



**MARTIN COUNTY PERSONNEL POLICY  
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INTRODUCTION

The Martin County Board of Commissioners has adopted the following personnel policy to govern the appointment, promotion, demotion, dismissal, and conditions of employment of the employees of the County of Martin.

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## **EMPLOYEE-EMPLOYER RELATIONS**

A critical component of employment with the County is the relationship among employees and the citizens of the County. Because employees are paid with tax dollars, it is important to provide high level of services to the citizens.

**Appearance:** The image of the County is directly related to the employees of the County and the way in which they conduct and present themselves. All employees are expected to dress at all times in an acceptable and professional manner. Uniforms, if required, are to be maintained and worn properly.

**Courtesy:** When performing duties, there are often times when employees will come in contact with citizens. It is essential that citizens and fellow employees always be treated with respect and courtesy. Whether writing a letter, answering the phone, collecting trash, or investigating an accident, prompt, friendly service is expected. County government is judged by the actions of its employees.

**Employee Participation in State and National Associations:** The Martin County Board of Commissioners supports the efforts of those Department Heads and employees working with and holding office in national and state professional associations and organizations. County employees are encouraged to accept these appointments and to work within the various organizations in leadership capacities.

**Equal Employment Opportunity:** It is the policy of the County of Martin to foster, maintain, and promote equal employment opportunity. The County shall recruit and select employees based on the applicant's qualifications and without regard to age, sex, race, color, creed, religion, national origin, disability, or other non-work related reasons. The County of Martin complies with the Americans with Disabilities Act Standards in regard to employment.

**Gifts and Favors:** Employees are not permitted to accept any gift, favor, or anything of value which may tend to or be perceived to influence them in the discharge of their duties.

**Promptness:** Your supervisor or department head will explain your individual work schedule. It is required that employees be on time for work and work schedules be followed by each employee.

**Safety:** The County of Martin provides a safe and healthy working place for employees in accordance with the Occupational Safety and Health Act (OSHA). Each employee is expected to display a positive attitude toward safety and injury prevention by following the safety rules for the work performed. Each employee shall report all accidents and unsafe conditions to his/her immediate supervisor, whether or not employee injury is involved. The department head must report the injury to the appropriate person as soon as possible but not later than three days from the date of the accident or injury.

**Visitation During Work Hours:** Visitation by fellow county employees, friends, relatives, etc., is discouraged. Visitation should be done at times other than working hours.  
(Amended 3-10-99)

# **ARTICLE I**

## **COVERAGE**

- A. All employees of the County of Martin shall be subject to this policy except as provided below:
1. Elected Officials
  2. Martin County Attorney
- B. The following employees shall be covered as specified below:
1. Employees governed by the State Personnel Act shall be subject to all Articles except Article XV, Reduction in Force. They are subject to Section 2, Appeal Procedures for Competitive Service Employees of the Martin County Department of Social Services.
  2. Employees of the North Carolina Cooperative Extension Service are subject to the following:
    - a. Article III – Nondiscrimination Policy
    - b. Article IV – Conditions of Employment, Section 1
    - c. Article V – Other Employee Benefits
    - d. Article VI – Holidays
    - e. Policies established by the Memorandum of Understanding between the Martin County Board of Commissioners and N. C. State University.
  3. The Director of the County board of Elections is subject to all Articles except:
    - a. Article XVII – County Disciplinary Policy, Sections 1, 2, 3 and 5.
  4. Temporary employees shall be subject to the following Articles:
    - a. Article I – Coverage
    - b. Article II – Definitions of Terms
    - c. Article III – Nondiscrimination Policy
    - d. Article IV – Conditions of Employment
    - e. Article XIX – Temporary Employees
    - f. Article XXII – Workers’ Compensation Leave
  5. Employees supervised by a Department Head who is an elected official, the Register of Deeds, or the Sheriff, are subject to the Articles of this Personnel Policy except Article XVII – County Disciplinary Policy.

