



COLFAX COUNTY  
PERSONNEL POLICY AND PROCEDURES  
ORDINANCE NO. 2015-02

AN ORDINANCE RELATING TO THE EMPLOYMENT POLICIES OF COLFAX COUNTY,  
NEW MEXICO AND REPEALING THE COLFAX COUNTY ORDINANCE NO. 2004-2

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLFAX  
COUNTY, NEW MEXICO

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## SECTION 1: GENERAL PROVISIONS

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### 1.1 INTRODUCTION

Colfax County, its Elected Officials and its Department Heads, reserve exclusive right over hiring and discharge of employees of the County, under the regulations herein provided. The purpose of the policy and procedure contained herein is to establish consistent, basic policy and procedure concerning relations between the County of Colfax, its Elected Officials, Department Heads and its employees.

These personnel policies and procedures are subject to unilateral change, modification, or discontinuation by Colfax County at any time, including but not limited to benefits provided and personnel practices. Any such changes will apply to present as well as future employees.

This Policy does not apply to members of boards and commissions, person engaged under contract to supply professional or technical services, and volunteer personnel who receive no or nominal compensation from the County.

Each employee shall become familiar with and comply with these personnel policies and procedures. Any violation of these policies and procedures by an employee shall result at the sole direction of Colfax County in disciplinary action up to and including dismissal.

Formulation of definite policy and procedure cannot be readily applied to every possible problem or situation. Nevertheless, it is believed that the policy and procedure contained herein will serve as a general basis and guide for the proper, efficient, and effective administration of personnel matters relating to the employees and Elected Officials of Colfax County, New Mexico.

In the event that a personnel matter arises which is not covered by this policy, the County Manager shall notify the Board so that an appropriate policy may be developed. If the ongoing activity of the county requires that a decision be made before the Board can consider the matter, the County Manager is authorized to make an interim decision which will apply only to the case at hand and which will not be considered a precedent for the policy to be developed according to the procedure specified above. On such occasions, the County Manager will consult with the Personnel Policy Review Committee.

The personnel policy and procedure contained herein replaces and supersedes all previously issued personnel policy and procedure applicable to the employees, Department Heads and Elected Officials of Colfax County, New Mexico including without limitation, Colfax County Ordinance 2004-2

The Board of Commissioners of Colfax County, New Mexico, declares that it is necessary for the public peace, health and safety that this ordinance takes effect immediately after passage in open meeting. This ordinance shall take effect when it is recorded in the book kept by the Colfax County Clerk for that purpose and authenticated by the signature of the Colfax County

Clerk. The ordinance will remain in effect until such time as this ordinance is amended or revised in open meeting by the Colfax County Board of Commissioners.

Colfax County is an equal opportunity employer and does not discriminate against any employee or job applicant on the basis of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or serious medical condition, spousal affiliation, sexual orientation, gender identity or the uniformed armed service.

All persons having the authority to hire, discharge, transfer, or promote personnel shall support, without reservations, a non-discriminatory policy of hiring, or transferring to any vacancy, any qualified applicant.

Colfax County will offer equal opportunity for employment and advancement of all qualified employees and applicants.

## **1.2 REVIEW PROCEDURES**

A review committee, consisting of Elected Officials, County Manager, Road Department Superintendent, Detention Center Administrator, Airport Operations Manager, Maintenance Supervisor and the Human Resource Coordinator, or his or her designee, will review this ordinance at least once per year. If there are any recommended changes to this policy, the recommended changes will be brought forth to the next scheduled Board of Commission meeting for review and consideration.

## **1.3 SEVERABILITY**

If any provision of this policy is found to be in conflict with any state or federal law and thereby illegal or unenforceable, the conflicting part is hereby declared inoperative to the extent of the conflict, but such conflict shall not affect the operation of the remainder of this policy.

## **1.4 DEFINITIONS**

**Administrative Leave with Pay** – Leave with pay granted at the County Manager's discretion after considering the Elected Official's or Department Head's recommendation.

**Administrative Leave without Pay** – Leave without pay granted at the County Manager's discretion after considering the Elected Official's or Department Head's recommendation.

**Americans with Disability Act (ADA)** -- The Federal law which states, in part, that, "...no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from participation in, be denied benefits of or be subjected to discrimination in programs or activities sponsored by a public entity."

**Anniversary Date** – Annual recurrence of the date on which an employee was hired or appointed. The anniversary date is subject to change if the employee is rehired after a break in service.

**Annual (Vacation) Leave** – Leave with pay granted to an employee. There must be sufficient time accrued if the leave is to be with pay. The employee must submit a request for time off and such request must be approved by the employee's direct supervisor before time off is scheduled.

**Appeal** – An action by which an affected party challenges the decision or determination of an Elected Official or Department Head in a matter involving the interpretation or application of the Personnel Rules and Regulations.

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

**Appointed Official** – An Appointed Official is a full-time exempt employee appointed by an Elected Official or the Board of Commissioners and include without limitation; First Deputies, Under Sheriff, Sheriff's Executive Secretary, Assistant County Manager, Road Foreman and County Detention Center Administrative Lieutenant.

**Base Salary** – An employee's rate of pay based on an adopted salary schedule, excluding premiums, such as overtime pay, standby pay or other incentives.

**Board of County Commissioners** – The elected governing body of the County, consisting of a quorum of commissioners, with the statutory power to set salaries, except as otherwise provided in NMSA 1978, Section 4-44-12.3, to employ a County Manager and to conduct the business of the County.

**Break-In Employment** – Amount of time between leaving the County and returning to work at the County.

**Candidate** – Any applicant who has been deemed qualified by the Human Resource Representative, and is on the list of applicants eligible to fill a vacant position.

**Cause** – Any conduct, action or inaction arising from or directly connected with the employee's work which is inconsistent with the employee's obligation to the County and reflects the employee's disregard of the County's interest. Cause includes, but is not limited to, inefficiency, incompetency, misconduct, negligence, insubordination, performance which continues to be inadequate after reasonable efforts have been made to correct the performance problems, or conviction of a felony.

**Casual Employee** – An employee hired to fill a position paid by the hour that may be called on short notice or on an occasional basis. Casual employee works less than (20) hours a week and is paid only for hours worked. The use of a casual employee's services may be discontinued at any time; they do not receive county benefits, do not accrue leave and may not grieve or dispute employment decisions.



**Catastrophic Leave** -- A serious non-work-related health condition of the employee or employee's immediate family or household which creates a financial hardship because the employee has exhausted all available leave credits and is not, or not yet, eligible for temporary disability benefits. (Please see Leave Requirements in Policy)

**Classified Employee** -- An employee who has successfully completed the prescribed probationary period and is eligible for the rights and privileges provided for under the Personnel Rules and Regulations.

**Classification** -- A job position which is occupationally distinct.

**Classification Plan** -- A collection of classes or job titles and accompanying job specifications, based on duties, authority and responsibilities of positions, approved by the Board of County Commissioners.

**Closing Date** -- The last day when a person or an employee can submit her application for a posted job vacancy.

**COBRA** -- The Consolidated Omnibus Budget Reconciliation Act of 1985 amending Federal employment laws to provide continuation of employer sponsored group health coverage that otherwise might be terminated.

**Compensation** -- Salary and benefits provided to an employee for services rendered.

**Conflict of Interest** -- Any business or transaction or a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties or which would tend to impair his independence of judgment or action in the performance of his official duties.

**Continuous Length of County Service** -- The length of time for which there have been no breaks in employment as an employee spanning from the employee's Date of Hire, other than annual leave, sick leave, authorized military leave or authorized leave without pay for less than three (3) months.

**Contract Employee** -- Contract employees are FLSA exempt and are unclassified employees and have a contract approved by the Board of Commission. Contract employees serve at the pleasure of the County Commission, and subject to contractual provisions. Contract employees are not entitled Grievance or Disciplinary Procedures of the Colfax County Personnel Policy and Procedures. Subject to contractual provisions to the contrary, such employees may be terminated at any time without cause. Examples of contract employees are employees with the Y.E.S. and D.W.I. program.

**County** -- An involuntary political subdivision of the State of New Mexico; refers to Colfax County and the corporate governing body.

