

Qualifications for services as hearing officer do not include residing in Colfax County.

6.2.4 Post-Disciplinary Hearing Scheduling.

Within thirty (30) calendar days of the notification that the employee requested a post-disciplinary hearing, the hearing officer shall hold a hearing. The parties must agree in writing to any postponement of the hearing beyond thirty (30) calendar days. At this hearing, the employee shall have an opportunity to present witnesses before a neutral hearing officer. The employee or the County may be represented by legal counsel

6.2.5 Post-Disciplinary Hearing Procedures

A. Rules of Procedure

- 1) The Hearing Officer will determine the date and time of the disciplinary hearing and any continuances. Such hearings will be conducted at a time and place which is mutually convenient to all parties concerned, but in any case no later than thirty (30) calendar days after the employee notifies the County of the employee's request for such a hearing, unless a later time is agreed to in writing by both the employee and the County. Requests for continuances of hearings shall be made at least three (3) working days prior to the scheduled hearing, absent extenuating circumstances. Requests for continuances of hearings shall be made in writing directly to the hearing officer with copies to all parties involved.
- 2) If the employee requests, the disciplinary hearing shall be conducted as an open meeting with notice given to the public pursuant to the New Mexico Open Meeting Act.

B. The Hearing Officer shall:

- 1) Notify the County, through the County Manager, and the employee of the date, place, and time of the disciplinary hearing;
- 2) Make rulings on procedural and substantive issues prior, during, and if necessary, after the hearing;
- 3) Determine the admissibility of evidence and testimony;
- 4) Follow the evidentiary standard for administrative agencies; and
- 5) Issue a written ruling, including findings of fact and conclusions of law.
- 6) The following persons are required to be present at all employee disciplinary proceedings unless otherwise excused by the hearing officer or by agreement of the parties: the employee, the employee's representative (if any), the County's designated representative(s) and the charging party.
- 7) The parties shall stipulate to the facts and issues to the greatest extent possible prior to the hearing.

- 8) Prior to the hearing, the parties or representatives of the party shall prepare copies of all exhibits and evidence which are expected to be presented. The parties shall stipulate to exhibits to the extent possible and bring to the hearing adequate copies for the hearing officer as well as the opposing party.
- 9) At least five (5) calendar days prior to the hearing, all parties must be present to the Hearing Officer: a statement identifying the issues to be heard, a witness list, and a complete list of any documents to be admitted as evidence. In the event of incomplete or late statements, witness list, or list of documents or exhibits, then such statements and exhibits shall not be introduced or admitted into evidence, and such witness shall not be permitted to testify. The hearing officer may also exercise his discretion in continuing the hearing.
- 10) Witnesses in post-disciplinary hearings are not admitted into the hearing room until called upon to testify.
- 11) Notice of the hearing will be sent by the Hearing Officer to the employee and to the County Manager and postmarked at least ten (10) working days prior to the scheduled hearing. Copies of the hearing notice shall be sent concurrently to all relevant parties.
- 12) A tape recorded record of all post-disciplinary hearings shall be made by the County.

C. Conducting the Hearing

1) Order of Presentation

- a) The County will present its witnesses and evidence to the Hearing Officer first. Witnesses for the County may be called and questioned on their involvement in or knowledge of the case. Following the testimony of each witness, the employee will have the opportunity to cross-examine the witness. The Hearing Officer will then have the opportunity to question the witness on matters related only to the witness's testimony. The Hearing Officer shall restrict his questions to those necessary to clarify the testimony previously given. Follow-up or redirect questioning will be allowed at the discretion of the Hearing Officer. The Hearing Officer will make rulings on the admissibility of testimony and other evidence.
- b) The employee will then present his or her witnesses and evidence.
- c) Following presentation of the employee's position, the County may offer rebuttal testimony. Such testimony shall be brief, and shall address only the issues brought forth in the employee's presentation.
- d) The County's closing statement shall be presented, followed by that of the employee. The County shall then have the opportunity to make a final statement.

2) Communication of Hearing Officer's Decision

a) The Hearing Officer's signed decision will be issued within twenty (20) calendar days of the post-disciplinary hearing and transmitted to the employee, Elected Official, Department Head or Supervisor, and the County Manager.

3) Hearing Officer's Decision

a) The Hearing Officer may uphold, modify, or reverse the decision of the Elected Official, Department Head or Supervisor, and the Hearing Officer may reinstate the employee and award back pay and benefits.

4) Appeal of the Hearing Officer's Decision

- a) Either party may appeal the Hearing Officer's decision in accordance with New Mexico Law.
- b) The Personnel Ordinance, if certified to be complete and in effect at the material times, may be included in the record on appeal at the request of any one of the respective parties at any time before forwarding the record to the District Court.
- c) The appeal shall be one of review of the record (transcript) along with all the exhibits as admitted. No trial de novo or new evidentiary hearing will be accorded.

5) Records of the Proceedings

a) The record of the proceedings, along with the entirety of the physical evidence admitted by the Hearing Officer, will be retained by the County Manager for an indefinite period following the hearing date. The record shall be transcribed only in the case of appeal to the District Court by one of the respective parties. The party requesting the transcription shall make arrangements to pay for the cost of the transcription.

6.3 GRIEVANCES

6.3.1 Grievable

To be grievable, an issue must:

- Concern matters of dissatisfaction with working conditions, working relationships or specific incidents that have occurred;
- Result from an act or omission by management regarding aspects of employee-employer relations over which the employee's Supervisor, Elected Official or Department Head has control; and
- Arise out of a specific situation or act that has resulted in alleged inequity or damage to the employee.

6.3.2 Non-Grievable

An issue is not grievable if it is a matter subject to management's rights and responsibilities necessary in the course of business to exercise control, discretion and efficiency in the operations of the County and include the following rights:

- To direct the work of its employees;
- To hire, promote, evaluate, transfer and assign employees;
- To reprimand, suspend, demote or dismiss or otherwise discipline employees for just cause;
- To determine staffing requirements;
- To maintain the efficiency of County government and ensure the continuation of normal management functions;
- To take actions as may be necessary to carry out the mission of County government in emergencies; or
- To manage and exercise judgment on all matters not specifically prohibited by law.
- Is subject to review under this Personnel Policy or another administrative procedure.

6.3.3 General Provisions

- A. Grievances may be initiated only by the employee concerned and may not be pursued without affected employee's consent.
- B. Once a grievance has been investigated and denied, repeated filing of grievances on the same issue will not be permitted.
- C. If the grievance involves a group of employees or if several employees file separate grievances on the same matter, the grievances may be handled as a single grievance.
- D. Whenever possible, grievances will be handled during regularly scheduled work hours of the parties involved.
- E. If the grievant refuses to appear or participate in the grievance resolution procedure, the grievant forfeits the right to use the grievance resolution procedure to resolve that grievance.
- F. The Elected Official, Department Head or County Manager shall ensure the grievant experiences no retaliation for having pursued the grievance.
- G. The entire grievance resolution process shall operate without discrimination, restraint, coercion, or reprisal on the part of any Elected Official, Department Head, Supervisor or employee.
- H. The filing of a grievance, or the intention to file, does not relieve any employee in any way of his or her responsibility to perform any and all of his or her assigned duties promptly, efficiently and completely.

6.3.4 Submitting the Grievance

An employee wishing to file a grievance as provided herein, shall submit his or her grievance in writing to the employee's Supervisor in an attempt to work out a solution. If the employee is not satisfied with the proposed solution, the employee may address the problem to the Department Head, the appropriate Elected Official or the County Manager. Unresolved problems shall be considered by the Board of County Commissioners as a whole, whose decision shall be final.

SECTION 7: LEAVE AND HOLIDAYS

7.1 NOTIFICATION OF LEAVE

Leave reported to the employee's supervisor by the employee or an employee's immediate family member, must be done as soon as possible, but no later than one (1) hour after the beginning of the employee's work shift. If the nature of the illness requires extended leave over three (3) consecutive days, the employee or his or her immediate family member shall report to the employee's Department Head or Elected Official on a daily basis.