## ARTICLE II

### DEFINITIONS OF TERMS

- a. Active Employment Status: At work or on sick, annual, workers' compensation, military, administrative or civil leave.
- b. Appointing Authority: Any board or position with legal or delegated authority to make hiring decisions.
- c. Competitive Service Employee: An employee subject to the State Personnel Act.
- d. Exempt Employee: An employee in a position determined by the County Manager, in accordance with the Fair Labor Standards Act (FLSA), to be exempt from the provisions under this act governing overtime pay and/or compensatory time.
- e. Full-time Employee: An employee, either permanent or temporary, who is regularly scheduled to work the number of hours per work week or work period designated by the Martin County Board of Commissioners as full-time.
- f. Part-time Employee: An employee, either permanent or temporary, who is regularly scheduled less than the number of hours per work week or work period designated by the Martin County Board of Commissioners as full-time.
- g. Permanent Employee: A person appointed to serve in a position for an indefinite duration and who has served a probationary period.
- h. Probationary Employee: An employee appointed to a permanent position who has not completed a required evaluation.
- i. Temporary Employee: A person appointed to serve in a position for a definite duration (up to 12 months), or is enrolled as an employee under any special program or grant funded project for a definite duration.
- j. Trainee Appointment: An employee status when one is initially employed on an established work experience and salary progression leading to a set of minimum qualifications for a permanent job classification. During the entire duration of a trainee appointment, the employee is on probationary status.



## **ARTICLE III**

### **NONDISCRIMINATION POLICY**

The Martin County Board of Commissioners has established that equal employment opportunity is County policy. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of the County personnel policy is hereby prohibited. Discrimination on the basis of age, sex or non-disqualifying disability is prohibited except where specific age, sex or physical requirements constitute a bona fide occupational qualification necessary for job performance.

## **ARTICLE IV**

### **CONDITIONS OF EMPLOYMENT**

#### **Section 1: Work Week/Work Period**

The established work week for non-exempt employees, other than law enforcement, shall be a time span of seven consecutive twenty-four hour periods. The established work week is Saturday through Friday except for the following departments:

Monday through Sunday	-Cooperative Extension Service -Landfill -Clerks in the Sheriff's Department
Sunday through Saturday	-Communications Department

The established work period for law enforcement officers shall be a twenty-eight consecutive day time span.

The established work hours shall be from 8:00 a.m. until 5:00 p.m. with one hour for lunch, with the exception of law enforcement officers, communications employees, and construction and demolition (landfill) employees. (Amended 3-10-99)

The Martin County Board of Commissioners approved the following amendment to the work week/work period to allow the employees to work a forty hour, four day work week where possible within the following guidelines: (Adopted & Amended 7-09-08 & 10-08-08)

- Every department will continue to be open to the public 8-5, Monday through Friday or whatever current schedule they are presently open to the public.
- Any department that is able to participate will have supervisory level employees working the hours employees are present.
- If a holiday falls within a particular week, in units where a workday greater than eight hours has been established, all hours above 8 shall be charged to vacation leave to equalize holiday benefits (does not apply to law enforcement).

## **Section 2: Overtime Work, Overtime Pay, Compensatory Time & Holiday Pay**

In keeping with the provisions of the Fair Labor Standards Act, each Department Head shall have the responsibility of controlling overtime in each department. Overtime is neither desired nor expected on a regular basis. However, during peak periods when overtime becomes necessary, it should be distributed as equally as possible among qualified employees in the same classification and department in compliance with Article III of this policy.

- A. Overtime work for non-exempt employees other than law enforcement shall be for work which exceeds 40 hours in a seven day work week.

Overtime work for non-exempt law enforcement employees shall be that work which exceeds 171 hours in a 28 day work period.

