address that is part of the County's assigned retention policy to include email and voice messages.
- Outside of work, employees may not improperly represent themselves on any social media sites while affiliated with Cecil County Government.

### **HR-011I: Outside Use**

It is the County's intent that any County owned and/or maintained computer equipment remain at the County location where assigned or as authorized by Director. However, upon need and authorization, a user may utilize computer equipment remotely, for the sole purpose of the County and on a temporary basis any equipment that may be required to perform County assigned duties and responsibilities, if doing so does not affect County operations nor the efficiency or the availability of the computer system.

In all cases of external use, users shall remain fully bound by the terms of this policy, shall be responsible for any equipment over which he/she is given control, and shall return any borrowed equipment to the County's place of business upon expiration of the time stated on the agreement with the IT Department.

### **HR-011J: User Obligations & Responsibilities**

Users shall do the following:

- Use the computer system in a prudent and conscientious manner, by respecting other users as well as their rights, reputation, privacy, obligations, needs and priorities.
- Preserve any computer equipment from any dust, liquid, oily substance, paper clip or other debris which may hinder its proper operation.
- Respect the access and use of internal and external networks and protect the integrity and confidentiality of the information and data of the computer system.
- Request modification of password, without delay, if reason to believe such password has become known to others. Must not share username or password accounts.
- Scrutinize any file downloaded with the anti-virus software provided by the County.
- Regularly save important files on appropriate drive when required.
- Respect the terms and conditions of the license of any relevant software.
- Report to the IT Department any weak point which the user discovers or is aware of in regards to the security measures protecting the computer system.
- Cooperate with IT Department in order to facilitate the identification and correction of any flaw or problem affecting access to or use of computer system or security thereof.
- Report to immediate supervisor any violation by anyone of any of the terms of this Policy including unauthorized use of access code or password.
- Subject to constitutional rights, provide full cooperation and any evidence required in the course of any investigation carried out by law enforcement personnel, the County's insurers, or by the County itself, in regards to the access or use of the computer system by the user or by any other person.

Users shall be responsible to the County in regards to all damages, losses or consequences:

- Arising from an act carried out by any person to whom the User has voluntarily or negligently made an unauthorized disclosure of access code or password allowing access to the computer system or the use thereof.
- All users must complete the required security awareness training. Employees must have co-ownership of cybersecurity strategies.
- Caused, whether voluntarily or negligently, to any equipment of which the user has the custody and control.
- Arising from the theft, loss or full or partial destruction of any equipment where such theft, loss, or destruction takes place in a location other than that in which the County carries out its operations and takes place when the user has the custody and control of such equipment.

### **HR-011K: Social Media**

Personal Usage: The County respects and honors the First Amendment rights of its employees to speak out as citizens on matters of public concern and to post materials, comments or information on the internet or social media sites; however, a County employee whose social media or internet postings disrupt the County's ability to provide effective and efficient services to the public, or interfere with the County's operation or security, may be disciplined, up to and including termination, for such comments or postings.

Employees shall expect that any information created, transmitted, downloaded, exchanged or discussed in a public online forum may be accessed by the County or other authorities at any time without any prior notice. Any speech or image created as an alias or fake persona does not relieve nor shield the employee of any County policy. An exception may be made for work required of law enforcement activities.

Personnel should be mindful that their speech becomes part of the worldwide electronic domain. Therefore, adherence to County's policies is required even in your personal use of social media. In particular, County employees are prohibited from the following:

- Speech or images containing vulgar, obscene, or sexually explicit activity or language;
- Speech or images that ridicule, disparage or otherwise express bias against any race, any religion, or any protected class of individuals;
- Speech or images that reflect behavior that would reasonably be considered reckless or irresponsible;
- Speech or images that reflect negatively on the County; and,
- Discussion of sensitive, confidential, proprietary or classified information.

Examples of social media or online postings which are inappropriate and for which an employee may be disciplined include, but are not limited to, posts or comments that:

- Impair the performance of your duties;
- Impair discipline and harmony among coworkers;
- Impair working relationships of the County;
- Interfere with County business or operations;
- Disclose confidential or sensitive information; or,
- Negatively affect the public perception of the County.

The employee shall be aware of their association with the County in online social networks. The employee shall assume that speech and related activities on social media sites will reflect upon the County. The employee shall not post, transmit, or otherwise disseminate any information to which they have access as a result of their employment unless it is already public information. The employee shall ensure their profile and related content is consistent with the public trust associated with the position and consistent with County and departmental personnel policies.

The employee is prohibited from posting department logos, uniforms, or anything else identifying the department or County on a social media site or web page in a manner that reflects poor judgment or unprofessional actions.

The employee shall be aware that you may be subject to civil liability for:

- Publishing or posting false information that harms the reputation of another person, group or organization;
- Publishing or posting private facts and personal information about someone, without their permission, that has not been previously revealed to the public, is not of legitimate public concern and that would be offensive to a reasonable person;
- Using someone else's name, likeness or other personal attributes for an exploitative purpose and without that person's permission; or
- Publishing, without the permission of the owner, the creative work of another, trademarked work or certain confidential business information.

The employee shall be aware that the privacy settings on social media sites are constantly in flux, and shall never assume that information posted on such sites is private or protected. Moreover, social media and Internet usage shall never be considered anonymous.

Usage on Behalf of County Business: The decision to utilize social media technology is a business decision, not a technology-based decision. It must be made at the appropriate level for each department, considering its mission, objectives, capabilities, and potential benefits. The County expects all who participate in social media on behalf of the County, to understand and to follow these guidelines:

- Professional expectations and guidelines for interacting with fellow employees, external customers and the media apply. Employees are responsible for anything posted to social media sites, especially as it applies to the County.
- Protect confidential and proprietary information: Do not post confidential or privileged information about the County or its employees. Employees must still follow applicable Federal and State requirements. Adhere to all applicable County privacy and confidentiality policies including, sexual harassment, and discrimination and employee privacy. Employees who share confidential or privileged information do so at the risk of disciplinary action, which can include termination.
- Respect copyright and fair use: When posting, be mindful of the copyright and intellectual property rights of others.
- Do not use the copyrighted County seal or Department logos for endorsements. Do not use the copyrighted County seal or any other County images or iconography on personal social media sites. Do not use the County to promote a product, cause, political party or candidate.
- Misuse of social media and prohibited activities include, but are not limited to:
  - Sending and responding to private messages that are not related to County business;
  - Engaging in vulgar or abusive language, personal attacks of any kind, or offensive terms targeting individuals or groups;
  - Endorsing commercial products, services, or entities;
  - Endorsing political parties, candidates, or groups;
  - Lobbying; and/or
  - Posting photos or videos not related to the mission of the County or its entities.



**Government Social Media:** If you post on behalf of the County, the following policies must be adhered to in addition to all policies and best practices listed above:

- Departments wishing to join social networks should contact the IT Department and/or the Public Information Officer to ensure coordination with other County sites and content.
- If you are representing the County on a social media platform, acknowledge who you are.
- Ensure agency sanctions official participation and representation on social media sites.
- Respect proprietary information, content, and confidentiality.
- Participation must comply with the County's Personnel Policies & Procedures Manual.

### **HR-011L: Telephone Use**

Since a large part of our business is conducted on the telephone, it is essential to project a professional telephone manner at all times. Though we realize there are times an employee may need to use the telephone for personal reasons, please use good judgment in limiting the length and frequency of these calls.

County smart phones are for business purposes only, unless otherwise authorized by the Director. They are not to be used for non-work-related communications except for in emergency situations. Employee must comply with all applicable laws regarding use of smart phones. Employees in possession of County smart phones are required to take appropriate precautions to prevent theft and vandalism. In the event it is determined that an employee has exceeded their rate plan minutes due to non-work related calls or texts, the employee will be responsible for paying the additional fees incurred following a review of the bill by the Director in conjunction with the Director of Human Resources. Payments are to be made to the Cecil County Finance Office within ten (10) days of notice. Continued abuse of personal calls may result in the phone being disconnected as well as other disciplinary action. Smart phone model and rate plan will be determined by the consensus of the immediate supervisor, budget manager, and purchasing agent based on business need and cost effectiveness.

Policies regarding the use of personal smart telephones are established by Directors and/ or supervisors. However, use of these devices should not interfere with conducting County business or providing professional customer service and must comply with all Federal and state laws regarding phone recording.

### **HR-011M: Retention Policies & Intellectual Property**

While accessing and using the computer system, users shall at all times respect and protect intellectual property rights held by the County or by a third party, including copyrights, trademarks, industrial designs, patents, trade secrets, moral rights, contractual rights and licenses. Under no circumstances shall the user usurp or attempt to usurp all or part of such intellectual property rights, whether directly or indirectly and whether by copying or reproducing same or otherwise. Users shall understand and respect the Cecil County Retention Policies. Any documents that are assigned a retention policy must not be passed outside of the County without written consent of the County Administration Office.

## **HR-011N: Rights of the County**

The County shall have full discretion to affect the following, without prior notice, if it does so in the ordinary course of its business and for legitimate reasons of management or of security:

- Read, copy, reproduce, print, use, communicate, store, move, archive or destroy, in whole or in part, information, messages, files or data contained on the computer system or originating there from, whether or not such information, messages, files or data were created, received or stored by the user with the help of the computer system.
- Monitor access to and use of the computer system by the user using any technical means whatsoever, whether such monitoring is carried out in real or non-real time and whether or not the user is aware of such monitoring.
- Intercept or record any transmission, communication, or work session, even if the user is aware or not aware of such monitoring.
- Access or open any encrypted, encoded, or password-protected message or file.
- Temporarily or permanently interrupt access to and use of computer system by the user if it is of the opinion that the actions of the user, or the consequences of such actions:
  - Are likely to be of a harassing, discriminatory, abusive, offensive, inflammatory, malicious, threatening, hateful, violent, slanderous, fraudulent, racist, sexist, sexual, obscene, immoral or illegal nature.
  - Harm or are likely to harm the reputation of the County, its employees, clients, or suppliers.
  - Infringe or are likely to infringe any intellectual property right, title, or interest belonging to the County or a third party.
  - Cause or are likely to cause damages to any third party, or to its reputation or property.
  - Cause or are likely to cause problems affecting the proper operation of the computer system or damages thereto.
  - Breach or are likely to breach one or more provisions of this Policy or of other applicable policies, guidelines, standards, methods, security rules or regulations.
- Provide its full cooperation and any evidence required in the course of any investigation carried out by law enforcement personnel, the County's insurers, victim's insurers, or the victim, in regards to any criminal offense or civil fault alleged against the user or a third party in connection with access to or use of the computer system.

Under no circumstance shall the County be responsible towards the user for any damages, losses, or consequences resulting from:

- A voluntary interruption or a failure of the computer system.
- An improper or negligent use of the computer system by the user or a third party.
- The use by the user of equipment belonging to him/her.