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

**County Manager** – Hired by the County Commission to serve as a personnel officer, fiscal director, budget officer and property custodian and to act generally as the administrative assistant to the Board of County Commissioners, aiding and assisting it in the exercise of its duties and responsibilities. In the event there is not a County Manager, the duties and responsibilities shall be carried out by the Assistant County Manager or a person designated by the Board of County Commissioners.

**Date of Hire** – The employment start date indicated as such on the employee's Personnel Hiring Form. Alternatively, the date of hire may be from the date of reinstatement if reinstatement occurs after a lapse of continuous length of County service.

**Demotion** – The reduction in title, position or compensation as a result of a major disciplinary action, lay-off or an employee's voluntary request.

**Department Head** – An exempt employee who has the responsibility of supervising and administering a department of County government and under the supervision and direction of the County Manager.

**Disability** – A physical or mental impairment that substantially limits one or more life activities.

**Discrimination** – Refusal to hire, or the imposition of some other adverse employment action against an individual because of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or serious medical condition, spousal affiliation, sexual orientation, gender identity or the uniformed armed service..

**Dismissal** – An action which terminates an individual's employment with the County.

**Domestic Partner** – "Domestic Partner" means a person with whom another person maintains a household and an intimate relationship, without a legally recognized marriage.

**Due Process** – The right to notice and hearing granted to a full-time or part-time classified employee who has completed the probationary period with respect to pre-disciplinary and post-disciplinary procedure in disciplinary actions for suspension without pay, demotion, or dismissal.

**Elected Official** – A person elected or appointed to the position of County Commissioner, County Assessor, County Sheriff, County Probate Judge, County Clerk or County Treasurer. A County Commissioner is an Elected Official, but can only act by majority vote in an open meeting. Elected Officials are not employees.

**Employee** – Includes all classified County employees.

**Employment Requirements** – A position's job related qualification standards established by the County in accordance with the specific requirements or needs of the position and are subject to review and recommendation by the Human Resource Representative.

**Equal Employment Opportunity** – Includes, but is not limited to, the right of all individuals to expect fair and equal treatment by the County in hiring, promotion, discharge, compensation, and other terms and conditions and privileges of employment.

**Examination** – A quantitative competitive assessment of qualifications, knowledge, skills, fitness and abilities of an applicant, including tests.

**Exempt Employee** – Executive, administrative, and professional employees where the exact terms and conditions of employment exempts the employee from the Fair Labor Standards Act's minimum wage and overtime pay requirements. These employees serve at the pleasure of the County Commission, Elected Officials and Department Heads and are not entitled to the Grievance or Disciplinary Procedures of the Colfax County Personnel Policy and Procedures, with the exception of the policies related to Public Employees Retirement Association, Drug and Alcohol Policy, Vacation Leave, Sick Leave, Jury or Witness Duty, Bereavement Leave, Leave of Absence and Paid Holiday's. They may be terminated at any time without cause, and nothing herein shall be construed to limit the unilateral right of Colfax County to discharge such employees in an at-will manner consistent with state and federal law. A full-time exempt employee for the purpose of determining the applicable Personnel Policy and Procedure will be defined as any person employed in a full-time position included in the list below:

First Deputies of Elected County Officials

Undersheriff

Executive Secretary of the Sheriff

County Manager

Assistant County Manager

Information Technology Manager

Superintendent of County Roads

Road Foreman

Detention Center Administrator

Detention Center Administrative Lieutenant

Airport Manager

**FMLA** – The Federal, Family and Medical Leave Act which entitles eligible employees up to twelve (12) weeks of unpaid leave in a twelve (12) month period for certain qualifying reasons.

**FLSA** – The Federal Fair Labor Standards Act which among other things requires employers to pay certain of its employee's premium overtime for hours worked in excess of forty (40) hours in a workweek. Employees may either be classified as Covered (non-exempt) or Exempt if they meet certain criteria and standards.

**Full-Time Employee** – For the purpose of earning County benefits, any employee with a regularly scheduled administrative workweek of 35 hours or more, or law enforcement personnel, who are regularly, scheduled a specified number of hours in a designated work period. Such an employee may be tenured or non-tenured.

**Grant Funded Employee** – A full or part-time employee hired to fill a position that exists only upon receipt of grant funds. This position is terminable-at-will if funding is not received or upon expiration of the grant agreement.

**Grievance** – A classified employee's complaint concerning actions taken by management which result in loss of pay to the employee or which results from dissatisfaction with the working conditions or relationships.

**Hatch Modernization Act of 2012** – A federal law (5 U.S.C. S 1502) which permits local government employees to participate in partisan political elections or political activities, except those employees whose salary is paid completely, directly or indirectly, by loans or grants made by the United States or a federal Agency.

**Hire Date** – The date of the offer, acceptance and commencement of employment

**Hostile Work Environment** – A work environment consisting of discriminatory intimidation, ridicule or insult to the extent that it interferes with an employee's work performance or creates a direct or indirect offensive work environment.

**Immediate Family**

|                                          |                    |
|------------------------------------------|--------------------|
| Spouse                                   |                    |
| Mother                                   | Stepmother         |
| Father                                   | Stepfather         |
| Brother                                  | Stepbrother        |
| Sister                                   | Stepsister         |
| Grandparent                              | Step grandparent   |
| Children (Biological or legally adopted) | Stepchildren       |
| Mother-in-law                            | Stepmother-in-law  |
| Father-in-law                            | Brother-in-law     |
| Stepfather-in-law                        | Sister-in-law      |
| Grandchildren                            | Step grandchildren |

**Impermissible Political Activity** – Using his or her position or employment with the County to influence support of candidates or Elected Officials, political parties, political parties action committee or similar organizations in any election or pre-election activity, provided, however; that nothing herein shall deny the right of an employee to express his views on any issue.

**Inclement Weather/Emergency** – An occurrence which makes it difficult for employees to get to work or where the worksite may be temporarily restricted due to forces beyond the County's control.

**Job Description** – The primary resource document in position classification defining and describing representative duties and responsibilities and setting forth the minimum requirements (qualifications) essential to the performance of the work of the position or job.



**Job Title** – A descriptive name that identifies a position with similar duties, responsibilities and qualifications.

**Jury or Witness Duty** – Any employee who is subpoenaed as a witness in a legal proceeding or is called to service on a jury in a court of law.

**Just Cause** – A reasonable and lawful basis for action that refers to a standard of reasonableness used to evaluate whether a classified employee's action constituted just cause for discipline or dismissal.

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

**Leave without Pay** – An employee who is on authorized leave but who has exhausted all of his or her annual leave or sick leave or an employee who is on unauthorized leave is on leave without pay.

**Legal Holiday** – Public holidays designated by the Board of County Commissioners which are generally consistent with Federal, State or County government holidays.

**Light/Modified Duty Position** – A position for an employee who has suffered a disability or who for other reasons cannot perform their regular duties within their job description whenever practicable and when such work is available. A physicians' certification is required to request Light Duty and also to return to Full Duty.

**Merit Pay** – Also known as pay-for-performance, is defined as a raise in pay based on a set of criteria (goals and objectives). This usually involves the employer conducting a review meeting with the employee to discuss the employee's work performance during a certain time period (mid-year and end-of-year). Merit increases are not guaranteed and are based on the county's operating budget and its ability to incorporate these costs.

**Military Leave** – Leave with pay authorized for an employee who is a member of the National Guard or Air National Guard of New Mexico or any organized reserve unit of the armed forces of the United States for a period not to exceed fifteen (15) working days in each Federal fiscal year.

**Moral Turpitude** – Gross violation of standards of moral conduct.

**Nepotism** – Is defined as one who is related by blood (consanguinity) or marriage (affinity) within the third degree.

**Non-Exempt** – Employees who are covered by the Fair Labor Standards Act who are entitled to the minimum hourly wage and must be paid overtime pay after (40) hours of work in a workweek, unless exempted by FLSA.

**Notice of Final Action** – A written notice served on the employee when there is no timely filing of an appeal or the notice provided after the pre-disciplinary hearing (Loudermill)

**Notice of Intent to Discipline** – A written notice served on an employee that disciplinary action is being considered with respect to the employee.

**Part-Time Employee** – An unclassified employee whose regular hours of work are less than 40 hours per week.

**Pay Scale** – A pay plan maintained corresponding to the classification plan.

**Pay Period** – Defined by the County Commission as the last day of each month and the 15<sup>th</sup> day of each month.