7.2 ANNUAL LEAVE

Annual leave for full-time exempt and non-exempt employees will accrue at the rate indicated in the following table:

Length of Service	Accrued Days Per Month	Accrued Time Per Pay Period
1 year – end of 4 th year	1	.50
5 years – end of 9 th year	1.25	.625
10 years – end of 14 th year	1.50	.750
15 years – end of 19 th year	1.66	.835
20 years or more	2.5	1.25

- A. Employees and appointed officials and other exempt employees accrue annual leave with pay in accordance with years of service.
- B. Years of service as a classified employee, appointed official and Elected Official shall count toward employment with Colfax County for the purposes of computing accrual of annual leave. If the classified employee or Elected Official has a break in service to the County, the accrual of annual leave shall begin at year one.
- C. Employees requesting to take annual leave must have it approved in advance by the employee's immediate supervisor by submitting a Colfax County Request for Leave form. Annual Leave will be granted on a first come-first serve basis. Reasonable effort

- will be made to accommodate the employee's request; however, approval will be subject to advance notification and the needs of the department and the County. If annual leave is requested by two or more employees at the exact same time, seniority will rule.
- D. An employee does not accrue annual leave for time worked in excess of forty (40) hours per week.
- E. If an employee is on unpaid leave or donated leave, the employee will not accrue annual leave.
- F. A probationary employee may use annual leave during the probationary period. If a probationary employee does not complete the probationary period, they will not be compensated for accrued leave.
- G. Annual Leave will not be granted in advance of accrual.
- H. A part-time, casual or temporary employee does not accrue annual leave.
- I. Annual leave may be accumulated from year to year up to a maximum of thirty (30) days. Annual leave balances in excess of thirty (30) days as of December 31 of any calendar year will be lost.
- J. The County will pay an employee the full cash equivalent of the accumulated annual leave upon separation from service. An employee may take annual leave before separation from county employment; however, an employee who has been paid for accumulated annual leave cannot take annual leave.
- K. An employee transferring between classified positions may not withdraw their accrued annual leave, except that an employee an appointed official or exempt employee transferring into an elected position shall withdraw their annual leave.
- L. The employee may elect to have his or her annual leave compensation paid in a lump sum or pro-rated over his or her remaining pay-periods.
- M. Upon the death of an employee, the County will pay the estate of the employee or the successor or successors of the employee (legal documentation will be required), the full cash equivalent of the accumulated annual leave.
- N. The estate or the successor or successors will be compensated in a lump sum.
- O. Lump sum payments shall be made within twenty (20) days from the date of the employees' voluntary or involuntary separation from county employment.

7.3 SICK LEAVE

- A. Sick leave for full-time exempt employees and full-time non-exempt employees shall be accrued on a semi-monthly basis (.50 days per pay period), and may be accrued up to a maximum of ninety (90) days.
- B. Part-time employees that have more than five (5) consecutive years of employment with the county may accrue sick leave on a pro-rata basis as set forth for classified employees.
- C. Casual, temporary, and emergency hires do not accrue sick leave.
- D. Sick Leave shall not be used before it is accrued. Leave is not accrued until the end of the pay period and cannot be used until after the pay period in which it is earned.

- E. When an employee absents himself or herself from his or her work without the consent of the employer for any reason other than proven illness or injury, such employee may be grounds for disciplinary action, up to and including dismissal.
- F. If an employee is absent by reason of injury or illness for three (3) consecutive days or in the event there is a pattern of abuse (i.e., calling in sick consistently on Mondays and Fridays), the Department Head may request a doctor's certificate of such injury or illness.
- G. Any employee taking sick leave shall, upon returning to work, complete a Request for Leave form, indicating sick leave claimed and days of absence.
- H. Employees shall not accrue sick leave while on absence without leave, leave without pay or while on leave as a result of donated leave.
- I. Employees may use sick leave for personal medical treatment or illness or for medical treatment or illness of a member of a relation by blood or marriage within the third degree, or person residing in the employees' household. Such leave should be requested for approval at least twenty-four (24) hours in advance whenever possible.
- J. Annual leave may be used in lieu of sick leave with appropriate supervisor approval.
- K. Employees taking sick leave must use all reasonable efforts to contact their immediate supervisor within one hour of the beginning of the business day, requesting approval of sick leave use. If the employee is at work when he or she gets ill, the employee shall notify their immediate supervisor prior to leaving work and obtain leave approval.
- L. Employees employed with Colfax County after April 14, 2015 will not be entitled to sick leave payout, in any event, at the time of separation from county employment.
- M. Employees employed with Colfax County prior to April 14, 2015 shall be entitled to sick leave payout upon retirement or voluntary resignation.
- N. Employees terminated from employment for any violation of the Colfax County Personnel Ordinance are not entitled to sick leave payout, regardless of employment date.
- O. The employee or employee's estate will be paid for each day of unused sick leave at the time of the employee's voluntary separation, retirement, death, or total disability, up to a maximum of ninety (90) days, if employed prior to April 14, 2015. The employee may elect to have his or her sick pay paid in a lump sum or pro-rated over the appropriate number of pay periods. The estate will be compensated in a lump sum. The employee or the employee's estate will be compensated at the highest hourly rate of pay attained during his or her entire number of years of continuous service. The highest hourly rate will be determined by dividing the highest attained annual salary by 2,080 hours.
- P. Lump sum payments shall be made within twenty (20) days from the date of the employee's voluntary separation of employment, retirement, death or total disability.

7.4 PERSONAL LEAVE

- A. All employees who have completed six (6) months of employment will have one (1) personal holiday each year in addition to the regular holiday schedule for his or her birthday, subject to the following:

1. The personal holiday may be taken by the employee on his or her birthday or another day as agreed upon by the employee and his or her supervisor;
2. Personal holiday time may not be taken in hourly increments;
3. Personal days may not be carried forward from year to year;
4. Personal holiday time will not be paid upon separation of employment;

7.5 BEREAVEMENT LEAVE

- A. Bereavement leave is leave with pay for which an employee is not charged annual or sick leave due to the death and services of immediate family. When death occurs in an employee's immediate family, an employee upon request may be excused for up to five (5) consecutive working days with pay. Immediate family is to include only the following persons:

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

- B. When death occurs to any member of an employee's family (near relative), not listed above, the employee upon request may be excused for up to three (3) consecutive working days with pay, with written approval of the employee's Department Head or Elected Official.
- C. When the death of a friend occurs, an employee may utilize up to one day annual leave, with approval of the employee's Department Head or Elected Official.
- D. Additional days may be granted by the Elected Official, Department Head, or County Manager; however, any additional days will be charged to accrued annual leave or leave without pay.
- E. In the event an employee has proved to abuse the Bereavement Leave policy herein granted by Elected Official or Department Head, such employee may be subject to disciplinary action, up to and including dismissal.

7.6 CATASTROPHIC LEAVE

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. Employee sick leave donations are acceptable under this policy.

- A. **Catastrophic Illness or Injury** – Unplanned medical event
- B. **Serious health condition**– A serious health condition is an illness, injury, impairment, or physical or mental condition that involves:

1. Any period of incapacity or treatment connected with inpatient care (e.g., an overnight stay) in a hospital, hospice, or residential medical care facility; or
2. A period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involve continuing treatment by (or under the supervision of) a licensed health care provider; or
3. Any period of incapacity or treatment due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or
4. A period of incapacity that is permanent or long-term due to a condition for which treatment may be effective (e.g., Alzheimer's, stroke, terminal disease, etc.); or
5. Any absence to receive multiple treatments (including any period of recovery) by, or referral by, a licensed health care provider (e.g., chemotherapy, physical therapy, dialysis, etc.).

7.7 VOTING LEAVE

- A. On any election day employees who are registered voters may absent themselves from employment for up to one (1) hour for the purpose of voting between the time of opening and the time of closing of the polls. The employee shall not be liable for any penalty for such absence. The Department Head or Elected Official may specify the hours during the period in which the employee may be absent.
- B. The provision of paragraph A above does not apply to any employee whose work day begins more than two (2) hours subsequent to the time the polls open, or ends more than three (3) hours prior to the time of closing of the polls.
- C. Any leave given to an employee hereunder is limited to the actual time needed to vote. Voting leave may not be used for any other purpose, and misuse of voting leave may subject the employee to disciplinary action.

7.8 JURY DUTY 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 will be granted jury duty leave. Upon being subpoenaed or called for jury duty, an Employee shall immediately notify his or her immediate supervisor.

- A. Employees serving as jurors or witnesses will be paid at their regular rate of pay by the County.
- B. Fees received by an Employee for compensation as a witness or as a juror, excluding reimbursement for mileage, shall be paid over to the County.
- C. Time away from work for legal matters in which the employee is a litigant such as a petitioner, respondent, plaintiff, or defendant will be charged to paid time off from the employee's annual leave accrual.
- D. If excused from a legal proceeding during a working day, the employee shall return to work or contact their supervisor if it would not be feasible to return to work. i.e., the legal proceeding is not local.
- E. Failure to adhere to this policy will be considered unauthorized absence and may result in corrective disciplinary action.
- F. Colfax County shall adhere to and comply with NMSA 1978, Section 38-5-18 as the same is presently written or as it may be subsequently amended.

7.9 DONATED LEAVE

- A. Donation of sick or annual leave is designed to assist classified and unclassified employees who have exhausted all accrued leave and who have no other paid leave options. This leave may only be granted in the event of serious illness or injury as defined in this section.
- B. Eligibility for donated leave (serious illness or injury is defined as):
 1. A life threatening or catastrophic illness of, or injury to the employee, the employee's spouse, domestic partner, or parent; or
 2. An illness of, or injury to the employee which renders the employee incapable of performing the essential functions of their job as certified by a medical determination; or
 3. An illness or injury to the employee, the employees spouse, domestic partner, child, or parent which requires hospitalization, rehabilitation, or hospice care; or
 4. Serious illness or injury shall not include elective medical procedures.
- C. Employees shall not have had any corrective or disciplinary action in the twelve (12) months preceding the request.
- D. The employee must request donated leave through formal and written request to the Human Resource Clerk. The request shall include the physician's finding specific to the serious illness or injury, required treatment, and anticipated return to work date, and any other information which may be required by the County to make a determination regarding the request.