- B. Department Heads shall arrange the work schedules of their employees so as to accomplish the required work within the standard work day.
- C. Sick leave, annual leave, compensatory time, leave without pay, or holidays do not count when computing hours worked in a particular work week or work period. However, in order not to penalize anyone for taking leave, an exception will be allowed for covered non-exempt law enforcement personnel whose work period is 28 days. Overtime may be claimed for hours worked over 131 when 5 days of leave are taken during the work period; over 139 hours when 4 days of leave are taken; over 147 hours when 3 days of leave are taken; over 155 hours when 2 days of leave are taken, and over 163 hours when 1 day of leave is taken. (Amended 3-10-99 & 8-10-2011)

For law enforcement personnel whose work period is 28 days and whose normal work day is 12 hours, overtime may be claimed for hours worked over 111 when 5 days of leave are taken; over 123 hours when 4 days of leave are taken; over 135 hours when 3 days of leave are taken; over 147 hours when 2 days of leave are taken; and over 159 hours when 1 day of leave is taken. (Amended 3-10-99)

When possible hours should be taken off during the work period for any additional hours worked that may cause overtime. (Amended 3-10-99)

- D. All employees must have Department Head approval prior to working overtime and overtime worked shall be recorded and turned in to the respective Department Head.
- E. Employees required to work overtime in Communications or the Sheriff's Department will be compensated with either overtime pay which will be 1.5 times the regular rate of pay for each overtime hour worked or compensatory time off which will be 1.5 hours for every overtime hour worked. Which method is used will be up to the discretion of the department head. If overtime compensation is

paid the FLSA requires that overtime compensation owed for any particular work week be paid on the regular payday for the period in which that work weekends.

Employees required to work overtime in other departments will be compensated with compensatory time off which will be 1.5 hours off for every overtime hour worked. It shall be taken at the discretion of the Department Head and must be approved. Compensatory time shall be exhausted before taking annual leave. The County will cash out any comp time balances of more than 240 hours. In addition, the County may cash out employees' compensatory time periodically at any time during the employee's tenure with the County. If the employment is terminated, an employee must be compensated fully for all unused compensatory time.

- F. Employees in Communications or the Sheriff's Department who are required to and do work holidays will be compensated by receiving additional pay, calculated at the rate of 1.5 times the regular rate of pay, for the hours worked on the holiday, or by receiving compensatory time off which will be 1.5 hours for every hour worked on the holiday. Because of budgetary implications this will be at the discretion of the department head. (Amended 12-7-00)

Employees in other County departments who are required to and do work holidays will be compensated by receiving compensatory time off at the rate of 1.5 hours for every hour worked on the holiday. If an occasion arises that the department head deems it necessary to compensate the employee with additional pay rather than compensatory time off, the County Manager has the authority to grant such a request. (Approved 12-7-00)

The employee does not have to work over 40 hours, or 171 hours in the case of law enforcement, to receive the additional pay of time off for holidays worked. (This is not required by FLSA but will be provided by the County.) Appropriate documentation needs to be turned in to the Finance Office. (Amended 12-7-00)

- G. Employees whose regular scheduled day off falls on a holiday will be compensated by receiving additional pay calculated at the regular rate of pay for the hours in their normal workday. (Amended 3-10-99)

### **Section 2.1: Shift Trading/Substitution**

- A. When an employee works additional hours in a work week or work period beyond the regularly scheduled hours, as a substitute for another employee, those additional hours of work are treated as having been worked by the employee originally scheduled to perform the work (not by the employee who actually performed the work).
- B. Several restrictions apply to shift trading.

1. Employees who trade shifts must voluntarily agree to the trade. It cannot be initiated or mandated by the employer.
2. The employer must approve the trade.
3. The trade must be between two employees who have the same type of job.

### **Section 3: Gifts and Favors**

- A. No official or employee of the County of Martin shall accept any gift, service, loan, promise, favor or thing of value that may tend to influence that employee in the discharge of duties.
- B. No official or employee shall grant in the discharge of duties any personal favor, service or thing of value.

### **Section 4: Political Activity Restricted**

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States of America. However, no employee shall:

- A. Engage in any political or partisan activity while on duty.
- B. Use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.
- C. Be required as a duty of employment or as a condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes.
- D. Coerce or compel contributions for political or partisan purposes by another employee of the County.
- E. Use any supplies or equipment of the County for political or partisan purposes.
- F. An employee shall not post, nor cause or allow to be posted, signs, notices, or other materials related to any national, state, or local political party or candidate in or on property owned, leased, or used by the County of Martin in the conduct of its official business.
- G. An employee shall not wear or display badges, buttons, or other items or emblems related to national, state, or local political party or candidate while on duty or

during any period of time during which the employee is performing services for the County of Martin.