**Performance Review/Evaluation** – The measuring of an employee's performance over a period of time against standards of performance, goals and objectives. Performance evaluations shall be conducted quarterly for a new hire and annually for a tenured employee. However, employee performance reviews can be conducted as many times as necessary to ensure documentation of performance, but at least once annually.

**Personal Holiday** – Personal time off, one day (8 hours) to recognize the employee's birthday.

**Probationary Period** – A conditional employment period, which is the initial one-hundred-eighty (180 ) calendar days of continuous County employment, which can be extended based on performance by up to one-hundred eighty (180 ) days, during which an employee is terminable at will and without cause. Detention center Correctional Officer's period shall extend to three hundred sixty five (365) calendar days of continuous County employment. Certified Sheriff's deputies' probationary period is a period of one-hundred eighty (180) days. Non-certified deputies' probation is a period of three hundred sixty five (365) calendar days.

**Promotion** – The change of an employee from their classified position to a higher classified position in a higher pay grade or to an unclassified position for which he or she applies and qualifies.

**Public Office, Candidate** – An employee becomes a candidate when the employee files a petition or nomination papers, pays a filing fee, is nominated by a political party or declares his or her intent to run for a public office. The public office being sought can be a non-partisan elected position or an elected position on a legally constituted State or local unit of government.

**Public Safety Employee** – Generally is involved in the protections of the general population from all manner of significant danger, injury, or harm. This protection is typically provided by law enforcement, fire, EMS and detention personnel.

**Reassignment** – The in-title movement of an employee to a new job function, work shift, location, or supervisor within the same organizational division.

**Reclassification** – The change of a position from one class title to a different class title based on modifications in the position's duties and responsibilities.

**Red Circle Rate** – When an employee's base rate of pay is above the maximum salary for a position, the employee's pay rate will be "red circled" or frozen at its current level until the pay plan catches up with the employee's pay.

**Reduction In Force** – Separation by layoff due to the shortage of County funds, abolishment of position(s), lack of work, or action by the Board of County Commissioners to reduce or eliminate function(s) or services.

**Resignation** – Notice given by an employee desiring to leave County employment in good standing, at least two weeks before separation, unless the Elected Official or Department Head consents to shorter notice.

**Resignation not in good standing** – Giving up of ones' position without giving the required notice, or an unauthorized absence from work for three (3) consecutive working days.

**Requirements** – The minimum qualifications required for successful performance of the job duties.

**Retirement** – The withdrawal of an employee from the County workforce upon meeting the Public Employees Retirement Association of New Mexico (PERA) eligibility conditions for normal or disability retirement.

**Retirement Program** – The Public Employees Retirement Association of New Mexico (PERA) available to all County employees and Elected Officials, conditioned by State laws and regulations.

**Safety-Sensitive Position** – Positions in which the employee is required to safely operate potentially dangerous equipment, or is required to maintain the safety and security of the County, including public safety employees.

**Seniority** – Relates to the length of continuous service and longevity of time over another employee.

**Sexual Harassment** – Any unwanted sexual attention or such attention of a persistent or offensive nature made by a person who knows, or reasonably should know, that such attention is unwanted.

**Sick Leave** – Leave with pay granted to an employee from an accrued balance when a personal or immediate family member illness or other medical conditions prevents him from reporting to work and is approved by his supervisor. Sick Leave in excess of (3) working days requires a doctor's excuse from work.

**Sick Leave Abuse** – Use of accrued sick leave for nonmedical problems or repeated absences or delays in getting to work on Mondays or Fridays. Employees abusing sick leave may be disciplined up to and including dismissal.

**Substance Abuse** – The use of controlled substances, prescribed and non-prescribed or alcohol by an employee **when it interferes with his job performance**, conduct, attendance, safety or when it violates the law or the sale or distribution of controlled substances while on County property or while on County Business.

**Suspension** – A forced leave of absence, paid or unpaid, for disciplinary reasons, or pending investigation of allegations made against an employee, or for pending determination the grievance procedure.

**Temporary Employee** – A full-time or part-time employee hired to fill a position that will exceed a six (6) month period. All temporary employees are terminable-at-will, do not accrue leave, and do not receive employee benefits.

**Terminable-at-Will** – Employees who can be terminated at any time without cause, i.e., probationary, temporary, contract, chief deputies, sheriff's executive secretary and other exempt employees. Terminable-at-will employees are not entitled to the grievance proceedings.

**Dismissal** – The dismissal of a classified employee from employment for disciplinary reasons.

**Training** – Instruction provided to stimulate change is short-term and directed solely at furnishing knowledge or skills needed to carry out their present and work duties efficiently and effectively.

**Transfer** – The voluntary or involuntary movement of a classified employee between organizational units or departments.

**Unauthorized Leave** – An unpaid absence where the employee fails to appear for work without authorized leave or who appears for work but is in violation of County policy governing his readiness for work. This conduct is subject to disciplinary action.

**Veteran** – A person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

**Veterans Preference** – Preferential treatment for those veterans who meet the established criteria and who have presented evidence of their service record on or before the application closing date.

**Work Week** – Begins Sunday at 12:01 a.m. and ends Saturday at 12:00 a.m.

**Unclassified Employees** – Salaried or contract employee, conditional employees, casual, probationary, temporary, term, and part-time employees, who are terminable at-will and cannot, grieve disciplinary action.

## SECTION 2: RECRUITMENT AND SELECTION

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### 2.1 Purpose

It is the policy of Colfax County to select and recruit the best qualified and best-suited persons for all positions in an open and competitive manner, and to ensure equal opportunity for all applicants and employees. The County will comply with all applicable federal and state laws and regulations.

### 2.2 Recruitment and Selection of Applicants

The Department Head or Elected Official shall notify the County Manager and Human Resources of the position to be filled. Human Resources shall issue job announcements through such media (radio, newspaper, and website) deemed appropriate to ensure open and competitive recruitment of individuals outside of county service, with sufficient time to ensure reasonable opportunity for persons to apply. All publications for job announcements shall include reference to Colfax County as “*An Equal Opportunity Employer*.”

#### 2.2.1 “In-House” Applicants

Notwithstanding the provisions of the policy requiring public job announcements, the following exception may apply. Human Resource will post the vacancy on the County bulletin board for five (5) days before outside recruitment announcements. Vacant positions may be filled by regular or probationary County employees provided the employee is qualified for the position.

#### 2.2.2 Temporary Employees

Vacant positions may be filled without public announcement by temporary employees on a temporary basis to replace regular employees on leave and pending the selection of a regular employee for a position or otherwise for a period not to exceed twelve (12) months. Employees on temporary status may apply for an advertised position in the same manner all as all other outside applicants.

#### 2.2.3 Best Qualified and Best Suited Applicant Determination

The best qualified and best-suited applicant is determined by the Department Head or Elected Official based on minimum qualifications of education, experience, abilities, skills and past work experience as specified in the written position specifications for each position. Personal interviews will be conducted with at least a panel of three (3) individuals, to include a Human Resource representative. If there is not a sufficient pool of applicants and the submitted applications do not meet the minimum employment requirements; human resources shall re-advertise the vacant position.

### 2.3 Selection

Final selection of an applicant is made by the Elected Official or Department Head.

The Human Resource Department will conduct reference checks and background checks on the selected final candidate. Upon the selection of the final candidate, the hiring Department Head or



\* Elected Official, County Manager and the HR department will collaborate to develop an appropriate offer of employment (including position title, compensation, etc.)

Under no circumstance will a prospective employee begin employment without the clearance of results of drug test, background check and reference checks.

### **2.3.1 Pre-Selection Prohibited**

Publicly posted and advertised positions shall not be promised to any person prior to recruitment and selection to ensure the integrity and fairness of the selection process.

### **2.4 Ineligibility for Hire and Rehire**

Applicants shall be considered ineligible for hire or rehire by the county if the applicant has:

1. knowingly made any false statement or omission on the employment application;
2. not met the requirements of the position;
3. failed to complete pre-employment drug screening or physical examination or other requirements as directed by the County;
4. been dismissed from County service as a disciplinary measure regardless of length of separation from County service;
5. not been certified by a physician that the applicant can perform the physical requirements or the essential requirements of the position;
6. been convicted for driving while under the influence of alcohol or illegal drugs and a valid New Mexico driver's license and class is required for the position; or
7. has been convicted of a felony as defined under state or federal law;
8. not meeting the requirements of state or federal funding agreements;
9. the above list is not necessarily exhaustive and may not include all of the reasons that would make an applicant ineligible for hire or rehire

### **2.5 Testing**

The County may require an applicant to submit to testing for certain bona fide occupational qualifications to determine employment eligibility. This may include without limitation pre-employment physical and drug screening examinations for all but Elected Officials.