- E. Human Resources will coordinate with the Payroll Clerk the transfer of donated hours. Employees may donate only those sick and annual days he or she has accrued in excess of twenty (20) days.
- F. Donated leave may be requested one (1) time during a 12-month period; however, the County Manager, upon the recommendation of the Department Head or Elected Official, may authorize donation more frequently in extraordinary circumstances.
- G. The leave recipient will not accrue annual or sick leave while on donated leave status.
- H. The leave recipient is not eligible for holiday paid time while on donated leave status.
- I. Provisions regarding the confidentiality of medical records and information shall govern. Posted solicitation for donated leave will ensure the privacy of medical information. Disclosure of such information may be made only with the express written consent of the affected employee.
- J. Donation of sick/annual leave is strictly voluntary.
- K. Denial of a request to solicit donated leave is not grievable.

7.10 HOLIDAY LEAVE

The Board of Commissioners will approve the schedule of holidays to be observed by the County employees at the first Commission meeting of each calendar year. The following conditions will apply with respect to holidays and holiday pay:

- A. All full-time exempt and full-time non-exempt employees will be paid for these scheduled holidays;
- B. Part-time and temporary employees will not be paid for these scheduled holidays, unless the part-time employee has been employed with Colfax County for five (5) or more consecutive years;
- C. When a holiday falls on an employee's day off, the employee's personal holiday (birthday) shall be observed on the following work day, work load permitting, as determined by the Elected Official or Department Head;
- D. When a holiday falls during an employee's authorized leave, the day shall be counted as a holiday, and not as a leave day;
- E. In order to receive pay for a designated legal holiday, employees shall be in work or paid leave status on the scheduled work day immediately preceding and following the holiday, or must have worked on the stated holiday. An employee absent without leave on their scheduled work day before or after a holiday will not receive pay for that holiday.
- F. Employees scheduled to work on a holiday that call in sick will not be paid holiday pay and the time will be charged against their sick leave accrual.
- G. An employee who is on leave without pay, absent without leave or on donated leave shall not be paid for the holiday;
- H. Holiday pay will be based on the employee's regular hours and rate of pay for that day;
- I. Full-time employees who are required to work on a holiday will be paid their regular pay, plus eight (8) hours of holiday pay (double time).

- J. Holidays which occur within an employees' annual leave or sick leave will be charged to holiday time.

7.11 MILITARY LEAVE AND EMPLOYMENT RIGHTS FOR MEMBERS OF THE UNIFORMED SERVICES

- A. Employees called to the National Guard or Reserve training shall be granted up to fifteen (15) workdays Military leave with pay annually. Accrued annual leave may be used if the period of training exceeds fifteen (15) workdays. If annual leave is exhausted or the employee chooses not to use annual leave, the employee shall be placed on leave without pay. The employee taking unpaid military leave **will not** first be required to exhaust accrued annual leave.
- B. The returning employee shall have all unused annual and sick leave accrued at the time of their departure for military service restored.
- C. The returning employee will be deemed to have seniority and length of service rights, the date of initial employment is not modified.
- D. In all instances where military leave is granted, the Human Resource Representative shall maintain a copy of the official orders in the employees' personnel folder.
- E. In accordance with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L. 103-353, 108 Stat. 3149; 38 USC §43) employees who perform duty, voluntarily or involuntarily, in the "uniformed services" shall be granted leave without pay for up to five years. These services include Army, Navy, Marine Corps, Air Force, Coast Guard, and Public Health Service Commissioned Corps as well as the reserve components of each of these services. Federal training or service in the Army National Guard and Air National Guard also fall under the rights set forth by USERRA.
- F. Employees who leave their job to perform military service have the right to elect to continue their existing employment-based health plan coverage (personal and dependent coverage) for up to 24 months while in the military. The employee is responsible for the employee portion of insurance premiums. If an employee does not elect to continue coverage during their military service, they have the right to be reinstated in the County's health plan when reemployed, generally without any waiting periods or exclusions except for service connected illnesses or injuries.

7.12 OTHER TYPES OF LEAVE

A. Leave Without Pay:

Leave without pay may be granted at the discretion of a Department Head or Elected Official when the circumstances and the interests of the County so indicate; provided, that the duration of leave without pay shall not in any event exceed ninety (90) days in duration. The Department Head or Elected Official must take into consideration the workload of others including possible overtime needed while an employee is on leave

without pay; and, other factors related to job duties and the business of the department. Leave without pay shall be used only when all other appropriate leave has been exhausted. Colfax County shall not pay or contribute to or maintain group health insurance, P.E.R.A. or any other retirement or benefit program of the employee while the employee is on leave without pay for reasons other than FMLA Leave or Worker's compensation. The employee may make both the employee and county's contributions to keep those programs in effect while the employee is on leave without pay.

B. Administrative Leave with Pay:

Employees in classified service positions and unclassified service positions other than intermittent, seasonal or temporary employees are eligible for administrative leave with pay under certain conditions and with approval of the Department Head or Elected Official and the County Manager.

C. Unauthorized Leave:

1. An employee who fails to appear for work or fails to notify his or her direct supervisor is not on authorized leave, or an employee who appears for work but is in violation of County or department policy governing his readiness for work shall be considered to be on unauthorized leave without pay. It is understood that there may be extenuating circumstances for the unauthorized absence and due consideration shall be given to each case as to the type of leave to be retroactively approved or take other action deemed appropriate. Each case is unique and does not set a precedent. Failure of the employee to return to work at the date and time specified by the Elected Official or Department Head, or to request an extension, if warranted, shall be considered to be on unauthorized leave, and, after three (3) consecutive work days, the employee is considered to have abandoned his position with the County.
2. An employee on unauthorized leave shall not be paid for any period of unauthorized leave and shall not accrue annual or sick leave. Colfax County shall not pay or contribute to or maintain group health insurance, P.E.R.A., or any other retirement or benefit program of the employee while the employee is on unauthorized leave.
3. Employees on unauthorized leave of three (3) consecutive work days shall be considered to have abandoned their position and to have submitted voluntary resignations.

D. INCLEMENT WEATHER

1. This policy is required for the efficient operation of the county offices and for the safety of county employees.
2. Therefore, the policy for the closure for all county offices, with the exception of the Colfax County Road Department, Vigil-Maldonado Detention Center and the Colfax County Sheriff's Office shall be as follows:

3. The closure of county offices, as referred to above, due to inclement weather shall be tied to the delayed opening or complete closure announcement of the local school district where the courthouse is located when the school is in session. If the local school district has determined that a delayed opening or complete closure is necessary, the county offices shall follow the same delay or closure. The local school district where the courthouse is located shall be the controlling factor in determining delay or closure; not the school district where the employee resides.
4. When the schools are not in session, county employees, with the exception of the Colfax County Road Department, Vigil-Maldonado Detention Center and the Colfax County Sheriff's Office shall follow any delay or closure announcement aired on any local television or radio stations. The closure announcement is the responsibility of the County Manager. The County Manager, prior to making the announcement shall first contact the Department Heads including the County Road Department, Vigil-Maldonado Detention Center and the Colfax County Sheriff's Office advising them of the closure or non-closure decision. It will be the responsibility of each department head to contact their employees and advise them of the closure decision. If the decision is made to keep the courthouse open and if inclement weather in the area of the employee's residence prevents the employee from getting to their place of duty, administrative leave will not be granted, however, the department head, at his or her discretion may grant the employee vacation leave.
5. In situations not covered by paragraphs 1 and 2, closure shall be made at the discretion of the County Manager.

SECTION 8: E-MAIL AND INTERNET ACCEPTABLE USE POLICY

8.1 SOCIAL MEDIA

Social media is a means of communication on the internet that is accomplished by posting information or content for others to read, comment on, or respond to. It includes, but is not limited to, communicating with others on a web log or blog, an electronic journal or diary, a personal internet website, communicating through a social networking or affinity website (e.g. Facebook, Myspace, LinkedIn, BEBO, Yammer), a web bulletin board, chat room, instant messaging site, video or photo sharing site (e.g. Flickr, YouTube), forums, discussion boards and groups (e.g. Google groups, Whirlpool, instant messaging (including SMS), a wiki or online collaboration site (e.g. Wikipedia), a blog hosted by a media outlet, geo-spatial tagging (Foursquare), vod and podcasting, micro blog (e.g. Twitter), gaming platforms (e.g. World of Warcraft, Second life), or chat rooms.

8.2 SOCIAL MEDIA AT WORK

In an effort to reach a broader audience of Colfax County residents for a variety of reasons, the County participates in social media. The use of social media allows Colfax County to disseminate time-sensitive information as quickly as possible (e.g. emergency information). The County Manager, Elected Official and Department Head shall determine which social media outlets are suitable for use, and which employees are authorized to use any given social media outlet, and the permissible content that may be communicated through social media. Employees shall not use social media at work unless specifically authorized to do so by the County Manager, Elected Official and Department Head. When an employee is so authorized, the employee shall use the social media consistent with the terms of the authorization and this Policy Manual.