## **HR-011O: Confidentiality**

Users shall be aware that public record statutes are very broad in their application. Certain information contained in electronic format may require disclosure if a request for public information is made. The County will comply with any lawful administrative or judicial order requiring the production of electronic files or *data* stored on the computer system in response to legitimate requests for discovery of evidence in regards to litigation.

<b>Policy #:</b>	HR-012
<b>Subject:</b>	SUBSTANCE ABUSE & ALCOHOL MISUSE PREVENTION POLICY - COUNTY EMPLOYEES
<b>Effective Date:</b>	July 1, 2020
<b>Approved by:</b>	County Executive & County Council

### **HR-012A: Alcohol, Drugs & Fitness for Duty**

**Overview:** The County promotes the safety and health of all employees and the public by having a **ZERO TOLERANCE** policy on illegal drug and alcohol use. Employee involvement with drugs or alcohol on or off the job may adversely affect performance, compromise employee or public safety, or impair the public's trust in the County to provide services. Participation in the County's testing program for controlled substances and alcohol is required for all employees and is a condition of continued employment.

The County prohibits the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances or misuse of alcohol affecting the workplace. The purpose of this policy is to establish guidelines for maintaining a drug and alcohol-free workplace in compliance with the Drug Free Workplace Act of 1988 and the Omnibus Transportation Employee Testing Act of 1991.

This Policy is applicable to **ALL** employees when performing County business. There are several foundations to the County's policy regarding drugs and alcohol use:

- The County adheres to a **ZERO TOLERANCE** policy. This means that a verified positive drug screen and/or confirmed positive alcohol screen with an alcohol concentration of 0.02 or greater will result in immediate removal from all duties and, barring any mitigating circumstances, termination of employment.
- Consistent with the Drug Free Workplace Act of 1988, all employees are required to notify the Director of Human Resources of any criminal drug statute conviction for a violation occurring while employed within five (5) days after such conviction. Failure to comply with this provision shall result in disciplinary action.
- An employee who refuses to cooperate with this policy shall be immediately removed from performing work and dealt with per the disciplinary sections of this manual.
- The consumption of alcohol while performing work, or within four (4) hours of reporting for work, is prohibited.
- Every new and current employee receives and acknowledges by signature or by electronic signature a copy of the Policies and Procedures Manual, which includes this policy (e-signature may be authorized). Acknowledgements are maintained in the personnel file located in the Department of Human Resources.

The requirement for employees to be unimpaired by the use of drugs and/or alcohol while on the job in no way alters the County's commitment to assisting you with treatment, as needed. Employees are urged to access the County's free, confidential EAP for assessment and referral. Employees are responsible for seeking assistance before substance or alcohol abuse impairs judgment, work performance, or behavior.

**Prohibited Substances:** Under the Drug Free Work Place Act of 1988, a controlled substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812; <https://www.dea.gov/drug-scheduling>), and as further defined by 21 CFR 1308.11 through 1308.15 is prohibited at all times in the work place unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.

Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, as which cause drug or drug metabolites to be present in the body above the minimum thresholds may be a violation of this policy.

Under certain conditions, when illegal and/or other drug usage is suspected, the County reserves the right to perform an expanded drug-testing panel to include other substances. This testing will be conducted solely under the independent authority of the County's Substance Abuse Policy, and the specimen would be collected using non-DOT collection procedures.

The appropriate use of legally prescribed drugs and non-prescription, over-the-counter (OTC) medications is not prohibited. However, under the County's authority, an employee must inform any physician prescribing medication that the employee is enrolled in a Drug Free Workplace Program and inform the physician of job duties, including any machinery and equipment the employee may operate.

Prohibited Conduct: Each employee is prohibited from consuming alcohol while performing work or while on-call. If an on-call employee has consumed alcohol within four (4) hours of their scheduled work time, they must acknowledge the use of alcohol at the time that they are called to report for duty. The employee will subsequently be relieved of on-call responsibilities and subject to discipline up to and including termination.

The County shall not permit any employee to perform or continue to perform work if it has actual knowledge that the employee is using alcohol.

- Each employee is prohibited from reporting to work or remaining on duty while having an alcohol concentration of 0.02 or greater, regardless of when the alcohol was consumed.
- No employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

If an employee has reason to believe he or she is unfit to perform work and voluntarily seeks treatment due to a drug and/or alcohol problem, the employee must contact the Director of Human Resources and request a temporary leave of duty. The employee will be tested prior to returning to work, or certification will be obtained by other reasonable means to ensure that the employee is no longer utilizing drugs or alcohol. The County will not consider a request for assistance with a drug and/or alcohol problem, after an employee is required to report for testing. In any case, the employee would still be required to submit to any requested drug and/or alcohol test, and subsequently be terminated if positive test results are received.

#### Test Administration:

Drug Testing Procedures: Testing shall be conducted in a manner to assure a high degree of accuracy and reliability. The County's testing program will use techniques, equipment, and laboratory facilities that have been approved by the U.S. Department of Health and Human Service (HHS) and are certified by the State of Maryland. The procedures will be performed in a private, confidential manner. Every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

After the identity of the donor is checked using a picture identification, a urine specimen will be collected using the split specimen collection method. Each specimen will be accompanied by a Chain of Custody and Control form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at an HHS and Maryland certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established.

The test results from the HHS certified laboratory will be reported to the Medical Review Officer (MRO). The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO, or their subordinate, will contact the employee directly to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive and reported to the County's Director of Human Resources. If a legitimate explanation is found, the MRO will report the test result as negative to the Director of Human Resources and no further action will be taken.

When an employee has tested positive for the use or abuse of any controlled dangerous substance, the County will, after confirmation of the test result, provide the employee, contractor, or other person with a copy of the laboratory test indicating

- Test results;
- Copy of this policy on the use or abuse of controlled dangerous substances or alcohol;
- Written notice of the employer's intent to take disciplinary action and/or terminate employment; and
- Statement or copy of the statutory provisions permitting an employee to request independent testing of the same sample for verification of the test result.

This information will be delivered to the employee either in person or by certified mail and within thirty (30) days from the date the test was performed. Any employee who disputes the results of a required drug test may request that the split specimen sample be tested. The split sample test must be conducted at a second HHS and Maryland certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The employee's request for a split sample test must be made to the Director of Human Resources within 72 hours of notice of the original sample's verified test result. The County will ensure the cost for the split specimen test is covered in order for a timely analysis of the sample; however, the County will seek reimbursement for the split specimen sample test from the employee. While the employee is responsible for paying the cost of the split specimen testing, they will not be denied such based on inability to pay for the testing.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split specimen will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the MRO. Positive specimens will be retained in frozen storage for one (1) year and the split specimen will also be retained for one (1) year.

Collection under direct observation (by a person of the same gender) with no advance notice will occur if:

- The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the County that there was not an adequate medical explanation for the result;
- The MRO reports to the County that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
- The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen; or
- The temperature on the original specimen was out of range.

The County affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test result is compromised, the test will be cancelled. Minor inconsistencies or procedural flaws that do not impact the test results will not result in a cancelled test.

Alcohol Testing Procedures: After the identity of the donor is checked using a picture identification, a urine specimen will be collected to tests for alcohol concentration. Each specimen will be accompanied by a Chain of Custody and Control form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at an HHS and Maryland certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amount of alcohol identified by the GC/MS test is above the minimum thresholds established.

Tests for breath alcohol concentration will be conducted utilizing an approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted at least fifteen (15) minutes after the completion of the initial test. The confirmatory test will be performed using a National Highway Traffic Safety Administration (NHTSA) approved EBT operated by a trained BAT.

The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

When an employee has tested positive for the use or abuse of alcohol, the County will, after confirmation of the test result, provide the employee, contractor, or other person with:

- Corrective action will be based on evidentiary testing;
- Copy of the laboratory test indicating the test results;
- Copy of this policy on the use or abuse of controlled dangerous substances or alcohol;
- Written notice of the employer's intent to take disciplinary action and/or terminate employment.

This information will be delivered to the employee either in person or by certified mail and within thirty (30) days from the date the test was performed. An employee who has a confirmed alcohol concentration of 0.02 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in the disciplinary section of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.

The County affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test result is compromised, the test will be cancelled. Minor inconsistencies or procedural flaws that do not impact the test results will not result in a cancelled test.

Types of Testing: All supervisory personnel or County officials who are in a position to determine employee fitness for duty will receive 60 minutes of training (including reasonable suspicion training) on the physical, behavioral, speech and performance indicators of probable alcohol and drug misuse every two (2) years.

All employees may be tested for pre-employment, reasonable cause, post-accident, return-to-duty and follow-up. In addition, individuals who, by the nature of their positions, are subject to drug and/or alcohol testing may be subject to random testing in addition to the other types of testing. The types of drug and/or alcohol testing to be provided are thus listed as follows:

Pre-employment:

- Applicants shall undergo urine drug testing within thirty (30) days prior to performing work.
- Offer of employment shall be extended conditional upon the applicant passing a pre-employment drug test. Date of hire shall not be until a verified negative result is received.
- If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded. Failure of a pre-employment drug test shall disqualify an applicant for employment for a period of at least two (2) years.
- If an applicant's drug test is cancelled, the County shall require the applicant to take another pre-employment drug test and receive a verified negative result.
- An applicant who receives a dilute negative test result will be required to retest. In such cases, the employment offer will be contingent upon the results of the second test.

Reasonable Suspicion:

- County employees will be subject to a reasonable suspicion drug and/or alcohol test when there are reasons to believe that drug or alcohol use is impacting performance or safety. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech, or body odor that are consistent with possible drug use and/or alcohol misuse.
- Reasonable suspicion referrals must be made by one supervisor who is trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion drug or alcohol test may be performed any time the employee is on duty.
- The County shall be responsible for transporting the employee to the testing facility. The employee shall be placed on unpaid leave pending the test results. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on unpaid leave, pending disciplinary action.
- A written record of the observations that led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation prior to the release of the test results. This written record shall be submitted to the Director of Human Resources and attached to the forms reporting the test results. Please note that reasonable suspicion does not exist if it is solely based upon a supervisor's intuition.
- If a reasonable suspicion alcohol test is required but not performed within two (2) hours, the reason for the delay must be documented. If not completed within eight (8) hours, attempts to administer an alcohol test shall cease. The documentation of the reason for the delay must be maintained.
- An employee who receives a dilute negative reasonable suspicion test result will be required to retest. In such cases, the employee will be placed on unpaid leave pending the test results of the retest.

### Random:

- Applicable employees may be subject to random, unannounced testing. The selection of these employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of employees.
- The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year.
- The number of employees randomly selected for drug and alcohol testing during the calendar year shall not be less than the percentage rates established by the County.
- Each applicable employee shall be in a pool from which the random selection is made. Each employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection and notification of the individuals who are to be tested.
- Random tests can be conducted at any time the employee is on duty.
- Employees selected for testing are to "Immediately Proceed and Report without Delay" to the appropriate collection site.
- An employee who receives a dilute negative test result will be required to retest. In such cases, the employee will be placed on administrative leave until the results of the second test are obtained.