## **SECTION 3. CHANGE IN EMPLOYMENT STATUS**

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### **3.1 Changes in Employment Status**

Within five (5) working days of a change in assignment or near relative relationship among County employees, which leads to the supervision of or by a near relative, the employee shall inform the Elected Official, Department Head or Manager in writing of the change in status.

The Elected Official, Department Head or Manager shall notify the County Manager, who will make reasonable effort to arrange for the transfer or provide a procedure to address the direct

supervision of one of the employees affected by the relationship. The transfer will be without loss of pay or length of service and with the full observance of the employee's rights unless the employee accepts a voluntary demotion. If a solution cannot be identified to resolve the supervisory relationship, despite reasonable efforts, one of the employees shall voluntarily resign. If either employee does not exercise their option to resign, seniority will dictate which employee shall remain employed.

### **3.2 Nepotism**

Colfax County prohibits nepotism in the areas of promotions, demotions, transfers, reinstatements, new appointments or hires. Nepotism, for the purpose of this policy, is defined as any change in working relationship status whether by placement, promotion, demotions, transfer, reinstatement, new appointment, new hire or elections of one who related by blood (consanguinity) or marriage (affinity) within the third degree where immediate supervision would occur by any Colfax county employee or Elected Official. If indirect supervision would result, the Colfax County Manager should consult the Colfax County Commission before a final decision is made. Further, if any such change in working relationship status occurs after an employee is hired; the affected employee shall report the matter to the Elected Official or Department Head in writing within five (5) working days, in accordance with Colfax County policy on Change in Working Relationship Status as herein set forth. Failure to inform the Elected Official or Department Head may result in discipline.

### **3.3 Reduction in Force (Layoff and Recall)**

**Notice.** Employees will be given notice of any layoff specifying the reasons and the expected duration of the layoff.

**3.3.1 Order.** If it becomes necessary for the County to reduce the number of County employees due to lack of work, reduction or elimination of functions, budgetary considerations, or abolishment of a position, such reductions will occur in the following manner:

- A. Casual, temporary, and probationary employees will be laid off before full or part-time classified employees. The Elected Official or Department Head may determine that a position cannot be filled by a classified employee and a casual, temporary, or probationary employee must be retained to meet specific job requirements.
- B. Layoff of classified employees shall be recommended by the Elected Official or Department Head and approved by the County Manager. Length of County service will normally be the determining factor in a layoff. However, an employee's suitability for jobs remaining, ability to perform available work and past job performance may also be considered.
- C. When two or more classified employees holding similar positions are to be laid-off, determination on retention and job transfer shall be made according to the employees:

- a. Job performance or prior disciplinary action.
- D. Employees scheduled for layoff shall be notified no less than twenty (20) calendar days prior to the layoff of their impending layoff, insofar as reasonably practicable. Employees may be notified at any time during a pay period and shall be allowed to work through the end of that regular pay period or receive pay to the end of that period.
- E. Employees who are laid off will receive two (2) weeks of severance pay.
- F. Accrued annual leave and severance pay shall be paid on the next regularly scheduled pay day.
- G. The sick leave of a laid off employee is frozen as of the day of lay off.

### **3.3.2 Seniority.**

Employees will retain seniority in any position or classification previously held, provided the employee is capable of performing the work.

### **3.3.3 Layoff Privileges.**

An employee on layoff status shall be given an opportunity to be interviewed for any vacancy for which he or she has applied and for which the employee qualifies.

- A. Rehire limitation and layoff term:
- B. The rehire option terminates after the employee has refused a job for which he or she qualifies and when the pay rate is the same or comparable to the position from which he or she is being laid-off.
- C. The employee shall be removed from layoff and rehire status when he or she has accepted another position within the County.

### **3.3.4 Recall.**

Employees laid off or demoted, due to a reduction in force, will be called back to work in within classification according to the following procedures:

- The Employer will advise the employee of their recall by certified or registered United States mail with delivery confirmation.
- Any employee, upon receiving notice of recall, shall within ten (10) working days of delivery confirmation, notify the Elected Official or Department Head, in writing of his or her intent to return to work. A recalled employee must report to work no later than fourteen (14) calendar days from the date of delivery confirmation, unless there are extenuating circumstances approved by the Elected Official or Department Head.
- Laid off employees have the responsibility of keeping the employer informed as to their correct mailing address. Failure to do so, on the part of the employee, shall result in the forfeiture of any and all recall rights. Laid off employees will be kept on an active recall list.

- No new employees, within the affected classifications, will be hired until eligible laid off employees have been given the opportunity to return to work.
- A full-time or part-time classified employee who returns to his or her previous position will not have to serve a new probationary period.
- An employee returning from layoff will be credited for all unused sick leave accrued up to the time of layoff.

### **3.3.5 Reinstatement.**

Laid-off employees shall be offered re-employment in reverse order of layoff, i.e., the last employee to be laid-off shall be the first person to be offered reinstatement, if qualified for available work.

Any classified employee who is laid-off and returns to work, from the date of layoff shall be placed in the accrual rate he or she had on the date of his layoff.

A classified employee who is subsequently re-employed shall not have a break in service for the purposes of calculating time-in-service and County benefits; however, the layoff time served is not creditable time for purposes of PERA.

### **3.3.6 Layoff - Not Grievable.**

An employee has no grievance rights with regards to layoff actions.

## **SECTION 4: SALARIES, COMPENSATION AND BENEFITS**

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### **4.1 Compensation**

Elected Officials Salary increases shall be governed by N.M.S.A. 1978. Section 4-44-12.3, or as it may be subsequently amended.

First Deputy Salaries shall be a minimum of 50% and a maximum of 90% of the Elected Official's salary. The starting salary of the First Deputy will depend on the employee's experience; therefore, a First Deputy with no experience may start at 50% of the Elected Officials' salary.

A compensation plan for classified employees shall be adopted or amended as necessary by the Board of County Commissioners. Such plan shall establish a schedule containing a minimum and maximum pay range for each position in the classified service.

### **4.2 Compensation Plan Provisions**

The compensation plan is intended to provide fair compensation for all employee classifications in relation to the pay for other classifications, general rates of pay for similar employment in the

public and private sector, cost of living data, financial condition of the County and other factors. To this end the County Manager shall review the compensation plan annually and may initiate comparative wage study by assigning the Human Resource Representative to make comparative studies of all the factors affecting the level of salaries and recommend such changes as may be justified. Such adjustments shall be made by increasing or decreasing the salary ranges provided in the base salary schedule and submitting them to the Board of County Commissioners for consideration. The rate of pay of employees may be adjusted to conform to the adjustment of the salary range for that class, but an employee's rate of pay will not be decreased as a result of the study or of the plan approved by the Board of County Commissioners. If a study shows that employee's rate of pay exceeds the salary range for that class, the employee will be the red-circle rate or (frozen) at their current rate of pay until such time the salary range catches up to their rate.

#### **4.3 Unclassified Employees**

The compensation for unclassified employees shall be in accordance with the County's compensation plan and other guidelines established by the Board of County Commissioners.

#### **4.4 Pay Ranges**

Salary ranges are intended to furnish administrative flexibility in recognizing job content differences among positions allocated to the same class and in providing employee incentive for growth and improved performance.

#### **4.5 Pay Adjustments**

All pay increases for classified and unclassified employees shall be within the Board of County Commissioners' approved budget and with the recommendation from the Elected Official or or Department Head and may be granted by the County Manager. Pay adjustments must be justified with a current and qualified employee performance evaluation, retention and recruitment factors and within the adopted compensation plan and approved budget. Pay adjustments above ten percent (10%) must be approved by the Board of County Commissioners.

Cost of Living Adjustments (COLA) will be subject to review and approval by the Colfax County Board of Commission.