Unless specifically authorized to use social media at work by the preceding paragraph, use of social media at work is strictly prohibited. Likewise, unless authorized as provided, use of County property including computers, wireless technology, cellular phones, smart phones or internet networks for social media use is prohibited. Employees are advised that County computers, wireless technology, cellular phones, smart phones, internet networks and other county property are monitored and use of County equipment for an improper purpose will be detected and employment consequences will result.

8.3 PERSONAL USE OF SOCIAL MEDIA

Colfax County does not prohibit employees from participating in social media while not at work, nor is the content posted any concern of the County. However, if an employee uses social media to harm the County, County constituents, or fellow employees, participation in social media while not at work can have employment consequences. Employees shall not use social media to harm the County, County constituents or fellow employees. Employees shall not use social media to impair the work of any County employee; or to harass, bully, demean or create a hostile work environment for any County employee. Nor shall an employee use social media to violate County policies, a County ordinance, or state or federal law. To make the distinction between private activity and work activity as clear as possible, in cases where confusion might be created, each employee should identify a social media posting as a personal opinion rather than the opinion of the County. Bullying means any repeated and pervasive written, verbal or electronic expression, physical act or gesture, or a pattern thereof, that is intended to cause distress upon one or more County employees whether or not at work or during work hours. Bullying includes, but is not limited to hazing, harassment, intimidation or menacing acts of another County employee which may, but need not be based on the employee's race, color, sex, ethnicity, national origin, religion, disability, age or sexual orientation.

8.4 IDENTIFICATION OF INAPPROPRIATE USE

If any Colfax County employee becomes aware of inappropriate use of social media in violation of this policy, he or she has the responsibility of immediately reporting the conduct to their immediate supervisor. Violations of this policy may result in disciplinary action up to and including termination.

The purpose is to provide guidance on the proper usage of the Internet. Use of the Internet is a privilege and intended to be used as a tool for conducting Colfax County Business.

The policy applies to all County employees, contractors, and third-party users accessing the Internet via the Colfax County network.

This policy establishes guidelines and responsibilities for all authorized users when using the Internet and insures that the Internet is used in a business, legal and ethical manner. Misuse of the Internet can jeopardize Colfax County's information assets, can place the county at risk, and possibly damage the county's reputation.

A. Colfax County authorized users must not use the Internet to:

1. Visit Internet sites whose content is deemed offensive, obscene, hateful, pornographic, or illegal.
2. Conduct personal business, play computer games, access gambling sites, run a part-time business, take part in any prohibited or illegal activity.
3. Access social networking sites, discussion groups, chat rooms, or other public electronic forums (Facebook, Yahoo IM, Gmail IM, etc.).
4. Disclose Colfax County confidential or sensitive information unless encrypted and approved by management.

- B. YOU DO NOT HAVE AN EXPECTATION OF PERSONAL PRIVACY with respect to Internet usage at Colfax County. The County reserves the right to monitor Internet access, activities, or usage at any time. News feeds and other means for retrieving information over the Internet must be limited to business activities only.
- C. Violations of this policy, misuse, or other unauthorized use of the Internet may result in disciplinary action, up to and including dismissal of employment.

SECTION 9: DRUG AND ALCOHOL POLICY

9.1 DRUG AND ALCOHOL ABUSE POLICY

Colfax County is committed to the goal of a drug free workplace in compliance with the Drug Free Work Place Act of 1988

We recognized that employees suffering from alcohol or drug dependence can be treated. We encourage any employee to seek professional care and counseling prior to any violation of this policy.

The problem of alcohol and drug abuse throughout county entities is a serious one. It has affected the economic health of county entities as well as the personal safety and health of our employees and general public. The damaging effects of alcohol or drug abuse in the nation's work places are well documented:

- Increased Safety Risks: Impaired ability to work and think clearly endangers the lives of the users as well as the lives of others in the same work environment (employee as well as general public exposure). Statistics show that drug abusers have three to four times more on-the-job accidents and are more likely to file a Workers' Compensation Claim than are non-abusers. The abuser also commits more mistakes than employees who are able to concentrate on their work. The relationship between drug abuse and safety can be found in increased on-the-job accidents, higher liability insurance costs, increased Workers' Compensation Claims, and an increased disregard for safety rules, etc.
- Loss of Productivity: Alcohol and drug abuse reduces productivity while the employee is under the influence. Factors contributing to decreased productivity include increased absenteeism, tardiness, poor workmanship, etc. Employees with a drug abuse problem do not function at their normal potential. The drug abuser is absent more often and requests early departures from work twice as often as the non-abuser.
- Increased Medical and Health Expenses: Alcohol and drug abuse is a health hazard, and therefore a medical problem that results in higher group insurance medical costs, sick leave, and excessive general health care expenses. National statistics show that medical problems associated with drug abuse cost our nation billions of dollars annually. Drug abusers use health benefits two to three times more than non-abusers.

Colfax County has a responsibility to all its employees to provide a safe work place, and also has the responsibility to the public to ensure that its safety and trust in Colfax County is protected. Therefore, Colfax County prohibits the use of alcohol, illegal drugs, or any controlled drug that has not been prescribed by a doctor for an employee's specific use, on County time or on County property (including use of County vehicles outside working hours) and work areas.

Possession of or being in a condition where job performance or ability to work safely is limited in any way by the previous use of any of the above are grounds for immediate disciplinary action, including dismissal.

In order to assist Colfax County in the enforcement of this policy regarding testing for the presence of alcohol and illegal drugs, this policy is being implemented effective with the adoption and recording of this ordinance in the Office of the Colfax County Clerk.

9.1.1 Administration of Policy

- A. The Alcohol and Drug Abuse Policy and program have full support of management (Commissioners, County Manager, and Elected Officials). Compliance with this policy and program is a condition of employment for all current and future employees. Enforcement of this policy is the responsibility of each supervisor within the limitations and guidance outlined in this document.
- B. The County Manager will administer this program. This person will be a contact for those employees requiring outside assistance to deal with their problem.
- C. Department Heads, Elected Officials and supervisory personnel will be responsible for the day- to-day management of this Alcohol and Drug Abuse Policy. The day-to-day control includes all meal breaks as well as any other break periods.

9.2 TESTING PROCEDURES

- A. All drug and alcohol testing shall be conducted in a manner to assure a high degree of accuracy and reliability. All County drug and alcohol testing will be conducted using techniques equipment and through verifiable, certified laboratory facilities.
- B. The testing will be performed in a private and 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.

9.3 PRE-EMPLOYMENT OR TRANSFER OR POSITION TESTING

- A. All offers of employment shall be conditional upon the applicant passing a substance abuse and alcohol test which shall be administered by an approved laboratory selected by the County. The laboratory will complete the analysis and provide the results to the Human Resource Representative. An applicant shall not be hired into a position unless the applicant takes a drug and alcohol test with a verified negative result.
- B. A non-safety-sensitive employee shall not be placed, transferred, or promoted into a safety-sensitive position until the employee takes a drug test with a verified negative result. If the verified result is positive, the employee shall be subject to disciplinary action in accordance with the Colfax County Personnel Policy.
- C. If the applicant fails the pre-employment drug test, the conditional offer of employment will be rescinded. Failure of a pre-employment drug test will disqualify an applicant for employment with Colfax County for a period of one (1) year.
- D. If a pre-employment, pre-transfer, or promotion test is cancelled and is rescheduled not more than three (3) times, the County will not give further consideration for employment, transfer, or promotion.
- E. In instances where a safety-sensitive employee is on extended leave for a period of ninety (90) days or more, regardless of reason, the employee will be required to take a drug test

and have a negative test result prior to resuming safety-sensitive job functions. A verified positive test shall be subject to disciplinary action in accordance with the Colfax County Personnel Policy.

- F. The costs of pre-employment, pre-transfer, or promotion drug and alcohol testing will be paid for by the County.

9.4 REASONABLE SUSPICION TESTING

- A. Any Colfax County employee shall be tested for alcohol or illegal or controlled substances if an Elected Official, Department Head or Supervisor has reason to suspect that the employee is engaging in the use of alcohol or drugs on the job, or is reporting to work under the influence of alcohol or illegal or controlled substances.
- B. Reasonable suspicion shall mean that there is objective evidence, based upon known specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that would lead a reasonable person to believe that the employee: 1) is under the influence of alcohol or drugs while on duty; or, 2) is in possession, using, transferring, selling or purchasing alcohol or drugs during work hours including lunch or break while on County property, or in a County vehicle.
- C. When there is reasonable suspicion that an employee has violated the above policy, Colfax County reserves the right, under this policy, to require any employee to go to a designated testing facility to determine the presence of alcohol or drugs in his or her system. This screening will be done on County time and at County expense, and shall be mandatory.
- D. When there is reasonable suspicion that an employee has reported to work, is conducting work, has been involved in an accident, is representing the County or is on County premises while under the influence of alcohol or other substances, the respective Elected Official, Department Head or Supervisor shall contact the County Manager. The County Manager should be consulted regarding the circumstances and evidence as to whether or not testing is appropriate to the specific situation. If a decision is made to proceed with testing, the laboratory or medical office will be notified and will schedule the employee for immediate testing.
- E. The County is responsible for transport of the employee to the testing site and the employee will be accompanied by a supervisor or an employee in a supervisory capacity of the same gender to ensure the accuracy and validity of the test; this will ensure that erroneousness testing is minimized. The clinic must be notified in advance of the supervisor and employee arriving at the clinic.