### Post-Accident:

- All employees will be required to undergo drug and alcohol testing if involved in an accident with a vehicle or equipment or whose actions on-the-job could have contributed to the accident. This includes all employees that were operating the vehicle or equipment at the time of the accident and any other employee whose performance cannot be completely discounted as a contributing factor to the accident.
  - The supervisor shall make and document the determination on if the employee's performance was a contributing factor to the accident.
  - The supervisor shall make the determination using the best information available at the time of the decision.
- Post-accident testing procedures include the following:
  - The employee's supervisor shall transport the employee to the testing facility.
  - The appropriate supervisor shall ensure that an employee is tested as soon as practicable, but no longer than:
    - Eight (8) hours from the time of the accident for alcohol testing
    - Thirty-two (32) hours from the time of the accident for drug testing.
  - If an alcohol test is not performed within two (2) hours of the accident, the supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within eight (8) hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.
  - Any employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test.
  - An employee who is subject to post accident testing who fails to remain readily available for such testing, may be deemed to have refused to submit to testing.
  - Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an
- Employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.



- In the event that the County is unable to perform a drug and alcohol test (i.e. employee is unconscious, employee is detained by law enforcement, etc.), the County may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the test. The local law enforcement official must have independent authority for the test and the employer must obtain the results in conformance within local law.
- An employee who receives a dilute negative post-accident test result will be required to retest. In such cases, the employee will be placed on un-paid administrative leave until the results of the retest are obtained.

Return from Extended Leave Testing:

- When an employee is on extended leave for a period of 90 days or more, regardless of the reason, the employee will be required to take a return from extended leave drug and alcohol test and receive a negative test result prior to performing functions.
- As noted, the County adheres to a **ZERO TOLERANCE** policy, meaning a verified positive drug screen and/or confirmed alcohol screen with an alcohol concentration of 0.02 or greater will result in immediate removal from all duties and termination of employment.

<b>Policy #:</b>	HR-013
<b>Subject:</b>	SUBSTANCE ABUSE & ALCOHOL MISUSE PREVENTION POLICY - FMCSA
<b>Effective Date:</b>	July 1, 2018
<b>Approved by:</b>	County Executive & County Council

**HR-013A Applicability**

The policies and procedure contained herein will strictly apply to employees required to have a commercial driver’s license (CDL) and operate a commercial motor vehicle as defined in Part 382 of Title 49 of the Code of Federal Regulations. The purpose of this Policy is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles.

The County is required to comply with reporting of positive drug and alcohol test results and other violations of the DOT Drug and Alcohol Testing Regulations to the US Department of Transportation (DOT) Clearinghouse of positive tests. Also, the laboratories, Medical Review Officers and others involved in the testing process are required to report and will report positive tests to that Clearinghouse in compliance with the regulations. Positive tests and other violations may cause your CDL to be suspended.

**HR-013B Prohibitions**

Employees are strictly prohibited from engaging in the following activities:

- Use of any controlled substance, except when administered by, or under the instructions of, a licensed medical practitioner, who has advised the employee that the substance will not affect the employee’s ability to perform a safety-sensitive function. Be advised that the use of marijuana for medicinal purposes is not a legitimate explanation. Under federal law, the use of marijuana does not have a legitimate medical use in the United States.
- These are the drugs that will be tested for according to SAMHSA’s guidelines for an eight-panel illicit drugs plus alcohol. These five illicit drugs are:
  - Amphetamines
  - Marijuana/THC
  - Cocaine
  - Opiates
  - Phencyclidine (PCP)
- Under certain conditions, when illegal and/or other drug usage is suspected, the County reserves the right to perform an expanded drug testing panel to include other substances. This testing will be conducted under the independent authority of the County’s Substance Abuse and Alcohol Misuse Policy (HR-012).
- Refusal to submit to a post-accident, random, reasonable suspicion, return-to-duty, or follow-up drug test.

**Alcohol Prohibitions:**

- Reporting for duty or remaining on duty in a position requiring the performance of safety-sensitive functions while having an alcohol concentration of .04 or greater.
- Consumption of alcohol in any form while performing safety-sensitive functions.
- Performance of any safety-sensitive function within 4 hours after consuming alcohol.

- Consumption of alcohol for 8 hours after an accident unless the employee has been given a post-accident test. This applies to employees with knowledge of an accident involving a commercial motor vehicle operating on a public road in commerce for which they performed a safety-sensitive function at or near the time of the accident.
- Refusal to submit to a post-accident, random, reasonable suspicion, return-to-duty, or follow-up alcohol test.

### **HR013C Definitions**

Alcohol: Defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.

Alcohol Use: Defined as the consumption of any beverage, mixture, or preparation, including any medication (prescribed or over-the-counter, intentional or unintentional), containing alcohol.

Covered Employee: Includes all active employees of Cecil County Government who are subject to the terms and conditions of this Supplemental Drug and Alcohol Policy. Acknowledgement of Receipt of this Drug and Alcohol Policy shall be indication that the employee is subject to the policy.

#### **Safety-Sensitive Functions:**

- Time spent at a distributor warehouse, other property, or on any public property, waiting to be dispatched, unless the employee has been relieved from duty by supervisor;
- Time spent inspecting, servicing, or conditioning any motor vehicle at any time;
- Time spent at the driving controls of a motor vehicle in operation;
- Time, other than driving time, in or upon any motor vehicle;
- Time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- Time fueling, repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

General Applicability: An employee is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any and all functions described or related to these described here.

### **HR013D Types of Drug & Alcohol Testing:**

Employees may be subject to each of the following types of drug and alcohol tests:

Pre-Employment (drug only): Employees shall be subject to a drug test prior to employment. No employee shall be permitted to perform any safety-sensitive function, including the driving of any County vehicle, until they have received a negative drug test result.

Post-Accident: In the event of an accident involving a commercial motor vehicle operating on a public road in commerce, the involved employee shall be subject to a drug and alcohol test in the following circumstances:

- If the accident involved the loss of human life;
- If the employee receives a citation for a moving traffic violation arising from the accident, and the accident involves either:
  - Bodily injury to any person who immediately receives medical treatment away from the scene of the accident; or
  - One or more motor vehicles incurring disabling damage requiring the motor vehicle to be transported away from the scene by tow.

Random: Employees shall be subject to random drug and alcohol testing. Random testing will be conducted without notice to randomly selected employees. Employees may be grouped into drug and alcohol testing pools based on job function, safety sensitive drivers must be in a separate pool and could include (e.g. mechanic with a CDL). All employees within each pool have an equal chance of testing.

Each covered employee who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately. However, if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of the notification, the employer shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.

Reasonable Suspicion: Employees shall be subject to reasonable suspicion drug and alcohol testing if a trained supervisor or trained County official believes or suspects that the employee is under the influence of drugs or alcohol (or both).

Return-to-Duty & Follow-Up: Employees retained by the County after a positive test result or a test refusal shall be subject to return-to-duty drug and alcohol testing. No employee shall be permitted to perform any safety-sensitive function until they have received a verified negative drug and alcohol test result. Thereafter, such employees will be subject to certain follow-up drug and alcohol testing as established by Substance Abuse Professional (SAP).

When an employee is on extended leave for a period of 90 days or more, regardless of the reason, the employee will be required to take a return from extended leave drug and alcohol test and receive a negative test result prior to performing functions.

As noted, the County adheres to a ZERO TOLERANCE policy, meaning a verified positive drug screen and/or confirmed alcohol screen with an alcohol concentration of 0.02 or greater will result in immediate removal from all duties and termination of employment.

### **HR013E Consequences of Policy Violations**

Consequences of Using Drugs or Alcohol While Performing Safety-Sensitive Functions: Covered employee who has engaged in prohibited drug or alcohol use during the performance of a safety-sensitive function will be immediately removed from performing safety-sensitive functions. Further, the employee will be subject to disciplinary action, up to and including termination.

Consequences of a Verified Positive Drug Test: A covered employee who receives one (1) verified positive drug test result on a DOT required test will be immediately removed from safety-sensitive duties. An employee who has a positive DOT drug test cannot return to the performance of safety-sensitive functions until and unless the employee successfully completes the return-to-duty process described later. Notwithstanding the foregoing, an employee that receives one (1) verified positive drug test result will be subject to disciplinary action, up to and including termination.

Consequences of a Alcohol Test with a Concentration Greater than .04: Covered employee who receives one (1) alcohol test with a result indicating an alcohol concentration of .04 or greater will be immediately removed from safety-sensitive duties. An employee who has a positive alcohol test cannot return to the performance of safety-sensitive functions until and unless the employee successfully completes the return-to-duty process described later. Notwithstanding the foregoing, an employee whose test results indicate an alcohol concentration greater than .04 will be subject to disciplinary action, up to and including termination.

Consequences of an Alcohol Test with a Concentration Greater than .02 but Less than .04:

Covered employee who is found to have an alcohol concentration of .02 or greater but less than .04 will be immediately removed from performing safety-sensitive functions until the employee is retested with a result below .02 or until the start of the employee's next regularly scheduled duty period, if it occurs at least 8 hours following administration of the test. Notwithstanding the foregoing, an employee whose test results indicate an alcohol concentration greater than .02 will be subject to disciplinary action, up to and including termination.

Consequences of Refusing to Submit to a Required Drug and/or Alcohol Test: Covered employee who refuses to submit to a required drug and/or alcohol test or who receives a verified adulterated or substituted drug test result will be immediately removed from performing safety-sensitive functions. An employee cannot return to the performance of safety-sensitive duties until and unless the employee successfully completes the return-to-duty process described later. Notwithstanding the foregoing, an employee that refuses to submit to a required drug and/or alcohol test will be subject to disciplinary action, up to and including termination under the County's own independent authority.

**HR013F Refusal to Submit to a Drug and/or Alcohol Test**

Drug Test Refusal: As an employee, you have refused to take a drug test if you (RR 40.191(a)):

- Fail to appear at a collection site for any test (except a pre-employment test) within a reasonable time, as determined by the County, consistent with applicable DOT agency regulations, after being directed to do so by the County. This includes the failure of the employee to appear for a test when called by the County third party administrator;
- Fail to remain at the collection site until the testing process is complete; Provided that a person who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
- Fail to provide a specimen;
- Fail to permit a monitored or observed collection if the County ordered or if the collector required the collection to be monitored or observed;
- Fail to provide a sufficient amount of urine specimen, provided the Medical Review Officer (MRO) finds there was no medical reason for the employee to provide insufficient amount of urine;
- Fail or decline to take an additional drug test that the County or collector has directed;
- Fail to undergo a medical examination or evaluation the MRO or the County has directed;
- Fail to cooperate with any part of the specimen collection process;
- Fail, for an observed collection, to follow the instructions to raise and lower clothing and turn around;
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process if the employee is found to have or wear a prosthetic or other device designed to carry clean urine or a urine substitute;
- Admit to the collector to having adulterated or substituted the specimen;
- Adulterate or substitute a urine specimen; or
- Admit to the MRO to having adulterated or substituted the specimen.