#### **4.6 Probationary FLSA Non-Exempt**

Probationary FLSA non-exempt employees shall be hired at the entry-level pay rate or adjusted pay rate within the approved pay scale appropriate to his or her position and based upon years of applicable experience, skillset and in some positions, education.

#### **4.7 Pay Adjustment for Demotion**

An employee desiring a voluntary demotion must submit a written request for a voluntary demotion to his or her supervisor and to the County Manager for action. When a classified employee is voluntarily demoted, the employee's pay shall be reduced to reflect the position in



which they are filling and within the job classification. When a classified employee is involuntarily demoted, his or her salary shall be reduced to reflect the position to which they are transferred in accordance with the job classification.

#### **4.8 Retirement Incentive – Sick Leave Conversion**

An employee, upon qualifying for PERA retirement by years of service plus age, number of years of service or medical retirement, is eligible to participate in the County's Retirement Incentive Program. The Program allows an employee to convert up to five hundred thirty-two (532) hours of accrued sick leave into one-time lump sum cash dollar for dollar payment at their current hourly pay rate. An employee must apply for retirement at the time he or she becomes eligible in order to participate in the program. The conditions to participate are as follows:

- The employee must have ten (10) years of County Service.
- The employee must request PERA retirement.
- The employee must retire no later than December 31<sup>st</sup> of the same year.
- The employee must inform the Elected Official or Department Head in writing of his or her intent to retire six (6) months prior to his or her retirement date.
- The Elected Official or Department Head shall verify that PERA has received and is processing the employee's retirement application.
- An employee, who elects to participate in the County Retirement Incentive Program may accrue and convert up to five hundred thirty-two (532) hours in his or her sick leave bank at his or her current hour pay rate.
- The incentive pay will be made with the employee's final pay period check.

An employee who does not retire or rescinds his or her application to retire during the first year of PERA eligibility forfeits participation in the Retirement Incentive Program, and must immediately repay the full amount of his or her Retirement Incentive payment.

#### **4.9 Retiree Health Benefits**

##### **Public Employees Retirement Association (PERA)**

*Insurance Benefits Contact Information is available from the Human Resource Representative.*

Website: <http://www.pera.state.nm.us;>

Click on "Useful Websites"

Click on "NM Retiree Health Care Authority" – On this page you will find Important Information, News and Events, and Useful Links.

Santa Fe Office (Physical Address):

33 Plaza La Prensa  
Santa Fe, NM 87507

Santa Fe Office (Mailing Address):

P.O. Box 2123

Santa Fe, NM 87504

Landline: (505) 383-6550

Fax: (505) 883-4573

For members wanting information about health and life insurance, contact the New Mexico Retiree Healthcare Authority at 1-800-233-2876.

*Members who need their account accessed by PERA should include their PERA ID number or the last 4 digits of their Social Security number in their e-mail request.*

## **4.10 EMPLOYEE RECOGNITION PROGRAMS**

### **4.10.1 Employee of the Month/Year Recognition Program**

#### **A. Purpose**

Colfax County appreciates the efforts of its employees on a daily basis. Outstanding employees deserve to be recognized both as a reward for exceptional performance and as a model for others to follow.

#### **B. Eligibility**

All full- and part-time regular employees are eligible to participate in the Employee-of-the-Month Program. An employee may be designated as Employee of the Month only once during a calendar year.

#### **C. Procedures**

The Employee-of-the-Month Program recognizes one employee each month. Nominations for the award may be submitted by their peers, supervisors, constituents and general public by using the form available from Colfax County Human Resource Department or from any Department Head or Elected Official. Nominations are based on the following criteria during the calendar month for which the award is to be given:

#### **D. Criteria for Nomination**

The below listed criteria shall be used in the consideration of nomination by supervision:

- Producing work-related service above and beyond the norm
- Promoting harmony amongst co-workers
- Promoting a positive image of Colfax County
- Maintaining exemplary work standards
- Presenting a helpful/cooperative attitude

- Demonstrating exemplary use of time
- Participation in community service activities

#### **E. Submission of Nomination**

Completed nomination forms may be submitted electronically or in hard copy to Human Resources starting the first of each month until the 20th of each month for that month's award. Between the 20th and the end of each month, the Employee-of-the-Month Selection Committee (Personnel Policy Committee), meets to review the nominations and to select the Employee of the Month. The selection is announced at the 1st commission meeting of the following month.

#### **F. Selection Announcement**

The selected employee of the month will be recognized on the company's internet, announcement to the local newspaper and local radio station, will receive use of a reserved parking space for one month, and will receive one (1) administrative day off. Additionally, the selected employee will be one of the 12 employees considered for the Annual Employee-of-the-Year Award given in January of each year. The name of the Employee of the Year will be added to the roster for this recognition in the main lobby (2nd Floor, County Building) and will receive five (5) days administrative leave.

#### **G. Timely Use of the Award**

The employee of the month must use their administrative leave within 30 days of earning the award. Employee of the year must use their administrative leave within 12 months of earning the award.

Part-time regular employees awarded employee of the month or year, will be awarded administrative leave pro-rated according to their regular work hours.

Administrative leave not used within the time specified will be forfeited.

Administrative leave cannot be "banked."

Employees who have questions or need assistance with this policy are encouraged to check with their immediate supervisor or human resources.

### **4.11 EMPLOYMENT SUGGESTION PROGRAM (ESP)**

#### **A. Purpose**

Colfax County ESP encourages all employees to develop suggestions that improve the performance and quality of County processes while achieving Colfax County objectives. Those suggestions that identify specific problems and propose suitable solutions to enhance the efficiency and effectiveness of Colfax County through increased productivity, reduced costs, improved and safer working conditions, conservation of resources and improved public services are considered.

#### **B. Procedures**

Human Resources administers the ESP by receiving suggestions, overseeing the evaluation process to ensure fair and appropriate evaluations and approving the issuance of awards. Any suggestion that is cost saving, practical, constructive and benefiting Colfax County and its constituents will be eligible for review as long as it identifies a problem area, recommends a solution or action, is consistent with program criteria and is submitted following proper procedure.

#### **C. Awards**

Administrative (non-cash) awards are authorized only for employees whose ideas:

- Are adopted and implemented and;
- Result in measurable dollar savings or increased revenue.
- Administrative awards are based on savings or revenue actually generated in the first year of implementation of the suggestions.

The active life of a valid suggestion shall be one (1) year from receipt by Human Resources or until final disposition of the suggestion, if longer than one year. Based on the evaluator's estimate of quantifiable (tangible) net cash savings or revenue generated during the first year of implementation, awards are calculated as follows:

| Net 1st-Year Savings | Award                               |
|----------------------|-------------------------------------|
| \$25,001 or more     | Five (5) days administrative leave  |
| \$10,001-\$25,000    | Four (4) days administrative leave  |
| \$5,001-\$10,000     | Three (3) days administrative leave |
| \$1000-\$5,000       | One (1) day administrative leave    |

The decisions of the Colfax County Accounting and Finance representative, County Treasurer and Human Resources are final and binding. This includes all questions of policy, procedure, entitlement to an award and the nature and amount, if any, of such award.

Human Resources will use the following factors in estimating the value of a suggestion:

- Degree of improvement in operations, forms, facilities or equipment.



- Degree of improvement in employee relations, working conditions, safety and service to constituents.
  - Completeness of proposal.
  - Effort involved in developing the idea.
  - Cost of adoption.
  - ESP leave not taken within 12 months will be forfeited. Active ESP leave balances cannot be banked.
- Employees with suggestions must complete the Colfax County Employee Suggestion form, available in Human Resources, and submit it to Human Resources.
- The suggestion is reviewed for eligibility by the Colfax County Accounting and Finance representative, County Treasurer and Human Resources, logged into the ESP Log and forwarded to the appropriate department for evaluation.
  - The evaluator completes his/her part of the evaluation and returns it and relevant documentation to Human Resource.
  - The Colfax County Accounting and Finance representative will be responsible for tracking savings as a result of the employee recommendation.

#### **J. Exclusions**

Suggestions that cannot be considered include the following:

- Suggestions that would normally be expected in the performance of the employee's job or those that the employee can implement without higher-level approval.
- Suggestions that do not include a solution or plan for improvement.
- Suggestions that result from assigned audits, surveys, reviews or research.
- Suggestions that concern proposals that management can document as already under active consideration.
- Suggestions that duplicate another suggestion under consideration or for which an award previously has been granted.
- Suggestions that propose changes to salaries, benefits or employment classifications.
- Suggestions that are already enforced by existing laws or regulations.
- Suggestions that pertain to complaints or grievances open or closed.