9.5 ALL EMPLOYEE INJURIES ADDRESSED PRIOR TO TESTING

- A. Nothing is 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.

- B. In the event the County is unable to complete drug and alcohol testing (i.e. employee is unconscious, employee is detained by law enforcement agency), the County may use drug and alcohol post-accident test results administered by state or local law enforcement officials or hospital personnel in lieu of the County test.
- C. The appropriate supervisor shall ensure that an employee required to be tested under this section is tested as soon as practicable and within eight (8) hours of the accident.
- D. An employee who is subject to post-accident testing who failed to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.
- E. The impacted employee shall be placed on administrative leave with pay status in accordance with the personnel policy ordinance.
- F. All testing results shall be reported to the County Manager. If the results are negative, the County Manager will notify both the employee and his or her Elected Official, Department Head or Supervisor and the employee shall be returned to work at the inception of the employee's next regularly scheduled work shift unless other disciplinary action is pending.
- G. If the results are positive, the County Manager shall consult with the impacted employee, and his/her supervisor, Department Head or Elected Official and inquire as to any factors that might affect the validity of the results.
- H. An employee involved in a motor vehicle accident while driving a county vehicle is subject to immediate mandatory drug and alcohol testing, in accordance with the procedures set forth herein.
- I. A written record of the observations which led to a drug and alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation within 24 hours of the observation or prior to the release of the test results. This written record shall be submitted to the Human Resource Representative and shall be attached to the forms reporting the test results.

9.6 SAFETY SENSITIVE POSITIONS

- A. For purposes of this Policy, all public safety employees, employees required having a commercial driver's license, and employees who have controlled access to controlled drugs or reports associated with these drugs shall be classified as holding safety sensitive positions. It shall be the responsibility of the County Manager to determine additional positions, if any, which shall be classified as safety sensitive.
- B. The following criteria shall be used as a guide for determining additional positions to be classified as safety sensitive:
 - The extent to which the job responsibilities impact upon the safety of the public;

- The extent to which the job responsibilities expose the employee or co-workers to hazardous conditions;
 - The extent to which the job responsibilities require responsibility for the physical safety of others.
- C. Alcohol and illegal or controlled substances testing for employees employed in safety sensitive positions shall be done in accordance with Department of Transportation Regulation Federal Motor Carrier Regulations.

9.7 POSITIVE TEST RESULTS

The guidelines established by the National Institute of Drug Abuse will be used to determine whether an employee tests positive.

If an employee tests positive for alcohol or illegal or controlled substances, the employee will be placed on administrative leave until a pre-disciplinary hearing is held.

9.8 EMPLOYEE ADMISSION

Employee admission of abuse of alcohol or use of prohibited drugs to an Elected Official, Department Head or Supervisor, an Employee Assistance Program (EAP) counselor or a medical provider, shall constitute reasonable suspicion. When the employee is not already participating in a drug or alcohol treatment program, the Elected Official, Department Head, or Supervisor shall encourage the employee to seek treatment. The employee shall be required to submit to random substance abuse tests for a period of one (1) year. Employees in safety sensitive positions shall be tested in accordance with Department of Transportation Regulation Federal Motor Carrier Regulations. If the employee tests positive during the one (1) year testing period, the employee shall be subject to disciplinary action up to and including dismissal from employment.

9.9 REFUSAL TO SUBMIT TO ALCOHOL OR SUBSTANCE ABUSE TESTING

- A. An uninjured employee who is unable to submit a testing sample within 3 hours of the request for testing will be treated the same as an employee who refuses to comply with the requirement of drug or alcohol testing.
- B. If an employee refuses to submit to testing, the employee will be immediately suspended from work, pending further disciplinary action.

9.10 PROPER APPLICATION OF THE POLICY

The County is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, Department Heads or Supervisors are required to use and apply all aspects of this policy in an unbiased and impartial manner. Department Heads or Supervisors who knowingly disregard the requirements of this policy or is found to have deliberately misused the policy in regard to subordinates shall be subject to disciplinary action, up to and including dismissal.

SECTION 10: SEXUAL HARASSMENT POLICY

The policy of the Board of County Commissioners of Colfax County prohibits sexual harassment based on any protected category. Harassment based on other protected categories will not be tolerated; including harassment or discrimination sexually related or otherwise. Any employee, manager, or non-manager, male or female, who engages in any form of harassment, shall be subject to disciplinary action which may include reprimand, suspension, demotion, or dismissal.

10.1 DEFINITIONS OF SEXUAL HARASSMENT

- A. Sexual harassment is any unwelcome sexually oriented behavior, demand, comment or physical contact initiated by any individual at the work place when:
- Submission to such attention or conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or continued employment.
 - Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions or opportunities affecting such individual.
 - Such conduct has the purpose or effect of substantially interfering with an individual's work performance, or creating an intimidating, hostile or offensive working environment.

10.1.1 EXAMPLES OF SEXUAL HARASSMENT

- A. Sexual harassment can occur in a variety of forms. This policy forbids harassment based on gender regardless of whether the offensive conduct is sexual in nature. Sexual harassment is unacceptable in the workplace itself and in any other work-related setting. The following are some examples of behaviors or situations that may be construed as sexual harassment, these examples include, but are not limited to:
- Verbal or physical sexual advances;
 - Crude or vulgar language;
 - Unwelcome nicknames;
 - Subtle pressure, request or demands for sexual activity;
 - Oral or written, sexual statements, comments, jokes, questions or innuendos, including e-mails, text messages or social media posts;
 - Display of sexually oriented visual items such as magazines, books, calendars, cartoons, photos or posters;
 - Assault, molestation, or unwelcome physical contact such as kissing, touching, patting, pinching, brushing against or hugging;
 - Threats or retaliation against an employee who refuses unwelcome sexual attention or sexual behavior;

- Overt promises or practices that imply preferential treatment for any employee in exchange for dates, sexual attention, or sexual behavior;
- Sexual insults and suggestions including, but not limited to, lewd remarks, obscene gestures, and sexually suggestive materials;
- Any conduct that ridicules, or is malicious or abusive to an individual because of the individual's gender or sexual orientation;
- Comments regarding physical or personality characteristics of a sexual nature;
- Sexually-oriented "kidding", "teasing", double-entendres, or jokes;
- Pressuring, requesting or demanding an employee to go out on a date;
- Asking employee questions of a sexual nature; or
- Any and all other harassing conduct to which an employee would otherwise not be subject to but for such employee's sex or sexual orientation.

10.2 POLICY

Colfax County is committed to taking reasonable steps and enforcing a policy that strictly prohibits sexual harassment. County employees and members of the public have a right to be free from harassment from employees on official duty for the County. Any employee who engages in sexual harassment in any form will be subject to discipline, up to and including dismissal and appropriate corrective action will be taken to prevent its reoccurrence. Colfax County is committed to:

- A. Providing a work environment free from all forms of sexual harassment and forbids sexual harassment of any type in the workplace; in any work related setting, or at any work related social events;
- B. Applying this policy to all County Elected Officials, Department Heads, appointees, employees, contract employees, temporary employees, volunteers and independent contractors subject to the county's control and authority;
- C. Enforcing a complaint process and procedure that is fair, equitable and confidential to the extent possible and protects against retaliation for filing or testifying as a witness to a complaint;
- D. Ensuring all complaints are investigated promptly, thoroughly, and fairly;
- E. Ensuring that all county Elected Officials, Department Heads, appointees, employees, contract employees, temporary employees, volunteers and independent contractors subject to the County's control and authority are fully trained in their rights and responsibility under this policy;
- F. Ensuring that appropriate corrective action shall be taken if the County's Sexual Harassment Policy, or any of its provisions, have been violated; and,
- G. Ensuring that employees who knowingly make false allegations of sexual harassment shall be subject to disciplinary action, up to and including dismissal.

10.3 PROTECTION AGAINST RETALIATION

Colfax County will not retaliate against an individual who reports sexual harassment in good faith and such retaliation in and of itself is grounds for disciplinary action, up to and including dismissal without prior progressive discipline. Retaliation is a serious violation of this policy and should be reported immediately.

Individuals found to have known of sexual harassment but who failed to bring the misconduct to the attention of the county shall also be subject to disciplinary action, up to and including dismissal.

10.4 CONFIDENTIALITY OF SEXUAL HARASSMENT COMPLAINT

All information pertaining to a sexual harassment complaint or investigation shall be maintained by the Human Resource Representative in a confidential and secure file.

While conducting the investigation, the Human Resource Representative and County Manager, or in appropriate cases the County Clerk, shall take particular care to protect the privacy and confidentiality of the individuals involved in the complaint and in the investigation of the complaint. All persons bringing sexual harassment complaints and involved in the investigation of a sexual harassment complaint shall maintain confidentiality of the complaint and investigation process, unless directed by an appropriate court order or official County directive.