Competitive service employees and employees in certain federally-aided programs are subject to the Hatch Act as amended and D above, also prohibits candidacy for elective office in a partisan election.

Any violation of this section shall subject such employee to dismissal or other disciplinary action.

**Section 5: Outside Employment**

The work of the County will take precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission, and all self-employment must be reported to the employee's Department Head. Outside employment must be approved in advance, in writing. Outside employment not in compliance with the above will be grounds for disciplinary action up to and including dismissal.

**Section 6: Limitation on Employment of Relatives**

- A. Members of an immediate family shall not be employed at the same time if such employment would result in an employee directly or indirectly supervising a member of the immediate family.
- B. This policy shall not be retroactive, and no action will be taken concerning those members of the same family employed in conflict with (a) above prior to adoption of this policy.
- C. Immediate family is defined for the purpose of this section as spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.
- D. The Martin County Board of Commissioners shall approve the appointment by the Sheriff or Register of Deeds of a relative by blood or marriage of nearer kinship than first cousin as required by Chapter 153A-103 (1) of the North Carolina General Statutes.

**Section 7: Notification of and Approval of Absence from Work**

Any employee absent from work three (3) days without giving proper notification to the Department Head and having such request for absence approved, will be subject to dismissal.

**Section 8: Use of County Property**

The County of Martin provides the furnishings in each employee's office. There may be times when an employee is out of the office that another employee will have to be in that office in order to carry on the business of the County.

### **Section 9: Computer and Internet Policy**

All communications services and equipment, including the messages transmitted or stored by them, are the sole property of the County of Martin. **The County may access and monitor employee communications and files as it considers appropriate.** You should have no expectations of privacy with respect to e-mail and/or personal records stored on company equipment. Communications equipment and services include, but are not limited to, mail, electronic mail (e-mail), courier services, facsimiles, telephone systems, personal computers, computer networks, on-line services, Internet connections, computer files, video equipment and tapes, tape recorders and recordings, pagers, cellular phones, and bulletin boards.

The County of Martin uses e-mail and telephone mail to improve the efficiencies of business communications. Both the e-mail and voice systems are the property of the County and are intended solely for carrying out County business. The County views all messages on the system as business messages and not as a personal or confidential message of the employee.

The County of Martin reserves the right, without prior notice to the employee and for any reason, in its discretion, to enter the e-mail or voice mail system and review, copy or delete any message sent to or by any employee and to disclose such messages to others. No employee, however, is permitted to enter the e-mail or voice mail system of a co-worker without the prior written permission of the co-worker or the County Manager.

All e-mail and voice mail users must keep their messages businesslike and refrain from using the system for gossip, jokes and personal messages. Keeping in mind the rules set forth above, you are expected to use good judgment and common sense when sending or receiving messages by e-mail or voice mail. Failure to adhere to this policy will result in discipline, up to and including discharge from employment.

On-line services and the Internet may be accessed only by employees specifically authorized by the County. Your on-line use should be limited to work-related activities. In addition, you should not duplicate or download from the Internet or from e-mail any software or materials that are copyrighted, patented, trademarked, or otherwise identified as intellectual property without express permission from the owner of the material. When appropriate Internet material or e-mail files are downloaded, they should be scanned using anti-virus software.

Improper use of County communications services and equipment will result in discipline, up to and including termination. Improper use includes any misuse as described in this policy as well as any harassing, offensive, demeaning, insulting, defaming, intimidating, or sexually suggestive written, recorded, or electronically transmitted messages.

(Adopted 8-8-01; Amended 12-07-00)

## **Section 10. Residency Requirements**

- A. Any person hired or promoted following adoption of this policy into the position of Department Head or any newly created Department Head level position must be or become a resident of the geographic limits of the County except the County Manager may **temporarily** waive this requirement as determined by the Board of Commissioners.
- B. All persons employed by the County in positions requiring on-call duty or emergency call duty must reside within 50 miles of their duty station.