### Alcohol Test:

- Fail to appear at an alcohol test site for any test within a reasonable time, as determined by the County, consistent with applicable DOT agency regulations, after being directed to do so by the County. This includes the failure of the employee to appear for a test when called by the County's third-party administrator;
- Fail to remain at the alcohol test site until the testing process is complete;
- Fail to provide an adequate amount of saliva or breath;
- Fail to provide a sufficient breath specimen, provided the physician finds that there was no medical reason for the employee to provide an insufficient amount of breath;
- Fail to undergo a medical examination or evaluation as the County has directed as part of the insufficient breath procedures;
- Fail to sign certification statement at Step 2 of the Alcohol Testing Form (ATF); or
- Fail to cooperate with any part of the testing process.

### **HR013G Drug & Alcohol Testing Procedures**

Drug and/or alcohol testing shall be conducted at a facility designated by the County. Specimen collection, analysis and reporting shall be conducted in accordance with the procedures outlined below which are consistent with the federal regulations enumerated in 49 CFR Part 40 and all applicable guidance and state laws. These collection procedures are designed to protect the employee and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee.

### Drug Testing Procedures:

- A DOT drug testing Chain of Custody Form (CCF) will be used to document the chain of custody from the time the specimen is collected at the testing facility until it is tested at the laboratory.
- A collection kit meeting the requirements of Part 40, Appendix A of the DOT regulations must be used for the drug test.
- The collection of the specimen must be conducted in a suitable location and must contain all necessary personnel, materials, equipment, facilities, and supervision to provide for collection, security and temporary storage and transportation of the specimen to a certified laboratory.
- The employee should have and present positive identification to the collector. The employee may also request positive identification of the collection site employee.
- The employee must provide a specimen meeting the specified volume and temperature requirements.
- All identifying information must be entered on the CCF by the collection site person. The CCF will be signed by the collector, certifying collection was accomplished in accordance with the instructions provided. The employee must also sign the CCF indicating the specimen was theirs.
- Urinalysis will be performed by a laboratory certified by the Department of Health and Human Services (DHHS) that has been retained by the County. The laboratory will be required to maintain strict compliance with federally-approved chain-of-custody procedures, quality control, maintenance, and scientific analytical methodologies.
- The laboratory must report all test results directly to the County's designated medical review officer (MRO). The MRO is responsible for reviewing and interpreting all confirmed positive, adulterated, substituted, or invalid drug test results. The MRO must determine whether alternative medical explanations could account for the test results. The MRO must also give the employee who has a positive, adulterated, substituted, or invalid drug test an opportunity to discuss the results prior to making a final determination. After the decision is made, the MRO must notify the County's designated employer representative (DER).

- An employee who receives a positive, adulterated, or substituted drug test result has 72 hours to request the test of the split specimen (which is provided at the time of original collection). If the employee requests the testing of the split, the MRO must direct (in writing) the lab to provide the split specimen to another certified laboratory for analysis. The employee will pay for the testing of the split specimen.
- The County shall notify a driver of the results of a pre-employment controlled substance test conducted under this part, if the driver requests such results within 60 calendar days of being notified of the disposition of the employment application. The County shall notify a driver of the results of random, reasonable suspicion, and post-accident tests for controlled substances conducted under this part if the test results are verified positive. The County shall also inform the driver which controlled substance(s) were verified as positive.

Each employee holding a Commercial Driver's License (CDL) and subject to the DOT controlled substance and alcohol testing requirements of this Policy who has violated the prohibitions without complying with the return to duty and Substance Abuse Professional (SAP) requirements, must notify, in writing, all current employers, including the County of such violation(s). The employee is not required to provide notification to the County if the County administered the test or documented the circumstances that gave rise to the violation. The notification must be made before the end of the business day following the notice of the violation receipt, or prior to performing any safety-sensitive functions, whichever comes first.

Alcohol Testing Procedures: Alcohol testing may be conducted by a qualified Screening Test Technician (STT) or Breath Alcohol Technician (BAT). STTs are only permitted to conduct the first test given to an employee by using either a breath or saliva test (Screening Test). A BAT is authorized to conduct a Screening Test, but, unlike a STT, is also authorized to conduct the second test given to an employee whose test result is .02 or above (Confirmation Test). For a Screening Test, the STT or BAT may use an approved Alcohol Screening Device (ASD) or an Evidential Breath Testing device (EBT). For a Confirmation Test, the BAT is required to use an EBT.

Screening Tests:

- The DOT Alcohol Testing Form (ATF) will be used to document the results of an alcohol screening test.
- The testing will be performed in a private setting. Only authorized personnel will have access and are the only individuals who can see or hear the test results.
- The employee should have and present positive identification to the STT or BAT at the test site. The employee may also request positive identification of the STT or BAT.
- When an ASD is used, the STT or BAT must check the device's expiration date and show it to the employee. A device may not be used after its expiration date.
- The STT or BAT will open an individually wrapped or sealed package containing the device in front of the employee and he/she will be asked to place the device in mouth and use it in the manner described by the device's manufacturer.
- The employee must work with the STT or BAT to perform the test, which includes the insertion of the device mouth piece in the employee's mouth and the exhalation (breathing out) must be performed in the manner described by the device's manufacturer.
- The STT or BAT should wear single-use examination gloves and must change the gloves following each test.
- When the device is removed from the employee's mouth, the STT or BAT must follow the manufacturer's instructions to ensure the device is activated.
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If the procedures listed above cannot be successfully completed, the device must be discarded and a new test must be conducted using a new device. The employee will be offered the choice of using the new device or having the STT or BAT use the new device for the test.

- If the new test cannot be successfully completed, the employee will be directed to immediately take a screening test using an EBT.
- When an EBT is used, the mouthpiece of the breath testing device must be sealed before use and opened in the employee's presence. The mouthpiece is then inserted into the breath testing device.
  - The employee must blow forcefully into the mouthpiece of the testing device for at least 6 seconds or until an adequate amount of breath has been obtained.
  - Once the test is completed, the BAT must show the employee the results.
  - The result displayed on the device must be read within 15 minutes of the test. The STT or BAT must show the employee the device and its reading and enter the result on the ATF.
  - If the reading on the ASD or EBT is less than .02, both the employee and the STT or BAT must sign and date the result form. The form will then be confidentially forwarded to the County's DER. No further testing is authorized.
  - If the reading on the ASD or EBT is .02 or more, a confirmation test must be performed.

#### Confirmation Tests:

- If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be performed. If a different BAT will conduct the confirmation test, the BAT who conducts the screening test will complete and sign Step 3 of the ATF. The BAT will provide the employee with Copy 2 of the form.
- In the presence of the employee, the BAT will conduct an "air blank" to ensure that the device is working correctly. The BAT must show the reading to the employee. The air blank result must be .00. If the reading is greater than .00, the BAT will conduct one more air blank. If the reading is greater than .00, testing will not proceed using the instrument. However, testing may proceed on another instrument.
- The BAT will instruct the employee not to eat, drink, put any object or substance in his or her mouth, and, to the extent possible, not belch during a waiting period before the confirmation test. This time period begins with the completion of the screening test and will not be less than 15 minutes. The BAT will explain to the employee the reason for this requirement (i.e., to prevent any accumulation of mouth alcohol leading to an artificially high reading) and the fact that it is for the employee's benefit. The BAT will also explain that the test will be conducted at the end of the waiting period. If the employee has disregarded the instruction, the BAT will so note in the "Remarks" section of the ATF.
- If a BAT other than the one who conducted the screening test is conducting the confirmation test, the new BAT will initiate a new breath alcohol testing form. The BAT will complete Step 1 on the form. The employee will then complete Step 2 on the form, signing the certification. Refusal by the employee to sign this certification will be regarded as a refusal to take the test. The BAT will note in the "Remarks" section of the form that a different BAT conducted the screening process.
- If the employee does not sign the certification in Step 4 of the form, it will not be considered a refusal to be tested. In this event, the BAT will note the failure to sign in the "Remarks" section of the form.
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A breath alcohol test is invalid under the following circumstances:

- The EBT does not pass its next external calibration check (invalidates all test results of 0.02 or greater on tests conducted since the last valid external calibration test); this does not invalidate negative tests.
- The BAT does not observe the minimum 15-minute waiting period prior to the confirmation test.
- The BAT does not perform an air blank on the EBT before a confirmation test or such an air blank does not result in a reading of .00.
- The BAT does not sign the form.
- An EBT fails to print a confirmation test result.
- The sequential test number or alcohol concentration displayed on the EBT is not the same as the sequential test number or alcohol concentration on the printed result.

### **HR013H Return-to-Duty Process & Follow-Up Procedures (if applicable)**

The County is not required to provide a Substance Abuse Professional (SAP) evaluation or any subsequent recommended education or treatment through an employee assistance program for an employee who has violated a DOT drug and alcohol regulation. If the County, at its sole discretion, offers the employee an opportunity to return to a DOT safety-sensitive duty following a violation, the County must, before the employee again performs that duty, ensure that the employee receives an evaluation by a SAP meeting the requirements of the regulations and that the employee successfully complies with the SAP's evaluation recommendations.

#### **SAP Responsibility:**

- Making a face-to-face clinical assessment and evaluation to determine what assistance is needed by the employee to resolve problems associated with alcohol and/or drug use;
- Referring the employee to an appropriate education and/or treatment program (EAP);
- Conducting a face-to-face follow-up evaluation to determine if the employee has actively participated in the education and/or treatment program and has demonstrated successful compliance with the initial assessment and evaluation recommendations;
- Providing the DER with a follow-up drug and/or alcohol testing plan for the employee;
- Providing the County and the employee with recommendations for continuing education and/or treatment.

#### **Return-to-Duty Testing:**

If the County decides to permit the employee to return to the performance of safety-sensitive functions, the County must ensure that the employee takes a return-to-duty test. The return-to-duty test cannot occur until:

- Employee has been evaluated by an SAP to determine education and/or treatment the employee needs to resolve problems related to alcohol or drug use;
- Employee has successfully complied with the prescribed education and/or treatment;
- Employee has been re-evaluated by the SAP to ensure the employee has properly followed the education and/or treatment program.