10.4.1 COMPLAINT PROCEDURES

- A. Any employee who becomes aware of an occurrence of sexual harassment is required to report the matter through the most confidential and direct means possible to preserve morale by: (a) making a statement of known facts in writing to the Human Resource Representative and County Manager, and (b) avoiding discussing the matter with co-workers and persons not directly responsible for investigating the matter. If either the Human Resource Representative or County Manager is the alleged offender, then the report shall be made to the County Clerk and either the Human Resource Representative or County Manager, who is not the alleged offender.
- B. An employee(s) can often stop or prevent sexual harassment by immediately and directly expressing his or her disapproval of an employee or person's attention or conduct that gives the impression of being unwelcomed sexual behavior.
- C. The Human Resource Representative or County Manager shall assist the employee who has been harassed, i.e., "complainant" in completing a complaint report. To ensure the prompt and thorough investigation of a sexual harassment complaint, the complainant should provide as much of the following information as possible:
 - D. The name, department, and position of the employee(s) or person(s) allegedly causing the harassment;

- E. An accurate description of the offensive behavior or misconduct, including the date(s), location(s), and the names of witnesses;
- F. The alleged affect of the offensive behavior or misconduct on the complainant. If his or her position, salary, benefits, promotional opportunities, or other terms or conditions of employment are or have been affected;
- G. The name(s) of other employee(s) who may have been subjected to the same or similar harassment;
- H. The steps the complainant has taken to try to stop the harassment; and how he or she would like offensive behavior to be addressed; and
- I. Any other information the complainant believes to be relevant to the harassment complaint.

10.4.2 INVESTIGATION

- A. The Human Resource Representative and County Manager, or when applicable, the County Clerk shall be responsible for ensuring that a confidential and impartial investigation begins within ten (10) working days after a complaint has been filed. The County shall complete its investigation within thirty (30) working days.
- B. In all cases, the investigation will be conducted by two investigators, consisting of a combination of the Human Resource Representative, County Manager, County Clerk or a Law Enforcement Representative. There shall be two representatives present during all interviews with the complainant, respondent, and witnesses so that information obtained during the interviews can be corroborated.
- C. The investigators shall contact the respondent and give him/her a copy of the complaint and solicit the respondent's account of the alleged incidents. The investigator shall inform the respondent that a report will be prepared at the close of the investigation, and shall advise the respondent of his or her right to be represented by legal counsel.
- D. Confidentiality shall be maintained throughout the investigatory process by the county, respondent, and the complainant, to the extent practical and appropriate under circumstances.
- E. The Colfax County Manager shall inform the Colfax County Attorney of alleged harassment and shall maintain contact with the County Attorney throughout the investigation process.
- F. All interviews with the complainant, respondent and witnesses shall be recorded, if possible.
- G. The accused employee and the accusing employee may be placed on administrative leave with pay during the investigation.

10.4.3. INVESTIGATION PROCESS – EMPLOYEE

- A. In investigating a report or complaint of sexual harassment, the county shall consider the suggestions and requests of the complainant, but shall investigate the matter independently as it sees fit, keeping the complainant informed of the status of the investigation as the county deems appropriate. Steps to be taken in the investigation shall be determined based upon the particular facts and circumstances of any given complaint, and may include but are not limited to the following:
 - B. Confirm the name and position of the complainant and respondent.
 - C. Gather as many relevant facts as possible in a non-judgmental manner about the alleged harassment.
 - D. If a pattern of alleged harassment is uncovered; determine the frequency and type of alleged harassment and, if possible, the dates and locations where the alleged harassment occurred and investigate whether other employee(s) may have been allegedly harassed by the respondent.
 - E. Determine if there are witnesses who observed the alleged harassment and interview any witnesses.
 - F. Ask the complainant how he or she responded to the alleged harassment.
 - G. Determine whether the complainant informed or consulted with anyone else about the alleged harassment, and if so, with whom and what was the outcome.
 - H. Develop a thorough understanding of the relationship, degree of control and amount of interaction between the respondent and the complainant.
 - I. Determine whether the respondent has made or carried out any threats or promises directed at the complainant.
 - J. Review the complainant's recommended corrective action suggestion with him or her to better understand what action he or she would like the county to take to satisfactorily address his or her concerns to resolved the alleged harassment.
 - K. When first interviewing the respondent, remind him/her of the County's policy against retaliation for making complaint of sexual harassment.

10.4.4 INVESTIGATION PROCESS – NON EMPLOYEE

Although the County's ability to discipline a non-employee harasser is limited by the degree of control, if any, the County shall investigate allegations of sexual harassment raised by its employees that has occurred while the employee is on County related business or during normal working hours. The County will take appropriate action under the circumstances, to include, but not limited to contacting local law enforcement.

10.4.5 INVESTIGATION REPORT

- A. The Human Resource Representative and County Manager or County Clerk shall prepare a written report immediately following the completion of the investigation. The report shall include:
 - B. A summary of the complaint.
 - C. A summary of the respondent's response.
 - D. A summary of the statements and evidence obtained during the investigation.
 - E. A finding of whether a violation of this policy occurred and an explanation supporting the finding. If a violation occurred, the finding must include a statement about the severity of the violation. Policy violations can include prohibited sexual harassment as well as a reckless, false or frivolous filing or filing a complaint without grounds of a sexual harassment complaint.
 - F. A summary of any prior settlements or substantiated complaints against the respondent.
 - G. An appendix containing the complaint, statements of the complainant and the respondent, witness statements, and other tangible evidence obtained during the investigation.

10.4.6 RESOLUTION OF COMPLAINT

If the complaint is substantiated, the respondent shall be subject to appropriate disciplinary action as determined by policy. The complainant shall be informed of the disciplinary action taken. If the County determines that no sexual harassment occurred or if its findings are inconclusive, such finding shall be communicated to the complainant and the respondent. A written report shall be reviewed by both parties, and acknowledged. The report will be included in the employee's personnel file.

SECTION 11: CODE OF ETHICS AND CONDUCT

11.1 Overview

This policy describes the code of ethics and conduct expected of all Colfax County employees, elected officials, and department heads. It is general and not intended to be all-inclusive. All employees of Colfax County are required to read this policy and are expected to abide by it.

11.2 Policy

Colfax County is committed to being an ethical and responsible steward of public funds and trust. In order to ensure the highest standards of ethics, honesty, governance, and integrity are maintained, Colfax County has adopted this Code of Ethics and Conduct Policy.

It is the policy of Colfax County that all employees, elected officials, and department heads, shall abide by and comply with the Code of Ethics and Conduct.

11.3 Applicable Laws

The conduct and ethical based decision making of the representatives of the County, including the elected officials, department heads, and its employees are to be in compliance with the laws of the State of New Mexico and regulations relating to the County.

Any elected official, department head, or employee involved in court or other similar proceedings arising out of his/her employment with, or service to, the County is expected to abide by the rules, cooperate with the orders of, and not in any way commit perjury or obstruction of justice. All County representatives must comply with all applicable laws that relate to the conduct of government in the State of New Mexico.

11.4 Moral and Ethical Standards

All County representatives and employees are expected to adhere to sound moral and ethical standards. Advantages of principal-based ethics can increase trust. Trust leads to increased commitment in professional relationships; increased cooperation; reduced uncertainty (and associated costs); reduced conflict and likelihood of leaving the relationship. Examples of behaviors for building trusts are:

- | | |
|---------------------------|-------------------------|
| - Listen First | - Extend Trust |
| - Demonstrate Respect | - Be straightforward in |
| - Clarify Expectations | Communications |
| - Keep Commitments | - Deliver Results |
| - Create Transparency | - Right your Wrongs |
| - Practice Accountability | - Show Loyalty |
| - Confront Reality | - Get Better |

Through sound principal-based ethics and practices in the decision making process, the County can fortify its reputation and improve its working relationships more effectively, and be more likely to avoid lawsuits or complaints that cost time, money and energy. Examples of ethical principles to follow are:

- Tell the truth/avoid deception
- Avoid conflicts of interest
- Be impartial
- Treat others justly
- Maintain your integrity
- Respect the rights of others
- Continually improve your abilities
- Share your knowledge, expertise, and values

- Be transparent/disclose information that others ought to know
- Take responsibility for your actions and those of your subordinates

11.5 Timeliness

All employees are expected to carry out their assigned duties in a timely manner.

11.6 Loyalty

All employees, elected officials, and department heads have a duty of loyalty to the County and the people of Colfax County. Employees shall not take personal advantage of any opportunity that might produce personal gain due to their position the Colfax County.

11.7 Kickbacks and Gratuities

The County considers it to be unethical and illegal for any employee to accept or offer payment, gift, gratuity, or employment to or from citizens, vendors, contractors, or government officials as an inducement for preferential treatment. All offers for kickback(s) and gratuity(s) shall be report to the Department Head or Elected Official, County Manager, Board of Commission or a law enforcement agency.