(Adopted 09-08-04)

## **ARTICLE V**

### **OTHER EMPLOYEE BENEFITS**

For purposes of Article V, Sections 1 (Hospitalization) and 2 (Hospitalization – Post-Retirement Benefits), an employee can use accrued leave to satisfy the length of service requirements necessary to qualify for the Post-Retirement Hospitalization Benefit afforded to employees who began their employment prior to September 1, 2011. For example, if an employee had 29 years and 6 months of creditable service and retired early using accrued leave, that employee would qualify for the Post-Retirement Hospitalization Benefit that required 30 years of creditable service. For purposes of Article V, Sections 9 (Longevity Pay), an employee cannot use accrued leave to satisfy the length of service requirements necessary to qualify for longevity pay.

### **Section 1: Hospitalization**

The County of Martin provides group hospitalization coverage for all permanent full-time employees and for all permanent part-time employees who qualify for the N.C. Local Governmental Employees' Retirement System, and serving county commissioners. They can choose to have monthly premiums withheld from their paychecks as payroll deductions to provide this insurance coverage for a child or for family coverage.

Effective September 1, 2011, retiree health care benefits will not be provided to Martin County full-time and permanent part-time employees hired after August 31, 2011. This change does not affect employees hired before September 1, 2011 or retirees for whom retiree medical coverage remains in place according to the following criteria: (Amended -07-13-11 by the Martin County Board of Commissioners)

For employees hired prior to September 1, 2011, the County of Martin provides hospitalization and Medicare Supplement coverage for its retirees under one of the following conditions:

- A. To all employees, excluding full-time law enforcement officers, hired prior to September 1, 2011:
  - 1. At any age with 30 years or more of creditable service with the N.C. Local Governmental Employees' Retirement System and with at least the last 10 years of that time being with the County of Martin (while under age 65, hospitalization; at 65 and older; Medicare supplement).
  - 2. At age 60 with 25 years of creditable service with the N.C. Local Governmental Employees' Retirement System and with at least the last 10 years of that time being with the County of Martin (60-65: hospitalization; at 65 and older: Medicare supplement).
  - 3. At age 65 with 20 years of creditable service with the N.C. Local Governmental Employees' Retirement System and with at least the last 10 years of that time being with the County of Martin (Medicare supplement).
  
- B. For full-time law enforcement officers hired prior to September 1, 2011:
  - 1. At age 55 with 20 years of creditable service with the N.C. Local Governmental Employees' Retirement System with at least the last 10 years of that time being with the County of Martin (55-65: hospitalization; at 65 and older: Medicare supplement).
  - 2. At any age with 30 years or more of creditable service with the N.C. Local Governmental Employees' Retirement System and with at least the last 10 years of that time being with the county of Martin (while under age 65: hospitalization; at 65 and older: Medicare supplement).

**Section 2: Hospitalization – Post-Retirement Benefits**

Effective September 1, 2011, post-retirement health care benefits will not be provided to Martin County full-time and permanent part-time employees hired after August 31, 2011. (Amended 7-13-11 by the Martin County Board of Commissioners)

- A. For all employees (excluding County Commissioners) hired prior to September 1, 2011, the County of Martin offers hospitalization, through its group coverage, or Medicare supplement coverage (if over age 65) to its retirees who retire with either reduced benefits or service retirement, under any one of the following conditions, or through a Medical Advantage, Part C Coverage (if retired, under age 65 and on a non-job-related disability and requested by the retiree) to its retirees who retire with (Amended 9-12-18):
  - 1. 30 years or more of creditable service with the NC Local Governmental Employees' Retirement System and at least the last 10 years of that time have been with the County of Martin



2. 20 years or more of creditable service with the NC Local Governmental Employees' Retirement System and at least the last 20 years of that time have been with the County of Martin.

For all employees hired prior to September 1, 2011, excluding County Commissioners, you are eligible for coverage by paying fifty percent (50%) of the premium if you:

3. Have 20 years or more of creditable service with the NC Local Governmental Employees' Retirement System and at least the last 10 years have been with the County of Martin
4. Are at least age 65 and have 15 years or more of creditable service with the NC Local Governmental Employees' Retirement System and at least the last 15 years have been with the County of Martin. (This coverage would be Medicare Supplement.)