**Follow-Up Testing:**

- An SAP must establish a written follow-up testing plan for each employee who has committed a DOT drug or alcohol regulation violation and who seeks to resume the performance of safety-sensitive functions. The SAP does not establish this plan until after it is determined that the employee has successfully complied with the education and/or treatment recommendations.
- The SAP must present a copy of the follow-up testing plan directly to the County's DER.
- The SAP is the sole determiner of the number and frequency of follow-up tests and whether these tests will be for drugs, alcohol, or both, unless otherwise directed by the appropriate DOT agency regulation. For example, if an employee had a positive drug test, but the SAP evaluation or the treatment program professionals determined that the employee has an alcohol problem as well, the SAP should require that the employee have follow-up tests for both drugs and alcohol.
- The SAP must, at a minimum, direct that the employee be subject to six (6) unannounced follow-up tests in the first 12 months of safety-sensitive duty following the employee's return to safety-sensitive functions. The SAP may, however, require a greater number of follow-up tests during the first 12-month period of safety-sensitive duty.
- The SAP may also require follow-up tests during the 48 months of safety-sensitive duty following this first 12-month period. The SAP is not to establish the actual dates for the follow-up tests he/she prescribes. The decision on specific dates to test is the responsibility of the County.
- The County will not impose additional testing requirements on the employee that go beyond the SAP's follow-up and random testing plan.

<b>CONTROLLED SUBSTANCES AND CUT OFF LEVELS</b>			
<b><u>Initial Test Analyte</u></b>	<b><u>Initial Test Cutoff</u></b>	<b><u>Confirmatory Test Analyte</u></b>	<b><u>Confirmatory Test Cutoff Concentration</u></b>
Marijuana Metabolites (THCA)	50 ng/mL	THCA	15 ng/mL
Cocaine Metabolite (Benzoylecgonine)	150 ng/mL	Benzoylecgonine	100 ng/mL
Codeine/Morphine	2000 ng/mL	Codeine/Morphine	2000 ng/mL
Hydrocodone/ Hydromorphone	300 ng/mL	Hydrocodone/ Hydromorphone	100 ng/mL
Oxycodone/ Oxymorphone	100 ng/mL	Oxycodone/ Oxymorphone	100 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamine/ Methamphetamine	500 ng/mL	Amphetamine/ Methamphetamine	250 ng/mL
MDMA/MDA	500 ng/mL	MDMA/MDA	250 ng/mL

**HR-013I: Policy Contacts**

**Designated Employee Representative (DER)**

Director of Human Resources  
Cecil County, Maryland  
200 Chesapeake Blvd, Suite 2800  
Elkton, MD 21921

Telephone: (410) 996-5250

**Secondary Designated Employee Representative (DER)**

Chief, Human Resources  
Cecil County, Maryland  
200 Chesapeake Blvd, Suite 2800  
Elkton, MD 21921

Telephone: (410) 996-5250

**Medical Review Officer (MRO)** - Medical review of drug test results will be provided by below listed MRO under contract with the County (as amended).

Pivot Occupational Health  
2540 Pulaski Highway  
North East, MD 21901

Telephone: (410) 620-5424

**SAMHSA Certified Laboratory** - Certified laboratory testing will be provided by the below listed laboratory under contract with Cecil County, Maryland.

MedTox Laboratories, Inc.  
402 West County Road D  
St. Paul, MN 55112

Telephone: (651) 636-7466

**Substance Abuse Professional (SAP)**

BUSINESS HEALTH SERVICES

Telephone: (866) 765-3277

<b>Policy #:</b>	HR-014
<b>Subject:</b>	SUBSTANCE ABUSE & ALCOHOL MISUSE PREVENTION POLICY - FTA (Cecil Transit)
<b>Effective Date:</b>	July 1, 2020
<b>Approved by:</b>	County Executive & County Council

**HR-014A: Purpose, Applicability, Implementation & Training**

Department of Community Services, Cecil Transit is committed to providing a safe and healthy environment for all employees, volunteers, contractors, passengers, visitors, and the general public. A comprehensive safety management system has been implemented and operates a safety risk management process which measures performance, provides adequate safety training for all employees, complies with all relevant legislation and regulations. This system communicates safety related information frequently and consistently to all Cecil Transit employees, and compels all employees to be responsible and accountable for the safety of themselves and others by promoting a non-punitive employee safety reporting system. Cecil Transit’s Safety Plan has been developed to meet the Safety Management System requirements of 49 CFR Part 673 and is reviewed annually.

Department of Community Services, Cecil Transit, provides public transit and para-transit services for the residents of Cecil County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the work place remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, the County declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.

Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and functions when there is a positive test result. The U.S. Department of Transportation (DOT) has also published 49 CFR Part 40, as amended, that sets the standards for the collection and testing of urine and breath specimens.

In some cases, the County reserves the prerogative to utilize stricter policies or procedures than the U.S. Department of Transportation when such are believed to be in the best interest of the residents and employees of the County. Any provisions set forth in this policy that are included under the sole authority of the County and are not provided under the authority of the above named Federal regulations are underlined indicating it is a requirement of the County for employment, and not required by the U.S. Department of Transportation.

It should be noted that the County adheres to a **ZERO TOLERANCE** policy, meaning a verified positive drug screen and/or confirmed positive alcohol screen with an alcohol concentration of 0.04 or greater will result in immediate removal from all duties, referral to a substance abuse professional, and up to and including termination of employment.

Applicability: This Policy is applicable to all safety sensitive employees (full- or part-time) when performing any transit-related business. A safety-sensitive function is any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, dispatchers or person controlling the movement of revenue service vehicles and any other transit employee who is required to hold a Commercial Drivers' License (CDL). Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety –sensitive positions that require the performance of one or more of the above mentioned duties is provided in this Policy. These positions are covered because the County has determined that the duties require or may require safety-sensitive duties. Supervisors are only safety-sensitive if they perform one of the above functions.

This Policy is also applicable to applicants and transferees, volunteers performing safety-sensitive duties, contractors, and grant recipients.

Implementation & Training: This Policy revision is effective November 7, 2007. The Director, Department of Human Resources is the primary Designated Employer Representative (DER) for this Policy and the Senior Human Resources Manager is the Secondary DER. The DER is responsible for:

- Scheduling drug and alcohol tests;
- Coordinating/disseminating test results;
- Managing procured services, including designating collection sites and assuring the integrity and compliance of delivered services;
- Reviewing data and submitting reports;
- Acting as central contact person for inquiries regarding this Policy or its implemented programs. Inquiries may be referred to subject matter experts for response;
- Reviewing verified test results and initiating actions on behalf of the County.

The DER is responsible for identifying new safety-sensitive classifications and for providing all covered employees with copies of this Policy. The DER is responsible for designing and delivering all required training and educational elements of the FTA regulations in a timely fashion to all covered employees/volunteers. The DER is responsible for ensuring the ongoing compliance of the Policy with applicable laws and regulations (see "References").

Each new, transferred, and current covered employee will receive (and sign for) a copy of this document and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. Receipts are to be maintained and accounted for by the DER. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited substance use.

All supervisory personnel or County officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probably drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech and performance indicators of probably alcohol misuse.

## **HR-014B: Glossary of Terms & Definitions**

**Accident:** An occurrence associated with the operation of a revenue service vehicle even when not in revenue service or which requires a Commercial Drivers' License (CDL) to operate, if as a result of:

- A fatality;
- An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or
- One or more vehicles or equipment incur disabling damage as the result of the occurrence and transported away from the scene by a tow truck or other vehicle.

For purpose of this definition, disabling damage means damage that precludes departure of any vehicle or equipment from the scene of the occurrence in its usual manner after simple repairs. Disabling damage includes damage to vehicles or equipment that could have been operated but would have been further damaged if so operated. It does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts; tire disablement without other damage even if no spare tire is available; or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers that makes them inoperative.

This definition represents the FTA threshold for an accident that would require post-accident drug and alcohol testing. Under its own authority, the County tests covered employees for all accidents requiring medical treatment or any vehicle, mobile equipment or property damage. For accidents that do not meet the FTA thresholds, the County will use non-DOT collection forms and procedures.

**Adulterated Specimen:** A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine. An adulterated specimen is considered a refusal to test, and subject to the same consequences as a positive test result.

**Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

**Alcohol Concentration:** Expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device (EBT).

**Alcohol Screening Test:** An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

**Alcohol Use:** The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication) containing alcohol.

**At Work Agreement:** An agreement between the employee and the County which is signed after a negative return to duty test(s) and prior to being returned to work. It outlines the rehabilitation program, responsibilities and understanding of the employee as well as consequences for failure in the program.

**Breath Alcohol Technician (BAT):** A person who instructs and assists employees in the alcohol testing process and operates an evidential breath testing device.

**Cancelled Test:** A drug test that has been declared invalid by a Medical Review Officer. A cancelled test is neither positive nor negative.

**Chain Of Custody:** The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF).

**Collector:** A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the Federal Drug Testing Custody and Control Form (CCF).

Covered Employee: Any employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (see Appendix A for listing of County covered employees).

Designated Employer Representative (DER): An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655, as amended.

Department of Transportation (DOT): Department of the Federal government which includes the U.S. Coast Guard, Federal Transit Administration, Federal Railroad Administration, Federal Highway Administration, Federal Motor Carrier Safety Administration, Research and Special Programs, and the Office of the Secretary of Transportation.

Dilute Specimen: A specimen with creatinine and specific gravity values that is lower than expected for human urine.

Disabling Damage: Damage that precludes the departure of any vehicle or equipment from the accident scene in its usual manner, after simple repairs. Disabling damage includes damage to vehicles or equipment that could have been operated, but would have been further damaged if so operated. But does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, mirrors or windshield wipers, that makes them inoperative.

Drugs: The drugs for which tests are required under this part and DOT agency regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates.

Employer: A person or entity employing one or more employees (including an individual who is self-employed) subject to DOT agency regulations requiring compliance with 49 CFR Parts 49 and 655, as amended. The term includes an employer's officers, representatives, and management personnel.

Evidentiary Breath Testing Device (EBT): A device approved by the NHTSA for the evidential testing of breath alcohol concentrations. Approved devices are listed on the National Highway Traffic Safety Administration (NHTSA) conforming products list.

Laboratory: Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Work Place Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part. (The HHS Mandatory Guidelines for Federal Work Place Drug Testing Programs are available on the Internet at <http://www.health.org/workplace> or from the Division of Work Place Programs, 5600 Fishers Lane, Rockwall II Building, Suite 815, Rockville, MD 20857.)

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

Negative Dilute: A drug test result that is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

Negative Test Result: A verified drug test result below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration of less than 0.02 for breath testing is a negative test result.

Performing a Safety Sensitive Function: A covered employee is considered to be performing a safety sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive Test Result: A positive drug test is the verified presence of an identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, as amended. A positive alcohol test result means a confirmed alcohol concentration of 0.04 BAC or greater.

Prohibited Drug: Marijuana, cocaine, opiate, codeine/morphine, phencyclidine, MDMA, or amphetamines at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

Revenue Service Vehicle: Includes all transit vehicles that are used for passenger transportation service or that require a Commercial Drivers' License (CDL) to operate. Includes all ancillary vehicles used in support of the transit system.

Safety-Sensitive Functions:

- Operation of a transit revenue service vehicle even when the vehicle is not in revenue service;
- Operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers' License (CDL);
- Maintaining a revenue service vehicle or equipment used in revenue services;
- Controlling the movement of a revenue service vehicle; and
- Carrying a firearm for security purposes.