11.8 Conflicts of Interest

- A. The best interests of the County are expected to be foremost in the minds of the County's employees, elected officials, and department heads as they perform their duties. No employee shall be, potentially be, or appear to be, subject to influences, interests, or relationships with conflict with the best interests of the County.
- B. Employees, without prior approval of the Board of County Commission, may not serve as an officer, director, manager, employee, or agent of any company or organization which may appear to cause a conflict of interest.
- C. Employees shall not engage in outside interests that divert time and attention from properly attending to County affairs.
- D. The County does not make loans to or guarantee obligations of any employee or other person, organization, or company.
- E. Members of the Colfax County Board of Commissioners shall disclose any actual or apparent conflicts of interest and shall recuse him/her from voting on any matter in which a conflict of interest may exist.

11.9 Generally Accepted Accounting Principles (GAAP)

Generally Accepted Accounting Principles are accounting principles that are considered to have substantial authoritative support. Pronouncements made by the Financial Accounting Standards Board (FASB) are considered GAAP. More information about GAAP and FASB can be found at <http://www.fasb.org>. All County records are to be in compliance with Generally Accepted Accounting Principles.

Employees are expected to maintain accurate and reliable governmental records that comply with GAAP, GASB, and County policies and procedures.

The Colfax County Board of Commissioners, County Manager, County Treasurer, and all others involved in financial control and accounting have specific legal obligations to ensure the County provides full, fair, accurate, timely, and understandable financial reports and internal controls.

11.10 Improper Influence on Conduct of Audits

No Elected Official, Department Head, employee, or any other person acting under the direction thereof, shall take any action to fraudulently influence, coerce, manipulate, or mislead any independent public or certified accountant engage in the performance of an audit of the financial statements of the County for the purpose of rendering such financial statements materially misleading. Examples of such behavior include, but are not limited to:

- Offering or paying bribes or other financial incentives, including offering future employment or contacts for non-audit services;
- Providing an auditor with an inaccurate or misleading legal analysis;
- Threatening to cancel or canceling existing non-audit or audit engagements if the auditor objects to the county's accounting;
- Blackmailing and making physical threats.

11.11 Safety and the Environment

The County is committed to full compliance with all safety and environmental laws and regulations. All employees are expected to comply with these laws, regulations and County policies.

11.12 Employee Privacy

Subject to the requirements of the New Mexico Inspection of Public Records Act the County is committed to protecting the privacy of its employees. This includes employee data maintained by the County. Employee data will primarily be used to support county operations, provide employees benefits, and comply with laws and regulations. The County and all employees are expected to comply with all data protections laws, regulations, and County policies pertaining to confidentiality.

11.13 Compliance Procedures

Reporting may be anonymous. No employee will be subject to retaliation, discrimination, or other adverse treatment for reporting known or suspected violations of this and other policies and procedure.

Colfax County discloses this Code of Ethics and Conduct on its website in addition to all other filing requirements.

SECTION 12: USE OF COUNTY VEHICLES

12.1 Definitions applicable to use of county vehicles

12.1.1 Authorized Driver

- A. A county employee from any department holding a valid New Mexico driver's license, or an approved out of state driver's license, and an approved defensive driving certificate may be permitted to use a county vehicle in furtherance of official county business. A valid New Mexico driver's license or an approved out of state driver's license **does not** include provisional, limited, restricted or administrative permits. For those candidates employed full-time, part-time or temporarily with Colfax County that live out-of-state the following process is required.
- B. Once gainfully employed by the county, the out-of-state employee must provide a copy of his driving record to the Human Resource Representative on an annual basis to assure employee's driver's license is in good standing. Any person gainfully employed within the boundaries of the state of New Mexico for a period of thirty days or more within a sixty-day period shall be presumed to be a resident of this state. Therefore, any county employee previously living out-of-state who is gainfully employed by Colfax County and resides within the State of New Mexico for more than thirty (30) days must have a valid drivers' license from the state of New Mexico and a **current approved defensive driving certificate prior to** operating county vehicle.

12.1.2 Authorized Passenger

- A. An authorized passenger is an individual who is permitted to occupy a county vehicle in furtherance of official county business, including a person who has received prior authorization from the county manager to occupy a county vehicle, or a person who is transported as where the transport is a part of the daily operations of the department. Non-employees on county business include, but are not limited to: consultants, architects, attorneys, engineers, etc.
- B. Family members, visitors, non-county employees that are not conducting county business are not permitted to travel in a county vehicle.
- C. Only authorized passengers may occupy a county vehicle. A person who is not a county employee must obtain authorization from the County Manager before occupying a county vehicle. Failure to comply may result in suspension of driving privileges.
- D. The county manager may suspend or revoke the authorized driver privileges of any county employee who permits a person who is not an authorized driver to operate a county vehicle or who transports, or permits the transportation of a person who is not an authorized passenger. In addition, such county employee

may be held personally liable to the extent permitted by law for any liability for personal injury, death or property damage arising out of the unauthorized use or occupancy of the county vehicle.

- E. Nothing in this section shall be construed to prohibit the use or occupancy of a county vehicle's to render emergency aid or assistance to any person.

12.1.3 Required Documents in County Vehicles

All authorized County drivers shall ensure that current copies of the following documents are kept in the glove compartment of all county vehicles:

- A. **Accident reports.** These are forms and instructions that are included in the packet on how auto accidents in county vehicles are to be dealt with by the authorized driver.
- B. **Emergency repair forms.** Written instructions and procedures for emergency repairs of mechanical breakdowns during and after normal business hours.
- C. **Financial responsibility document.** Each county vehicle shall have the county's official proof of insurance in the glove compartment.
- D. **Vehicle maintenance manual.**
- E. **Vehicle registration.** This is the official proof of vehicle ownership and registration document issued by the county motor vehicle division. This document shall remain with the vehicle until ownership is transferred or the vehicle is sold.

12.1.4 Defensive Driving Course

- A. **Defensive driving course.** It is the responsibility of the county to incorporate all State of New Mexico requirements into the defensive driving curriculum. All on-line courses are required to be reviewed and permission to utilize these courses must be obtained from the State of New Mexico **PRIOR** to commencing use.
- B. **Driver certification required.** Four or six hour certificates are valid for four years. All authorized drivers of county vehicles must have a current approved defensive driving certificate in their possession while driving a county vehicle. Colfax County requires employees who seek to operate a county vehicle to provide proof of current certification. New employees must successfully take and pass the prescribed defensive driving class with a grade of 80% or better to become an authorized driver. If the new employee provides proof of certification within two years previous to the date of employment, at the discretion of the county manager, the employee may operate a county vehicle. Renewal of certificate will be required on or before expiration date stated on certificate.
- C. If the county employee's certification has expired, the employee shall be required to successfully complete a re-certification class taught by an approved instructor.
- D. **Driver re-certification.** Each county employee is required to take the defensive driving refresher course every four years. If the county employee cannot provide

proof of taking an authorized defensive driving certification course, the employee must take the defensive driving course.

E. **List of certified county employees.** The county shall maintain a list of certified county employees employed by the county, including a current copy of the employee's valid NM drivers' license.

F. **Lost certificates.** If a county employee loses his or her defensive driving certificate, the county will request a replacement certificate from the issuing instructor or agency. The employee shall be responsible for the cost of the replacement certificate.

12.1.5 Traffic Laws and Operator Conduct

- A. Authorized drivers shall obey all applicable traffic laws while operating a county vehicle.
- B. Authorized drivers must exercise appropriate caution and prudence while operating a county vehicle.
- C. Authorized drivers shall not engage in discourteous behavior or inappropriate conduct while operating a county vehicle.
- D. Authorized drivers shall not use county vehicles for inappropriate or illegal activities including personal use.
- E. Authorized drivers shall only utilize a cell phone while safely parked with the engine turned off. At no time will the authorized driver be allowed to text or type on any other device(s) such as a smartphone or laptop computer while driving. At no time is reading from any electronic device or paper source permissible while operating a county vehicle.
- F. Authorized drivers shall minimize distractions while operating county vehicles.
- G. Authorized drivers shall operate county vehicles at or below posted speed limits.
- H. An authorized driver who receives a traffic citation or parking ticket while using a county vehicle must notify immediately notify their supervisor, Department Head, or Elected Official who then notify the County Manager. This process will ensure that the employee will promptly clear the citation or ticket.
- I. The driver shall be personally responsible for any costs (cost of ticket, late fees, court fees or administrative fees) associated with the citation or ticket.
- J. Authorized drivers involved in a traffic accident while operating a county vehicle who are found at fault are required to immediately register for an approved certification class.
- K. County employees shall carpool to meetings and conferences whenever feasible.

12.1.6 Suspension of County Vehicle Operator Privileges

- A. The county manager shall automatically suspend a county employee's authorization to operate a county vehicle if the county employee's New Mexico

driver's license or an approved out of state driver's license is expired, revoked, or suspended.