#### **4.12 EMPLOYEE ASSISTANCE PROGRAM**

Colfax County provides confidential and voluntary assistance through an employee assistance program (EAP) to all employees and their family members who may be faced with dynamic challenges of financial concerns, legal issues, alcohol or drug problems, marital problems, illness of a family member, emotional worries, child care problems, etc. For the welfare of employees as well as for effective county operations, Colfax County encourages its employees to take advantage of this valuable benefit of employment with the county.



#### **4.12.1 Procedures**

Employees and their family members can refer themselves to the EAP. The program may be reached 24 hours a day on weekdays and weekends.

#### **4.12.2 Meetings with EAP counselors**

EAP counselors are available to meet with employees or family members to assess a problem and develop a plan for resolution. The counselors may suggest a referral to an outside resource, such as a therapist, agency, physician, treatment facility or other professional that would be appropriate to assist in resolving the problem or situation. Where an employee may be in need of information, a referral or suggestion may be made over the telephone. There is no charge for employees or their families to use the services of the EAP.

#### **4.12.3 EAP visits during work hours**

Employees who want to visit the EAP during regular work hours must use sick, vacation or personal time. If illness is involved, sick, vacation or personal time may be used for treatment or rehabilitation on the same basis that it is granted for other health problems.

The EAP counselors will make every effort to coordinate referrals for ongoing treatment with the employee's health insurance coverage as well as with his or her ability to pay.

#### **4.12.4 Confidentiality**

All contact between an employee and the EAP is held strictly confidential. All counselors are guided by a professional code of ethics.

### **4.13 PERFORMANCE EVALUATION**

#### **4.13.1 Purpose**

The performance evaluation provides a means for discussing, planning and reviewing the performance of each employee.

Regular performance evaluations:

- Help employees clearly define and understand their responsibilities.
- Provide criteria by which employees' performance will be evaluated.
- Suggest ways in which employees can improve performance.
- Identify employees with potential for advancement within Colfax County.
- Help Department Heads, Managers, and Elected Officials distribute and achieve department goals.
- Provide a fair basis for awarding compensation based on merit.

Performance evaluations influence salaries, promotions and transfers. Therefore, it is critical that Elected Officials, Department Heads and Supervisors be objective in conducting performance reviews and in assigning overall performance ratings.

#### 4.13.2 Eligibility

All full-time and part-time classified employees are eligible for an annual performance review and consideration for a merit pay increase.

#### 4.13.3 Procedures

##### A. **Performance review schedule:**

An initial evaluation shall be conducted to set expectations, goals and objectives for the evaluation year. Probationary employees shall be evaluated quarterly through the evaluation year. Non-probationary employees shall be evaluated semi-annually. Employees will receive a performance review on the established evaluation date each year. Merit increases are not guaranteed and are based on the county's operating budget and its ability to incorporate these costs. A recommendation of merit increase must include a current performance review, and the rating must be satisfactory or above.

##### B. **Focal increase planning**

Overall individual merit increases are planned for and allocated prior to the start of each budgeting cycle. The performance evaluation salary increase program is designed to assist Colfax County management in planning and allocating merit and promotional increases that:

- Reward individual performance.
- Market competitive with similarly classified counties is allocated among individual employees, taking into consideration all available factors at one point in time.

##### C. **Performance reviews—salary increases**

Each Department Head or Elected Official is responsible for the timely and equitable assessment of the performance and contribution of the subordinate employee. A performance review will not always result in an automatic salary increase. The employee's overall performance and salary level relative to position responsibilities must be evaluated to determine whether a salary increase is warranted. Out-of-cycle salary increases must be pre-approved by the Colfax County Board of Commissioners.

##### D. **Unsatisfactory Performance Reviews**

Performance evaluations that reflect poor performance and failure to address previously noted deficiencies in prior evaluations may provide the basis for disciplinary action, including demotion or termination.

E. **Salary equity reviews**

A Department Head or Elected Official may request an analysis of an employee's salary at any time. This request should be made to the County Manager who will review the employee's salary in comparison to other employees in comparable positions.

F. **Responsibility for Conducting Performance Reviews**

Completed performance evaluations will be retained in the employee's personnel file. The performance evaluation will be initiated by the reviewer (supervisor) and discussed with the Department Head or Elected Official. Once the Department Head or Elected Official has approved the evaluation, a subsequent meeting will be held with the employee for review and discussion. The evaluations must be signed by the immediate supervisor, Department Head, or Elected Official, the County Manager and the employee to ensure that all strengths, areas for improvement and job goals for the next review period are clearly communicated. The employee's signature is acknowledgement of his or her receipt of the evaluation, and is not an admission of agreement or concurrence. The Department Head or Elected Official is responsible for obtaining increase approvals and submitting the approved increase to the County Manager for processing. Salary increases must be supported by an acceptable performance evaluation for salary change processing. The Department Head or Elected Official will not discuss any proposed action with the employee until all written approvals are obtained. The County Manager will review all salary increase or adjustment requests to ensure compliance with personnel policy and that they fall within the provided guidelines.

**4.14 OVERTIME**

Overtime must be preapproved and authorized by the employee's supervisor. Immediate supervisors may modify work schedules to limit overtime.

**SECTION 5: CONDITIONS OF EMPLOYEMENT**

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**5.1 PERSONNEL RECORDS**

- A. Personnel records are the property of the County.
- B. Colfax County shall establish and maintain personnel records in the Human Resources Department for each active and inactive employee of Colfax County. Employees may request in writing copies of information contained in their files. The personnel file shall include but not limited to the following:
  - Employment Application;
  - Completed and signed W-4;

- Completed and signed authorizations for payroll deductions;
- Completed and signed waivers for insurance benefits;
- A signed statement that the employee has been given a copy of the County Personnel Policy and Sexual Harassment Policy;
- Disciplinary reports;
- Pay increase or decrease authorizations signed by the appropriate Department Head;
- Personnel performance and review forms
- Proof of Citizenship

C. Privacy of personnel files shall be respected under any and all applicable State and Federal Laws. Elected Officials or Department Heads may review their employee's file; however, the file may not leave the Human Resource Office. Supervisors may also request written approval from the Elected Official or Department Head to view the files of the employees they supervise. If an employee wishes someone other than those authorized to have access to those parts of the employee's file that are not open to the public as required by the Inspection of Public Records Act, that employee must give written authorization. This authorization must be given to Human Resources and state the name of the person or entity obtaining permission.

D. In the event an employee's medical records or medical history is received by the County, such documents and information shall not be filed with such employee's other personnel documents. Medical record files shall be secured and shall be accessible only by individuals who have demonstrated a need for access to such files.

E. Personnel record files shall be secured and shall be accessible only by individuals described in Section C of this policy.

F. Colfax County shall establish a performance evaluation system as part of the employee's personnel file. The system will include, but not limited to an initial employee conference and written review. Performance evaluation reviews shall be the basis for merit salary increases.

G. For benefits administration and emergency purposes, it is the employee's responsibility to notify his or her supervisor, payroll, and the Human Resources Department of any change in his or her home address, phone number, marital status, number and names of dependents, or other information required by the Human Resources Department to be able to maintain accurate and current personnel records.

## 5.2 CHAIN OF COMMAND

In order to maintain open communication between Colfax County and its employees and to ensure that employees' concerns are addressed quickly and efficiently, the County will utilize the chain of command protocol. It is required that an employee discuss his or her concerns first with his or her immediate supervisor. If the concern cannot be handled at this level, the employee may request a meeting with the next level supervisor, up to the Manager, Elected Official or Department Head of his or her department. If it becomes necessary to pursue the issue beyond the Department Head or supervisor level, or if the concern cannot be handled or remedied within

the department due to supervisory conflict, the next appropriate step will be a meeting with the Human Resources Clerk who shall confer with the County Manager. If the County Manager cannot resolve the conflict, a meeting shall be scheduled with the Colfax County Board of Commissioners.