Specimen Bottle: The bottle that, after being sealed and labeled according to the procedures in this part, is used to hold the urine specimen during transportation to the laboratory.

Split Specimen: In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated specimen or substituted test result.

Substance Abuse Professional (SAP): A license physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, or addition counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted Specimen: Specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

Test Refusal: The following are considered as a refusal to test:

- Failure to appear for any test (except for pre-employment) within a reasonable time, as determined by the employer.
- Failure to remain at the testing site until the testing process is complete.
- Failure to provide a urine or breath specimen for any required test.
- Failure to provide a sufficient amount of urine when directed and there is no adequate medical explanation for the failure.
- Failure to permit the observation or monitoring of the specimen collection when required to do so.
- Failure or decline to take an additional test when directed to do so by the employer or collector.
- Failure to undergo a medical examination when directed to do so by the MRO or employer.
-



- Failure to cooperate with any part of the testing process (e.g. refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector).
- Failure to follow the observer's instructions during an observed collection, including instructions to raise your clothing above the waist, lower clothing and under garments, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;  
Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
- Admit to the collector or MRO that you adulterated or substituted the specimen.

Validity Testing: The evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of the validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

Verified Test: A drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.

### **HR-014C: Employee Compliance Requirements**

U.S. DOT regulations 49 CFR parts 40 and 655, as amended, dictate that safety-sensitive employees must submit to drug and alcohol testing as set forth in the "Required Drug & Alcohol Testing" section of this Policy. A safety-sensitive employee who refuses to cooperate with the "Drug & Alcohol Testing" section of this Policy shall be immediately removed from performing safety sensitive work, withheld from service, and referred to the "consequences of a positive/refusal to test" component of the "Drug & Alcohol Test Results" section of this Policy.

The consumption of alcohol while on duty, or within 4 hours of reporting for duty is prohibited. FTA requirements authorize testing for alcohol and taking action on findings regardless of whether the alcohol was ingested as a beverage alcohol or in a medical or other preparation. Observation of a safety-sensitive employee consuming alcohol at work or within 4 hours of reporting to perform a safety-sensitive duty is cause for reasonable suspicion testing under the "Drug & Alcohol Testing" section of this Policy. Since the consumption of alcohol under these conditions is a violation of the regulations regardless of the test results, the Department of Human Resources is to be advised of every case for disciplinary considerations. Any safety-sensitive employee who advises the County of the use of alcohol during a period of on-call status will not be permitted to work.

Pre-Duty Use: Employees are prohibited from using alcohol within four (4) hours prior to performing safety-sensitive functions. Having actual knowledge that a covered employee has used alcohol within four (4) hours of performing a safety-sensitive function, the County shall not permit the employee to perform or continue to perform safety-sensitive functions. On-call employees who have consumed alcohol must report the use of alcohol when notified to report for duty.

The County shall prohibit the consumption of alcohol for the specified on-call hours of each covered employee who is on-call. The procedure shall include:

- Opportunity for covered employee to acknowledge the use of alcohol at the time he or she is called to report to duty and the inability to perform his or her safety-sensitive function.
- Requirement that the covered employee take an alcohol test, if the covered employee has acknowledged the use of alcohol, but claims ability to perform his or her safety-sensitive function. (The County considers this a reasonable suspicion test).

## **HR-014D: Covered Employees**

All County safety-sensitive employees are subject to this policy. The Federal Transit Administration designates employees to be safety-sensitive if their classification requires them to perform any of the following duties:

- Operate a revenue service vehicle, including when not in service;
- Operate a non-revenue service vehicle when required to be operated by a holder of a commercial driver's license;
- Control the dispatch or movement of a revenue service vehicle;
- Maintain a revenue service vehicle or equipment used in revenue service;
- Carry a firearm for security purposes; or
- Supervisors whose duties require the performance of any of the above functions.

The County's position titles which meet FTA requirements and therefore are designated as safety-sensitive appear in the "Position Classification Listing" section of this Policy.

A volunteer is a covered employee if 1) the volunteer is required to hold a commercial driver's license to operator the vehicle; or 2) the volunteer performs a safety sensitive function for an entity and receives remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity.

## **HR- 014E: Test Administration**

**Prohibited Substances:** Under the Drug Free Work Place Act of 1988, a controlled substance identified in Schedule 1 through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the work place unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.

Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, as which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy. Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all covered employees be tested for marijuana, cocaine, amphetamines, opiates, and phencyclidine. Illegal use of these five drugs is prohibited at all times, and thus covered employees may be tested for these drugs any time that they are on duty.

Under certain conditions, when licit and/or other drug usage is suspected, the County reserves the right to perform an expanded drug-testing panel to include other substances. This testing will be conducted solely under the auspices of the County's Substance Abuse Policy, and the specimen would be collected using non-DOT collection procedures and forms. For additional information concerning prescription and non-prescription medication usage, please refer to the Over-The-Counter and Prescription Drug Policy.

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, under the County's authority, an employee must inform any physician prescribing medication that the employee is enrolled in a Drug Free Workplace Program.

**Alcohol:** The use of beverages containing alcohol (including any mouthwash, medication, food, candy, etc.) or any other substance such that alcohol is present in the body while performing safety-sensitive functions is prohibited. An alcohol test can be performed on a covered employee under 49 CFR Part 655, as amended, just before, during, or just after the performance of safety-sensitive functions. Under the County's authority, an alcohol test can be performed at any time a covered employee is on duty if reasonable suspicion exists.

**Prohibited Conduct:** All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended. Each covered employee is prohibited from consuming alcohol while performing safety-sensitive functions or while on-call to perform safety-sensitive functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of on-call responsibilities and subject to discipline of up to and including termination.

The County shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol. Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater regardless of when the alcohol was consumed.

- No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive functions.

The County, under its own authority, prohibits the consumption of alcohol at all times the employee is on duty, or any time the employee is in uniform. Consistent with the Drug Free Work Place Act of 1988, all County employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including County premises, transit vehicles, while in uniform, or while on County business.

If an employee has reason to believe he or she is unfit to perform safety sensitive functions and voluntarily seeks treatment due to a drug and/or alcohol problem, the employee must contact the County's Designated Employer Representative and request a temporary leave from the performance of safety sensitive functions. The employee will be reassigned to a non-safety sensitive function, while under treatment. The employee will be tested prior to returning to duty after completing the Substance Abuse Professional's recommended treatment program and subsequent release to duty. The County will not consider a request for assistance with a drug and/or alcohol problem, after an employee is required to report for testing. In any case, the employee would still be required to submit to any requested drug and/or alcohol test, and subsequently be terminated if positive test results are received.

**Drug Statute Conviction:** Consistent with the Drug Free Workplace Act of 1988, all employees are required to notify the County's DER of any criminal drug statute conviction for a violation occurring in the workplace within five (5) days after such conviction. Failure to comply with this provision shall result in disciplinary action.

### **HR-014F: Drug & Alcohol Testing**

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR Part 40, as amended. All covered employees shall be subject to testing prior to employment, for reasonable suspicion, following an accident, and random as defined below. All covered employees who have voluntarily sought assistance for problems with drugs or alcohol, will be tested prior to returning to duty after completion of the SAP's recommended treatment program and subsequent release to duty. Follow-up testing will be conducted for a period of one to five years, with at least six tests performed during the first year. The duration and frequency of the follow-up testing above the minimum requirements will be at the discretion of the SAP.

A drug test can be performed any time a covered employee is on duty. Under FTA authority, an alcohol test can be performed just before, during, or after the performance of a safety-sensitive function. Under the County's authority, an alcohol test can be performed any time a covered employee is on duty.

All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of on-going employment with the County. Any safety sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in this policy. Any covered employee who is suspected of providing false information in connection with a drug test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of the above listed actions will be considered a test refusal and will result in the employee's removal from duty and disciplined as outlined in the "Drug & Alcohol Test Results" section of this policy.

Drug Testing Procedures: Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities that have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. Specimen validity testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted. The collector shall be provided the following information when conducting a urine specimen collection:

- Full name of the employee being tested;
- Employee social security number;
- Laboratory name and address (as pre-printed on the Chain of Custody);
- Employer name, address, telephone number, and fax number;
- Designated Employer Representative contact information;
- MRO name, address, telephone number and fax number;
- The DOT agency which regulates the employee's safety sensitive duties.
- Test reason: pre-employment, random, reasonable suspicion, post-accident, return to duty, and follow-up;
- Whether the test is to be observed or not;

After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Chain of Custody and Control form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at an HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.

Under certain conditions, when illicit and/or other drug usage is suspected, the County reserves the right to perform an expanded drug-testing panel to include other substances. This testing will be conducted solely under the auspices of the County's Substance Abuse Policy, and the specimen would be collected using non-DOT collection procedures.

The test results from the HHS certified laboratory will be reported to the Medical Review Officer (MRO). The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive and reported to the County's DER. If a legitimate explanation is found, the MRO will report the test result as negative to the DER and no further action will be taken. If the test is invalid without a medical explanation, a re-test will be conducted under direct supervision.

Any covered employee who disputes the results of a required drug test may request that the split specimen sample be tested. Employees do not have access to a test of their split specimen following an invalid result. The split sample test must be conducted at a second HHS certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended.

The employee's request for a split sample test must be made to the MRO within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to substantiated facts that were beyond the control of the employee. The County will ensure the cost for the split specimen test is covered in order for a timely analysis of the sample; however, the County will seek reimbursement for the split specimen sample test from the employee. While the employee is responsible for paying the cost of the split specimen testing, they will not be denied such based on inability to pay for the testing.

If the analysis of the split specimen sample fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled and will direct the County to retest the employee under direct observation. The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split specimen will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the MRO. Positive primary specimens will be retained in frozen storage for one year and the split specimen will also be retained for one year.

Observed collections, consistent with 49 CFR Part 40, as amended, are performed under direct observation (by a person of the same gender) with no advance notice, and are required in the following circumstances:

- All return to duty tests;
- All follow-up tests;
- The laboratory reported to the MRO that a specimen is invalid, and the MRO reported to the employer that there was not an adequate medical explanation for the result;
- The MRO reported that the original positive, adulterated, or substituted result had to be cancelled because the test of the split specimen could not be performed;
- The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative dilute and that a second collection must take place under direct supervision;
- Anytime temperature on the original specimen was out of the accepted range of 90°-100°F;
- Anytime the collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- Anytime the original specimen appeared to have been tampered with.

When an employee is instructed to provide a specimen under direct observation they will be advised as to the reason, if known.

Dilute Negative: A covered employee or applicant who receives a dilute negative test result will be required to re-test and the result of the second test as the test result of record. The collection for second test will not be directly observed unless there is another reason for an observed collection to be conducted. Should the second test result in a negative dilute test result, the test will be considered a negative and no additional testing will be required unless direct to do so by the MRO.

Alcohol Testing Procedures: Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHTSA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted at least fifteen (15) minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA approved EBT operated by a trained BAT.