- B. To determine that county authorized drivers have a valid driver's license, the Human Resource Clerk shall at random review the driving record of county authorized drivers. The county manager will review the status of the driving record of any county authorized driver upon receipt of any request for waiver, constituent complaint, traffic citation, parking ticket, accident, police report, or vehicle abuse.
- C. The county manager shall review all complaints of alleged fraud, waste, and abuse involving county vehicles, and shall forward them to the Human Resource Representative, and to the appropriate county Elected Official or Department Head.
- D. The county manager may suspend or revoke driving privileges of an authorized driver for failure to comply with any provision of this policy.

12.2 REPORTING REQUIREMENTS

12.2.1 Alcohol, Controlled Substance, Drug, and Tobacco Use Prohibited

- A. No authorized driver shall operate a county vehicle while under the influence of intoxicating alcohol, controlled substances, or drugs, nor shall an authorized driver transport an individual who has consumed alcohol, controlled substances, or drugs. County law enforcement officers can transport individuals who have consumed alcohol, controlled substances, or drugs as part of their duties.
- B. No authorized driver shall operate a county vehicle when he or she is impaired by a legal drug that renders him or her incapable of operating a motor vehicle in a safe and responsible manner.
- C. No authorized driver or passenger shall smoke or use smokeless tobacco products of any type in any county vehicle.
- D. The driving privileges of an authorized driver that is convicted of a DUI citation while operating a county vehicle are immediately and permanently revoked.
- E. It is the sole responsibility of the county employee to report all current convictions of driving while intoxicated to their immediate supervisor. Failure to comply with this section shall cause immediate revocation of their driving privileges of county vehicles.
- F. The county authorized driver privileges shall be suspended while the employee goes through the DUI court and administrative process. If convicted, the authorized driver's county vehicle driving privileges shall be revoked. If not convicted, the employee shall notify the county manager in writing requesting that driving privileges be reinstated along with evidence of the dismissal of charges. The county manager will review the request and provide to the employee a decision regarding reinstatement of driving privileges.

G. Revocation of county vehicle driving privileges for a DUI conviction extends to the utilization of the employee's personal vehicle if it is to be used to conduct county business.

12.2.2 Weapons and Pets Prohibited

- A. No authorized driver or passenger shall possess a weapon while operating a county motor vehicle unless the authorized driver or passenger is a certified law enforcement officer. This includes individuals with concealed weapons licenses.
- B. No pets are allowed at any time in county vehicles.

12.2.3 Seat Belt Use

- A. All authorized drivers and passengers of county vehicles shall wear seat belts.
- B. Violation of this law may result in loss of county authorized driver privileges.

12.2.4 Use of Fuel Credit Cards

- A. All county departments and authorized drivers are required to use the contracted fuel credit card for authorized purchases.
- B. The County shall assign a single fuel credit card to each authorized driver.
- C. The Credit card shall be kept with the driver.
- D. If a problem is encountered at the time of purchase, the driver should contact assistant county manager for help.
- E. Lost, damaged, or stolen credit cards must be reported to the Assistant county manager within one working day of the discovery. Card will be suspended and a new card ordered at that time.
- F. A personal identification number (PIN) shall be assigned to each authorized driver.
- G. Authorized drivers shall not share the PIN with anyone else or let someone else use the PIN.
- H. The Assistant county manager is responsible for terminating personal identification numbers for employees who are no longer with the county.
- I. Under no circumstance shall county fuel credit cards be used for personal vehicles, even if using a personal vehicle to conduct county business.
- J. The fuel credit card may be used for road-side service, or emergency service or repairs not to exceed \$250 per occurrence.
- K. Misuse of county vehicle fuel credit cards will result in disciplinary actions, including dismissal, and may result in criminal action by the county.

12.2.5 Care and Maintenance

- A. County authorized drivers are responsible for assuring that county vehicles in their care are parked in secure areas minimizing exposure to vandalism, damage, destruction, wreckage, defacement or harm. After multiple occurrences of

vandalism, damage, destruction, wreckage, defacement or harm occur, the county may suspend use of the county vehicle by any authorized driver.

- B. The Assistant County Manager or designee must ensure that the subscribed manufacturer's preventive maintenance service is done on all county vehicles at regular mileage, or time intervals, in accordance with the manufacturer's specifications.
- C. Authorized drivers are responsible for the cleanliness of county vehicles inside and out while in their use.

12.2.6 Emergency Repairs and Mechanical Breakdown

- A. An authorized driver shall immediately take steps to correct any mechanical or operating problem that occurs while a county vehicle is in operation. An authorized driver shall, in no case, continue to operate a county vehicle if continued operation could endanger any person or property. Furthermore, the authorized driver is responsible for immediately notifying the Assistant County Manager of any unsafe vehicle condition.

12.2.7 Accidents and Accident Reporting

- A. An authorized driver involved in an accident shall file a police accident report for any auto accident in a county vehicle within 24 hours or the next business day regardless of the severity of the accident. The police report and automobile loss notice are required with or without property damage, bodily injury, whether the authorized driver is at fault or not.
- B. If the authorized driver did not file a police report, the Assistant County Manager must complete the automobile loss notice and include the authorized driver's name and driver's license number, and any witnesses, written and notarized affidavit(s) describing the accident in detail, with distribution of the documents to the County Manager and the drivers' Department Head or Elected Official.
- C. If the authorized driver is found to be at fault, the driver will be temporarily suspended and is required to take an approved driver certification course.
- D. The risk coordinator will maintain accident reports and filing insurance claims for all county vehicles.

12.2.8 Inclement Weather Use

- A. No employee will be expected to travel if they feel unsafe due to inclement weather. The employee should inform their supervisor and request that the trip be delayed until the inclement weather hazard has been cleared.

SECTION 13: DRESS CODE

13.1 PERSONAL APPEARANCE

- A. Due to the nature of our business, as public service employees and representatives of Colfax County, appropriate standards of appearance and image are required to gain the acceptance and respect of County residents and members of the public. Dress, grooming, personal cleanliness, and professional behavioral standards contribute to the professional image employees present to the public and Colfax County constituents.

13.1.1 Guidelines

- A. Due to the nature of business in public service, it is expected that Colfax County employees will present themselves in a professional and appropriate manner.
- B. Employees may dress according to the requirements of their position; however, employees should keep their day's schedule in mind. As a general rule, when meeting with constituents, government agencies, or outside visitors, traditional business attire should always be worn. Any exception should be approved by your immediate supervisor.
- C. All employees should judge their business attire for meetings and contacts outside of the office by the type of function they will be attending.
- D. Professional appearance and attire is important to Colfax County. However, the County respects individual preferences in dress and appearance and is confident that employees will use their best judgment in following the dress and attire guidelines.

13.1.2 Inappropriate Attire or Appearance

- A. Any clothing item displaying an offensive comment or graphic illustration.
- B. Dirty, ragged, or sexually provocative, revealing, or see-through clothing or appearance.
- C. Personal cleanliness that results in noticeable body odor or inordinate fragrance from perfumes, cologne, body-wash, etc.
- D. If an employee is unclear about the dress and personal appearance guidelines, they are encouraged to consult with their Department Head, Elected Official, or the County Manager.
- E. If an employee reports to work in questionable attire or appearance, he or she will be sent home and directed to return to work in proper attire. Under such circumstances, any work time lost will be unpaid or charged against annual leave.
- F. Any violation of this policy will not be permitted. Employees who appear for work inappropriately dressed or groomed may be subject to discipline.

SECTION 14: WEAPONS IN THE WORKPLACE

14.1 WEAPONS IN THE WORKPLACE

Possession of firearms or other weapons are prohibited except by sworn law enforcement officers on Colfax County property, or any other place while on duty. NMSA 1978, Section 29-19-11 provides that a concealed permit is not valid in a courthouse or court facility; to include the Leon-Karilitz Judicial Center and by virtue of the Probate Judge's Office the Colfax County Building is deemed a courthouse.

Employees of the Vigil-Maldonado Detention Center are not permitted to carry weapons, small knives or tools on the detention center premises.

Colfax County Ordinance 2004-2 is hereby repealed. Adopted in open meeting this 14th day of April, 2015.

COLFAX COUNTY BOARD OF COMMISSIONERS

William E. Sauble

WILLIAM E. SAUBLE, CHAIRMAN

James L. Newton

JAMES L. NEWTON, VICE-CHAIRMAN

R. P. Fernandez

ROY P. FERNANDEZ, MEMBER

ATTEST:

Freda L. Baca

FREDA L. BACA, CLERK OF THE BOARD



Appendix A

Employee Acknowledgement

Each County Elected Official, Department Head, appointee, employee, contract employee, temporary employee, volunteer or independent contractor subject to the control and authority of Colfax County shall be provided a copy of the Colfax County Personnel Manual to include the Sexual Harassment Policy. The above-referenced individuals shall read and become familiar with these policies and shall receive training on the policies, and shall acknowledge such by signing the following acknowledgement:

I, _____ acknowledge that I have received a copy of the Colfax County Personnel Manual to include the Sexual Harassment Policy. I further acknowledge that I have received training on these policies I have been advised to read the policies and become familiar with its content. I have been provided with the name(s) of the employee(s) designated by the County to answer questions about the policy.

Signature of H.R. Representative

Printed Name of H.R. Representative

Date

Signature of Employee

Printed Name of Employee

Date