### **5.3 EMPLOYEE PROBATION**

A. A conditional employment period, which is the initial one-hundred-eighty (180 ) calendar days of continuous County employment, which can be extended based on performance by up to one-hundred eighty (180 ) days, during which an employee is terminable at will and without cause. Detention center Correctional Officer's period shall extend to three hundred sixty five (365) calendar days of continuous County employment. Certified Sheriff's deputies' probationary period is a period of one-hundred eighty (180) days. Non-certified deputies' probation is a period of three hundred sixty five (365) calendar days.

B. The probationary period is an integral part of the evaluation process and is utilized for observing the employee's performance and obtaining the most effective adjustment of a new employee to the position. The employee must achieve a satisfactory performance or better by the end of the probationary period before the employee can become a classified employee entitled to all of the rights and privileges of that classification. Prior to the completion of the probationary period, the Elected Official or Department Head will review with the employee, the employee's job performance during the probationary period. During the review, attention should be given to the employee's strengths and areas of needed improvement. The employee review will be summarized and typed upon completion. The evaluation will be signed by the Elected Official or Department Head and the employee, a copy will be retained by the Department Head and the employee, and the original will be sent to the Human Resources Department and placed in the employee's personnel file. **NOTE: A review during an employee's probationary period does not automatically qualify the employee for a job or salary increase.**

C. If the employee satisfactorily completes the probationary period, the employee will become a classified employee. If the employee does not satisfactorily complete the probationary period, the employee will be dismissed.

#### **5.3.1 Probationary employee**

Employees during the probationary period are:

- any employee, regardless of classification who has not yet completed the applicable six (6) month probationary period or (1) year probationary period;
- subject to dismissal without cause, at any point during the probationary period at the discretion of the Elected Official or Department Head;
- not permitted to grieve disciplinary actions;
- allowed to use sick leave as soon as it is accrued;
- eligible for health insurance and other optional benefits;



- eligible to accrue annual leave and sick leave, consistent with provisions of the Rules upon being hired;
- not entitled to any accrued leave or payment for unused annual or sick leave if terminated during their probationary period;
- subject to an extended probationary period to complete required or additional training as determined by the Department Head or Elected Official; extensions shall not exceed 180 days (6 months.)

#### **5.4 DIRECT AND INDIRECT SUPERVISION**

Direct supervision is the first level that has responsibility for the employees, performance evaluation, disciplinary action, or employment status. The direct supervisor serves in a lead capacity for the employee and has the ongoing responsibility of identifying or influencing work schedules, work assignments and coaching of the employee.

Indirect supervision is the Department Head, Manager, or Elected Official with the principal supervision of their respective department.

#### **5.5 TRAINING**

It is Colfax County's objective to provide employee training in support of Colfax County goals. Training shall be available without regard to age, race, religion, color, creed, culture, ethnic identity, national origin, ancestry, sex, sexual orientation, gender identity, mental or physical impairment, serious medical condition or uniformed armed service, Veteran status, political affiliation, genetics, according to the Equal Opportunity Orders of the State of New Mexico and Federal laws.

This policy applies to all positions, including classified, unclassified, exempt and elected officials, employed by Colfax County, including part-time or temporary.

Employees may be required to receive training at the discretion of the Department Head, Elected Official or County Manager. Training will be offered to all employees if it is deemed beneficial to the operations of Colfax County.

Instructional programs or training are designed to improve employee efficiencies and job performance. Employees gain skills and knowledge through instruction and training that may offer future career advancement opportunities.

Employees, at the conclusion of training, will be required to report the worth, value, or significance of the training to their Manager, Department Head or Elected Official. The report should include the participants' reactions, the accomplishment of program objectives, and performance improvement.

### **5.5.1 Mandatory Training – Sexual Harassment Training**

As part of the county's commitment to maintaining a work place that is free from sexual harassment, the county shall provide training for employees, including supervisors, managers and Elected Officials to increase knowledge of the workplace harassment policy, state and federal laws and the process for enforcing the policy on at least on an annual basis.

### **5.5.2 Failure to Attend Mandatory Training**

Mandatory training scheduled by the County Manager, Department Head or Elected Official is considered to be part of the employees' normal work hours.

Training is a basic job requirement; refusal to attend mandatory training or a pattern of non-attendance of mandatory training is insubordination and shall be subject to the County's progressive disciplinary process.

### **5.5.3 Voluntary Training**

Participation in voluntary training is not eligible for compensation.

## **5.6 LEGAL NOTIFICATION PROCEDURES**

Due to the nature of the county services and litigious changes in society, litigation is inevitable; however, how we respond as a governmental entity will have a significant impact on the outcome. For this reason the county has a policy that outlines procedures for receiving notice of potential litigation, defines authorized representatives, and prohibits improper release of information.

- A. Elected Officials or employees receiving a written document from a court of law, attorney or a party to a legal proceeding naming the County, Elected Official or an employee of the County as a party in any action resulting from their position or official county duties shall, within 24 hours, inform their supervisor, risk management and the County Manager or the county attorney.
- B. If an employee receives notice from the public or other another employee of their intent to sue (written or verbal) the County, Elected Official or an employee of the County; the employee shall immediately, within a 24-hour period, inform their immediate supervisor, risk management and the County Manager or the county attorney.
- C. Periodically, Colfax County will retain different law firms to conduct investigations or to provide legal counsel. Personnel should contact their immediate supervisor, risk management and the County Manager or the county attorney to confirm the authority of an investigator or attorney. All affected employees will cooperate with Colfax County Risk Management; including outside counsel retained to represent the County, Elected Official or an employee of the County, and designated investigators when investigating civil suits.

- D. If a citizen, non-county attorney, or investigator makes an inquiry concerning a civil suit against the county, employees shall refer them to the County Manager or county attorney.
- E. Employees shall not discuss the claim or claims with unauthorized individuals.
- F. Discussion concerning any civil suit against the county or its Elected Officials, employee, or agents should be restricted to rendering a reasonable defense. Discussion should be restricted to:
  - affected employees
  - department heads or elected officials
  - county attorney
  - county risk management or safety representative
  - county manager
  - NMAC risk management
  - county designated attorneys and investigators
- G. Employees and elected officials should never discuss or disclose to anyone else conversations with attorneys representing the County, in order to protect the privileged and confidential nature of such conversations.
- H. Elected officials and Department Heads are responsible for implementation of, and adherence to this policy within their offices or departments. Employees who violate this policy shall be subject to disciplinary action, up to and including termination.

## **5.7 PAID REST BREAKS**

Although Colfax County does not offer paid rest breaks, each Department Head or Elected Official, at their discretion, may allow for a reasonable break when requested.

## **SECTION 6: EMPLOYEE DISCIPLINE AND DISMISSAL**

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### **6.1 DISCIPLINARY ACTIONS AND PROCEDURES**

Disciplinary actions and procedures for employees are based on cause, in order to promote efficiency and consistency of the services rendered by the County and the operation of its respective departments and offices. Disciplinary action(s) is not necessarily progressive. In some instances, a specific incident may justify severe disciplinary action up to and including dismissal. The county reserves the right to exercise judgment and render disciplinary action as determined appropriate, based on the circumstances of each case. The disciplinary procedures set forth herein are specific to full-time and non-exempt employees only. Full-time exempt, part-time, contract and temporary employees are terminable at will and are not entitled to the procedures hereinafter described. Disciplinary actions shall be consistent with governing laws and regulations, and rules and regulations of the county and shall be taken without regard to race,

age, religion, color, national origin, ancestry, sex, physical or mental handicap or serious medical condition, spousal affiliation, sexual orientation of gender identity or the uniformed armed service. No employee will be disciplined for refusing to perform an unlawful act.

The County Manager, Elected Officials, and Department Heads have the authority to discipline an employee under their supervision, including the final authority to demote, suspend or terminate an employee for disciplinary reasons.

Classified employees shall receive a discipline consideration meeting with the Department Head or Elected Official, who may then impose such discipline after that meeting; however, a classified employee only gets to appeal to the County Manager and then possibly a Hearing Officer if there is a notice of intent recommending suspension, demotion, or discharge/termination.

### **6.1.2 VERBAL/ORAL WARNING**

A verbal warning is typically used for minor infractions and shall serve to inform the employee that his behavior, work performance, or conduct require improvement.