The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

An employee who has a confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in the disciplinary section of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall be removed from duty for at least 24 hours and will be subject to the disciplinary consequences described in this policy. The employee will not be allowed to return to safety sensitive duty for next shift until submitting to an alcohol test with a result of less than 0.02 BAC. An alcohol concentration of less than 0.02 will be considered a negative test.

The County affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test result is compromised, the test will be cancelled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test. The alcohol testing form required by 49 CFR Part 40, as amended, shall be used for all FTA required testing. Failure of an employee to sign Step 2 will be considered a refusal to submit to testing.

Pre-Employment Testing: All applicants for covered Cecil Transit positions shall undergo urine drug testing prior to performance of a safety sensitive function but not more than ninety (90) days prior to performing a safety sensitive duty. All offers of employment for covered positions shall be extended conditional upon the applicant passing a pre-employment drug test. An applicant shall not be hired into a covered position unless the applicant takes a drug test and receives a verified negative result.

A non-covered employee shall not be placed, transferred or promoted into a covered position until the employee takes a drug test and receives a verified negative result. If the employee being placed, transferred or promoted into a covered position receives a verified positive drug test result, the employee shall be subject to discipline as outlined in the "Drug & Alcohol Test Results" section of this Policy.

If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded. Failure of a pre-employment drug test shall disqualify an applicant for employment for a period of at least two (2) years. If an applicant or employee drug test is cancelled, the County shall require the employee or applicant to take another pre-employment drug test and receive a verified negative result.

When a covered employee is on extended leave for a period of ninety (90) days or more, regardless of the reason, the employee will be required to take a pre-employment drug test under 49 CFR Part 655, as amended, and receive a negative test result prior to performing safety sensitive functions.

Previous Employment Requirements: Under Federal Regulations, the County must check on the drug and alcohol testing record of new employees it is intending to use to perform safety-sensitive functions. The County, after obtaining an applicants'/employees' written consent, utilizes a third party to request previous employment information about the employee. This requirement applies only to employees seeking to begin performing safety-sensitive functions for the first time (i.e., a new hire, an employee transfers into a safety-sensitive position). If the employee refuses to provide this written consent, the County must not permit the employee to perform safety-sensitive functions.

The County, through a third party administrator, must request the information listed in this paragraph from DOT-regulated employers who have employed the applicant/employee during any period during the two (2) years before the date of the employee's application or transfer (or time period as may be amended under the regulations):

- Alcohol tests with a result of 0.04 or higher alcohol concentration;
- Verified positive drug tests;
- Refusals to be tested (including verified adulterated or substituted drug test results);
- Other violations of DOT agency drug and alcohol testing regulations; and

With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-do-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), the County-must seek this information from the employee.

The information obtained from a previous employer includes any drug or alcohol test information obtained from previous employers under this section or other applicable DOT agency regulations. If feasible, the County must obtain and review this information before the employee first performs safety-sensitive functions. If this is not feasible, the County must obtain and review the information as soon as possible. However, the County must not permit the employee to perform safety-sensitive functions after thirty (30) days from the date on which the employee first performed safety-sensitive functions, unless the County has obtained or made and documented a good faith effort to obtain this information.

If the County obtains information that the applicant has violated a DOT agency drug and alcohol regulation, the pre-employment process will not be continued. Each of the employers from whom information is requested under paragraph (3.4.2) of this section must receive written consent for the release of the information. The employer requesting the information required under this section must maintain a written, confidential record of the information obtained or of the good faith efforts made to obtain the information. This information must be retained for three years from the date of the employee's first performance of safety-sensitive functions.

The employee must be asked whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive functions covered by DOT agency drug and alcohol testing rules during the past two years.

Reasonable Suspicion Testing: All County covered employees will be subject to a reasonable suspicion drug and/or alcohol test when there are reasons to believe that drug or alcohol use is impacting performance or safety. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech, or body odor that are consistent with possible drug use and/or alcohol misuse.

Reasonable suspicion referrals must be made by one supervisor who is trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in work performance due to possible prohibited substance abuse or alcohol misuse. (Attachment A: Reasonable Suspicion Worksheet) Under FTA authority, a reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive function. However, under the County's authority, a reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

The County shall be responsible for transporting the employee to the testing facility. The employee shall be placed on unpaid leave pending the test results. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on unpaid leave pending disciplinary action.

A written record of the observations that led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation prior to the release of the test results. This written record shall be submitted to the DER and attached to the forms reporting the test results. Please note that Reasonable Suspicion does not exist if it is based solely upon a supervisor's intuition or hunch.

If a reasonable suspicion alcohol test is required but not performed within two (2) hours, the reason for the delay must be documented. If not completed within eight (8) hours, attempts to administer an alcohol test shall cease. The documentation of delay must be maintained.

Post-Accident Testing: All covered employees will be required to undergo drug and alcohol testing if they are involved in an accident with a transit revenue service vehicle or equipment or whose performance could have contributed to the accident, regardless of whether or not the vehicle or equipment is in revenue service that results in a fatality. This includes all surviving covered employees that are operating the vehicle or equipment at the time of the accident and any other covered employee whose performance cannot be completely discounted as a contributing factor to the accident.

A post-accident test will be conducted if an accident results in injuries requiring immediate transportation to a medical treatment facility; or one or more vehicles incurs disabling damage, unless the operator's performance can be completely discounted as a contributing factor to the accident. This includes all covered employees that are operating the vehicle or equipment at the time of the accident and any other covered employee whose performance cannot be completely discounted as a contributing factor to the accident. Under its own authority, the County requires post-accident drug and alcohol testing when medical treatment is obtained, or when there is damage to any vehicles, mobile equipment or property.

Post-accident testing procedures include the following:

- As soon as practicable following an accident, as defined in this section, the supervisor investigating the accident will notify the employee operating the transit vehicle or equipment and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.
- The covered employee's supervisor shall transport the employee to the testing facility.



- The appropriate supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours from the time of the accident for alcohol testing, and within 32 hours for drug testing. If an alcohol test is not performed within two (2) hours of the accident, the DER will document the reason(s) for the delay. If the alcohol test is not conducted within eight (8) hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.
- Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test.
- An employee who is subject to post accident testing who fails to remain readily available for such testing, including notifying a supervisor of location if they leave the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.
- Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
- In the rare event that the County is unable to perform a FTA drug and alcohol test (i.e. employee is unconscious, employee is detained by law enforcement, etc.), The County may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement official must have independent authority for the test and the employer must obtain the results in conformance within local law.

Random Testing: All covered employees will be subject to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year. The number of employees randomly selected for drug and alcohol testing during the calendar year shall not be less than the percentage rates established by Federal regulations for those safety-sensitive employees subject to random testing by Federal regulations.

Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection and notification of the individuals who are to be tested.

Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random test can be performed just before, during, or just after the performance of a safety sensitive duty. Testing can occur during the beginning, middle or end of an employee's shift. However, under the County's authority, a random alcohol test may be performed any time the covered employee is on duty.

Employee's selected for testing are to "Immediately Proceed and Report without Delay" to the appropriate collection site. Employees selected for random testing will be given a testing appointment form to be presented at the collection site (Attachment B: Random Test Appointment).

Return-To-Duty Testing: As noted in Section HR-013G, the County adheres to a **ZERO TOLERANCE** policy, meaning a verified positive drug screen and/or confirmed alcohol screen with an alcohol concentration of 0.04 or greater will result in immediate removal from all duties, referral to a substance abuse professional, and termination of employment.

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional (SAP) before returning to work. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment required and is known to be drug and alcohol free and there are no undo concerns for public safety. In no circumstances will an employee be reinstated to the conduct of safety-sensitive functions prior to the completion of the treatment plan with negative tests. The cost for assessment and any subsequent treatment will be the sole responsibility of the employee.

#### Follow-Up Testing:

Covered employees will be required to undergo frequent, unannounced drug and alcohol testing following their return-to-duty. The follow-up testing will be performed for a period of one to five (1-5) years with a minimum of six (6) tests performed the first year. The frequency and duration of the follow-up tests (beyond the minimum) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

#### **HR-014G: Drug & Alcohol Test Results**

Positive Test Results: Any covered employee that has a verified positive drug or alcohol test will be removed from safety-sensitive position, informed of educational and rehabilitation programs available and referred to a Substance Abuse Professional (SAP) for assessment. No employee will be allowed to return to duty requiring the performance of safety-sensitive functions without the approval of the SAP.

A positive drug and/or alcohol test will also result in disciplinary action as specified herein:

- As soon as practicable after receiving notice of a verified positive drug or alcohol test, or a test refusal, the DER will contact the employee's supervisor to have the employee cease performing any safety-sensitive functions.
- The employee shall be referred to a Substance Abuse Professional (SAP) for an assessment. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited drug use or alcohol misuse.
- Refusal to submit to a drug/alcohol test shall be considered a positive test result and a direct act of insubordination and shall result in termination. A test refusal includes the following circumstances:
  - A covered employee who consumes alcohol within eight (8) hours following involvement in an accident without first having submitted to a post-accident drug/alcohol test.
  - A covered employee who leaves the scene of an accident without a legitimate explanation prior to submission to drug/alcohol tests.
  - A covered employee who is suspected of providing false information in connection with a drug test.
  - A covered employee who provides an insufficient volume of urine specimen or breath sample without a valid medical explanation. The medical evaluation shall take place within five (5) days of the initial test attempt.
  - A verbal or written declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test within the specified time frame.
  - A covered employee whose urine sample has been verified by the MRO as substitute or adulterated.

- A covered employee fails to appear for any test within a reasonable time, as determined by the employer, after being directed to do so by the employer (except for pre-employment tests).
- A covered employee fails to remain at the testing site until the testing process is complete.
- A covered employee fails to provide a urine specimen for any drug test required by CFR Part 40, as amended, or DOT agency regulations.
- A covered employee fails to permit the observation or monitoring of a specimen collection.
- A covered employee fails or declines to take a second test the employer or collector has directed you to take.
- A covered employee fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the “shy bladder” or “shy lung” procedures.
- A covered employee fails to cooperate with any part of the testing process (e.g. refuses to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process).
- A covered employee fails to follow the observer’s instructions during an observed collection, including instructions to raise their clothing above the waist, lower clothing and under garments, and to turn around to permit the observer to determine if they have any type of prosthetic or other device that could be used to interfere with the collection process;
- A covered employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
- A covered employee admits to the collector or MRO that they adulterated or substituted the specimen.
- Failure to sign Step 2 of the Alcohol Testing form.

The County has a **ZERO TOLERANCE** policy. A verified positive drug screen and/or confirmed positive alcohol screen with an alcohol concentration of 0.04 or greater will result in immediate removal from all duties, referral to a substance abuse professional, and termination of employment. An alcohol test result of 0.02 to 0.039 BAC shall result in the removal of the employee from duty for 24 hours. The employee will not be permitted to return to safety-sensitive duty or next shift until submitting to an alcohol test with a result of less than 0.02 BAC. If the employee has an alcohol test result of 0.02 to 0.039 BAC two or more times within a six-month period, the employee will be removed from duty and referred to the SAP for assessment and treatment consistent with this Policy.