Supervisors shall keep written notations of verbal warnings in a confidential file within their control, and the employee shall be informed that the informal record of the incident exists. Verbal warnings should be administered as soon after the incident occurs or as soon after the supervisor becomes aware that the incident took place as is reasonably achievable. The employee will be given a reasonable amount of time to correct the behavior. If the employee's work improves and no further action is taken within a 12-month period after the infraction, the notation shall be destroyed and employee will be informed that he or she is meeting work performance satisfactorily. Verbal warnings are not placed in the employee's permanent personnel file, are not grievable, and do not require advance notification. Actions which may result in a verbal warning include, but are not limited to:

- Substandard or unsatisfactory work performance;
- Excessive absences or tardiness;
- Misconduct on the job;
- Failure to meet or maintain job requirements as set forth in the position specification;
- Violation of any personnel policy rules and regulations or department standard operating procedures;
- Violation of an employee's professional code of ethics;
- Non-cooperation by an employee with fellow employees or other personal conduct which substantially interferes with the performance of their or another employee's work;
- Interrupting other employees and keeping them from completing their work;
- Failure to adhere to an established work schedule;

- Excessive use of the telephone (including personal cell phones) for personal business;
- Conducting excessive personal business while on duty

### **6.1.3 Written Warning**

If the unacceptable performance continues, the next step will be a written warning. The written warning will clearly state the policy that was violated and steps the employee must to correct the violation. The employee shall be asked to acknowledge having read the comments by placing his signature on the warning statement.

### **6.1.4 Written Reprimand**

If oral and written warnings to improve employee performance has not been effective, written documentation will commence. A written reprimand shall be placed in the employee's personnel file by the Elected Official, Department Head or County Manager. The employee shall receive a copy of the reprimand. The employee shall be asked to acknowledge having read the comments by placing his signature on the statement. If the employee refuses to sign the written reprimand, a witness other than the supervisor presenting the reprimand shall attest, by his or her signature, that the written reprimand was presented to the employee, and the employee refused to sign. The employee may respond to the reprimand if he does not agree with a written rebuttal, however, written reprimands are not grievable and do not require advance notification.

At the employee's request and after 24 months, the reprimand may be removed from the employee's file, provided that the employee has not received another written reprimand or other disciplinary action during the 24-month period. Actions which may result in a written reprimand for a first occurrence include, but are not limited to:

- Loafing;
- Excessive tardiness;
- Excessive absenteeism;
- Use of profane, abusive or threatening language;
- Absence without authorized leave;
- Unauthorized distribution of written or printed material;
- Unauthorized solicitations or sales on county premises while on duty;
- Substandard quality or quantity of work;
- Reporting to work improperly dressed for job assignment, or unprepared to begin work;
- Failure to follow directives from supervisor;
- Failure to follow the chain of command;



- Violation of county smoking policy;
- Malingering (falsifying illness);
- Sleeping on the job;
- Failure to follow safety rules;
- Failure to follow county policies and procedures; and
- Conduct by the employee or by the family or significant others of an employee which disturbs, disrupts, or interferes with the normal work or functions of an office or department.

#### **6.1.5 Suspension**

Suspensions are used primarily when other attempts have been made to improve an employee's performance, but have failed. Suspension may also be used when strong disciplinary action is needed for a single offense. An employee may be suspended without pay for a period not to exceed thirty (30) working days. A suspension without pay is a disciplinary action and shall be conducted pursuant to the procedures set forth herein. Examples of actions that will generally result in suspension include, but are not limited to:

- Sleeping on the job;
- Violation of written or statutory policies, procedures or directives;
- Revealing confidential information to unauthorized persons;
- Unlawful manufacturing, sales, distribution, dispensing, possession or use of a controlled substance or alcohol on County premises, while driving, operating, riding as a passenger in county owned, leased vehicles or equipment, or while otherwise in an official duty status whether on or off County premises;
- Reporting to work under the influence of a controlled substance or alcohol;
- Leaving the assigned work station without authorization;
- Falsifying of forms, records, timesheets;
- Stealing county property or property of a visitor or employee;
- Willful violation of rules, regulations, directives, or policy statements;
- Unauthorized use of county equipment or property;
- Insubordination;
- Destruction or abuse of county property of equipment;
- Voluntary conduct by the employee on or off the job which tends to bring the County, the employee's co-workers, or employee's supervisor into disrepute or disgrace;
- Careless, reckless, negligent, or deliberate conduct which many or does result in injury to any person or damage to county property;
- Discrimination on the part of an employee against any other employee on the basis of age, race, color, sex, sexual orientation, or gender, national origin, political or religious affiliation or absence thereof, handicap or disability, veteran status, or personal animosity;

- Sexual harassment by an employee of any other employee;
- Unauthorized personal use of county motor vehicles;
- Unauthorized absence without leave;
- Rude, insolent or outraged behavior;
- Failure to report a DWI citation or arrest or any other arrest or citation within two (2) work days of the event, except for minor traffic violations and civil offenses;
- Failure to report an accident in a county vehicle within the prescribed time limits;
- Failure to report loss of driver's license when required as a condition of employment; or operation of a county vehicle or private vehicle while on County business without a valid driver's license.

#### **6.1.6 Demotion**

An employee may be demoted to a lower classification for a single serious offense or for continued substandard job performance after previous attempts to correct such behavior have failed. A demotion is a disciplinary action which shall be conducted pursuant to the formal procedures set forth herein.

#### **6.1.7 Dismissal**

An employee may be dismissed for a single serious offense that is serious in nature and which is unacceptable for any County employee or when other levels of discipline have failed to improve substandard job performance or unacceptable behavior. Dismissal is a disciplinary action which shall be conducted pursuant to the formal procedures set forth herein.

### **6.2 INTENT TO DISCIPLINE**

#### **6.2.1 Notice of Intent Recommending Suspension, Demotion or Discharge/Termination**

- A. In the event the employee wishes to elect a pre-disciplinary hearing on a Notice of Intent recommending suspension, demotion or discharge/termination, the County Manager will schedule the pre-disciplinary hearing to meet with the employee and the employee's representative, if any, at a scheduled time. The County will normally be represented at the pre-disciplinary hearing by the County Manager and the Department Head or Elected Official. The County Attorney may also attend. The employee may have representation at his or her own expense. At the pre-disciplinary hearing the employee will have the opportunity to respond to the proposed disciplinary action. If the employee elects not to be present at the pre-disciplinary hearing, the disciplinary action recommended will still be evaluated at that time by the County Manager.

B. After taking the employees response into consideration, a notice of final action for suspension, demotion or discharge/termination shall be issued to the employee. If it is determined that discipline is warranted. The County Manager will make this decision within five (5) working days of the pre-disciplinary hearing. The Notice of Final Action shall specify the actions to be taken and state the time, date, and location of the pre-disciplinary hearing, persons present, the effective date of the final action and the employee's right to appeal the County Manager's decision to an independent hearing officer.

#### **6.2.2 Notice of Final Action**

The Notice of Final Action shall:

- Specify the final action to be taken;
- Specify when the disciplinary action shall be effective and
- Inform the employee of his or her right to appeal the disciplinary action.
- The Notice of Final Action shall be either hand delivered to the employee and receipt acknowledged by him/her or sent to the employee by certified mail, return receipt requested. If, after the employee's response is considered at the pre-disciplinary hearing, the Elected Official, Department Head or Supervisor determines that discipline is not warranted, the employee shall be notified in writing of this decision.

#### **6.2.3 Right to appeal through Post-Disciplinary Hearings and Appeals to the Hearing Officer**

The employee subject to disciplinary action may file an appeal of the action with a Notice of Appeal, within in seven (7) calendar days of receipt of the Notice of Final Action. The employee subject to disciplinary action must notify the County of the their intent by sending a written request for a disciplinary hearing before a hearing officer to the Department Head or County Manager

A. **Appointment of a Hearing Officer.** Within seven (7) calendar days of the employee's notification of intent to pursue a post-disciplinary hearing, the County Manager will provide the employee with the name of the hearing officer. Within seven (7) working days of the receipt of the notification of the proposed hearing officer, the employee will notify the hearing officer of any objection to the proposed hearing officer. The hearing officer will respond, either by disqualifying himself or herself or by denying the objections of the employee. The decision is binding on the parties.

B. **Hearing Officer Qualifications.** Hearing Officers shall be personnel professionals, be familiar with public and private personnel systems, or have pertinent experience in the fields of management, education, or law.