The cost of any treatment or rehabilitation services will be paid directly by the employee or insurance provider. The employee will be permitted to take accrued Sick, Vacation or Personal to participate in the SAP prescribed treatment program. If the employee has insufficient leave, the employee shall be placed on leave without pay until the SAP has determined that the employee has successfully completed the required treatment program and releases him/her to return-to-duty. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family Medical Leave Act.

In the event of a self-referral, disciplinary action against the employee shall include:

- Mandatory referral to a Substance Abuse Professional for assessment, formulation of a treatment plan, and execution of a return to work agreement.
- Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from the County’s employment. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the judgment of the SAP the employee is cooperating with SAP recommended treatment program; and the employee has agreed to periodic unannounced follow-up testing as defined in this Policy.

- Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination.
- A self-referral to the SAP that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered a positive test result in relation to the disciplinary section of this policy.
- Periodic unannounced follow-up drug/alcohol test conducted as a result of a self-referral which results in a verified positive shall be considered a positive test result in relation to the disciplinary section of this policy.

Failure of an employee to report within five (5) days of a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

#### **HR-014H: Grievance & Appeal**

The consequences specified by 49 CFR Part 655, as amended, for a positive test or test refusal is not subject to arbitration.

Proper Application of the Policy: The County is dedicated to ensuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

Information Disclosure: Drug and alcohol testing records shall be maintained by the DER and, except as provided below or by law, the results of any drug or alcohol test shall not be disclosed without express written consent of the tested employee. The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP referrals and follow-up testing plans.

Records of a verified positive drug or alcohol test result shall be released to the DER, department supervisor, and Chief, Human Resources on a need to know basis. Records will be released to a subsequent employer only upon receipt of a written request from the employee. Records of an employee's drug or alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug or alcohol test. The records will be released to the decision maker in the proceeding. The information will only be released with biding stipulation from the decision maker will make it available only to parties in the preceding.

Records will be released to the National Transportation Safety Board (NTSB) during an accident investigation. Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees. Records will be released if requested by a Federal, state or local safety agency with regulatory authority over the County or the employee.

If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of 49 CFR Part 40, as amended, necessary legal steps to contest the issuance of the order will be taken. In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

## **HR-014I: Delegated Responsibilities**

The County has procured the services of a professional Medical Review Officer (MRO) and Substance Abuse Professional (SAP) on behalf of this policy.

### **Medical Review Officer (MRO) responsibilities:**

- Compliance with 49 CFR Part 40 Procedures for Transportation Workplace Drug and Alcohol Testing Programs provisions, as amended.
- Compliance with 49 CFR 655 Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations provisions, as amended.
- The Medical Review Officer's (MRO) single most important function is laboratory positive test result review and the determination of alternative medical explanations for positive results. The MRO must be a licensed physician with substance abuse disorder knowledge and has appropriate medical training to interpret and evaluate positive test results.

### **Substance Abuse Professional (SAP) responsibilities:**

- Compliance with 49 CFR Part 40 Procedures for Transportation Workplace Drug and Alcohol Testing Programs provisions, as amended.
- Compliance with 49 CFR 655 Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations provisions, as amended.
- The SAP functions include:
  - Face-to-face clinical assessment and evaluation to determine what assistance is needed by the employee to resolve problems associated with alcohol and/or drug use;
  - Referring the employee to an appropriate education and/or treatment program;
  - Conducting face-to-face follow-up evaluation to determine if the employee has actively participated in the education and/or treatment program and has demonstrated successful compliance with the initial assessment and evaluation recommendations;
  - Providing the DER with a follow-up drug and/or alcohol testing plan; and;
  - Providing recommendations for continuing education and/or treatment;
  - The SAP is not an advocate for the County or the employee. The SAP function is to protect the public interest in safety by professionally evaluating the employee and recommending appropriate education/treatment, follow-up tests, and aftercare.

## **HR-014J: Policy Contacts**

### **Designated Employee Representative (DER):**

Director of Human Resources Telephone: (410) 996-5250  
Cecil County, Maryland  
200 Chesapeake Blvd, Suite 2800  
Elkton, MD 21921

### **Secondary Designated Employee Representative (DER):**

Chief, Human Resources Telephone: (410) 996-5250  
Cecil County, Maryland  
200 Chesapeake Blvd, Suite 2800  
Elkton, MD 21921

**Medical Review Officer (MRO):** Medical review of drug test results will be provided by below listed MRO under contract with the County (as amended).

Pivot Occupational Health Telephone: (410) 620-5424  
2540 Pulaski Highway  
North East, MD 21901

**SAMHSA Certified Laboratory:** Certified laboratory testing will be provided by the below listed laboratory under contract with Cecil County, Maryland.

MedTox Laboratories, Inc.  
402 West County Road D  
St. Paul, MN 55112

Telephone: (651) 636-7466

**Substance Abuse Professional (SAP):**

BUSINESS HEALTH SERVICES

Telephone: (866) 765-3277

**HR-014K: Minimum Thresholds**

Initial Test Analyte	Initial Test Cutoff Concentration	Confirmatory Test Analyte	Confirmatory Test Cutoff Concentration
Marijuana metabolites	50 ng/mL	THCA <sup>1</sup>	15 ng/mL
Cocaine metabolites	150 ng/mL	Benzoyllecgonine	100 ng/mL
Opiate metabolites			
Codeine/Morphine <sup>2</sup>	2000 ng/mL	Codeine	2000 ng/mL
		Morphine	2000 ng/mL
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Amphetamines <sup>3</sup>			
AMP/MAMP <sup>4</sup>	500 ng/mL	Amphetamine	250 ng/mL
		Methamphetamine <sup>5</sup>	250 ng/mL
MDMA <sup>6</sup>	500 ng/mL	MDMA	250 ng/mL
		MDA <sup>7</sup>	250 ng/mL
		MDEA <sup>8</sup>	250 ng/mL

<sup>1</sup>Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA).

<sup>2</sup>Morphine is the target analyte for codeine/morphine testing.

<sup>3</sup>Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff.

<sup>4</sup>Methamphetamine is the target analyte for amphetamine/methamphetamine testing.

<sup>5</sup>To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL.

<sup>6</sup>Methylenedioxyamphetamine (MDMA).

<sup>7</sup>Methylenedioxyamphetamine (MDA).

<sup>8</sup>Methylenedioxyethylamphetamine (MDEA)

**HR-014L: FTA Safety Sensitive Employee Position Classifications Listing**

Department of Community Services – Cecil Transit

<b>Policy #:</b>	HR-015
<b>Subject:</b>	ALTERNATIVE WORK SCHEDULE
<b>Effective Date:</b>	July 1, 2020
<b>Approved by:</b>	County Executive & County Council

### **HR-015A: Alternative Work Schedule**

The County endorses the use of flexible work schedules and encourages Departments to examine operations to determine whether such scheduling is appropriate and can serve a service-minded and useful purpose. Alternative work scheduling can be used, based on department needs, to:

- Provide extended services to the public and other agencies;
- Increase the efficiency and effectiveness of the work force through optimum utilization;
- Provide employees with an opportunity to alter hours and schedule appointments on an assigned day off, within guidelines set by the Director.

While the County endorses the concept of alternative work schedules, it is intended that such schedules will be designed and implemented on a more or less permanent basis and are at each department's discretion. Schedules should not vary on a daily basis to accommodate personal preferences.

Each department participating in the Alternative Work Schedule program will need to determine minimum staffing requirements in order to continue to be able to serve the public and internal customers appropriately. Minimum staffing levels will need to be reviewed and approved by the Director of Administration prior to starting Alternative Schedules.

Employees working a compressed work schedule should make every effort to schedule their appointments on their scheduled day off. Non-exempt employees may not work more than 40 hours in a week (unless overtime is approved in advance for a special project).

### **HR-015B: Hours of Work**

While most County offices are ordinarily open for business Monday through Friday from 8:00 am to 4:30 pm., there are no standard hours of work for County employees due to the varied nature of County business. Hours of work will be established in each department and approved by the Appointing Authority. Core hours for most departments are 9 am – 3 pm each day.

### **HR-015C: Option I – 10-hour Compressed Time**

Four (4) 10-hour workdays per week commencing between 6:00 and 8:30 a.m., incorporating a 30-minute unpaid meal break, and ending between 5:30 and 7:00 pm. This schedule results in one non-working day per workweek.

### **HR-015D: Option II - Flexible Time**

This option allows staggered fixed arrival and departure times for individual employees within the parameters established by the supervisor to allow full coverage during the normal business hours. Employees may vary their arrival and departure times within established limits, provided they are present within the core time and work a standard number of hours per day and week. Examples of approved flex time are noted below:

- 6:00 a.m. - 2:30 p.m.
- 7:00 a.m. - 3:30 p.m.
- 7:30 a.m. - 4:00 p.m.
- **8:00 a.m. - 4:30 p.m. Standard workday schedule**
- 8:30 a.m. - 5:00 p.m.
- 9:00 a.m. - 5:30 p.m.
- 9:30 a.m. - 6:00 p.m.
- 10:00 a.m. - 6:30 p.m.

This option requires the employee to select and maintain a flex schedule for a period of time that cannot be changed without prior approval; this is not a day-to-day schedule.

**NOTE:** This policy does not apply to the 24/7 operational departments or the Solid Waste Division.

### **HR-015E: Paid Leave**

Service time and the accrual of Vacation, Sick, or Personal will continue at the existing rates. Employees who use Vacation, Sick, or Personal will be charged the actual number of leave hours used, based on that day's scheduled work hours minus any hours worked.

Paid bereavement leave is limited to a maximum of either twenty-four (24) hours or eight (8) hours, based on applicability. If an employee is eligible for paid jury leave, the number of hours served as juror will be based on that day's scheduled work hours up to eight (8) hours/day. Employees on a compressed time schedule will be required to use two hours of Vacation or Personal if jury leave falls on a scheduled 10-hour workday.

Paid Administrative leave while working as an election judge will be limited to eight (8) hours. For each County holiday, eight hours of paid leave are awarded to each full-time employee. If a holiday falls on an employee's non-workday of the week, the employee's preceding workday or following workday within that work week may be used as the employee's holiday. This decision will be reached through discussion with the Director in advance of the holiday taking into consideration the minimum staffing requirements. Employees on a compressed time schedule will be required to use two hours of Vacation or Personal if a holiday falls on a scheduled 10-hour workday.

### **HR-015F: Written Agreement**

All alternative work scheduling agreements between employees and their Appointing Authority must be documented in writing and signed by both parties on an annual basis. The agreement should contain a description of the alternative work schedule, an acknowledgement by the employee that the provisions of this policy have been read and understood. Copies of the agreement should be distributed to the employee, the employee's immediate supervisor, and the Department of Human Resources.