If you were first hired prior to July 1, 1998, and are not a full-time law enforcement officer, you are eligible for coverage if you:

5. Are at least age 60 with 25 years of creditable service with the NC Local Governmental Employees' Retirement System and at least the last 10 years of that time have been with the County of Martin, or
6. Are at least age 65 with 20 years of creditable service with the NC Local Governmental Employees' Retirement System and at least the last 10 years of that time have been with the County of Martin. (This coverage would be Medicare Supplement.)

(With either of these two conditions the contributory rate will be at the same level as is provided for an active permanent employee.)

If you are a full-time law enforcement officer and were hired prior to July 1, 1998, you are also eligible for coverage:

7. If you are age 55 with at least 20 years of creditable service with the NC Local Governmental Employees' Retirement System and at least the last 10 years of that time have been with the County of Martin.

B. For all employees hired prior to September 1, 2011, the County of Martin offers hospitalization through its group coverage to employees retiring with a job related disability. The amount of premium paid by the employee is determined by the years of service to Martin County.

1. Employees with up to 10 years of service with Martin County, the County will pay 50% of the premium, as would be paid for an active permanent employee, or 50% of a Medicare supplement.

2. Employees with greater than 10 years and less than 15 years of service with Martin County, the County will pay 66% of the premium, as would be paid for an active permanent employee, or 66% of a Medicare supplement.
  3. Employees with greater than 15 years and less than 20 years of service with Martin County, the county will pay 75% of the premium, as would be paid for an active permanent employee, or 75% of a Medicare supplement.
  4. Employees with 20 years or more of service to Martin County would be covered under Article V, Section 2 of the Employee Handbook.
  5. The effective date is July 1, 2005. (Adopted by the Martin County Board of Commissioners on 10-12-05.)
- D. For all County Commissioners elected prior to September 1, 2011, the County of Martin offers hospitalization coverage either through the County's group hospitalization or Medicare Supplement. The amount of premium paid by the Commissioner is determined by the years of service as an active County Commissioner to Martin County.
1. Commissioners with 10 years and less than 16 years of active service with Martin County, the County will pay 66% of the premium, as would be paid for an active permanent employee, or 66% of a Medicare supplement.
  2. Commissioners with 16 years and less than 20 years of active service with Martin County, the county will pay 75% of the premium, as would be paid for an active permanent employee, or 75% of a Medicare supplement.
  3. Commissioners with 20 years or more of active service with Martin County, the County will pay 100% of the premium or 100% of a Medicare supplement.

(Approved 3-10-99 by the Board of Commissioners to be effective retroactive to October 1, 1998.) (Section C. Amended 12-6-04, 2-24-05, 02-9-11, 07-13-11 & 09-07-11.)

### **Section 3: Unemployment Insurance**

In accordance with public Law 94-566 and Chapter 1124 of the Session Laws of 1977 of the North Carolina General Assembly, local governments were covered by unemployment insurance effective January 1, 1978. County employees who are laid off or released from the County service may apply for unemployment compensation through the local office of the Employment Security Commission who will determine the employee's eligibility for this benefit.

#### **Section 4: Social Security and Medicare Coverage**

The County, to the extent of its lawful authority and power, has extended social security benefits for its eligible employees.

#### **Section 5: Retirement Benefits**

The County provides a retirement program for its permanent employees through the N.C. Local Governmental Employees' Retirement System. All permanent employees (including those serving probationary periods but not including temporary employees) are required to participate in this retirement system.

#### **Section 6: Group Term Life Insurance**

The County provides group term life insurance coverage for each eligible employee.

#### **Section 7: Participation in the Employee Flexible Benefit Plan**

All permanent County employees are eligible to participate or decline participation in this plan. It combines a Section 125 "cafeteria" plan, allowing employees to have eligible benefit payroll deductions withheld before taxes are withheld, with a Section 457 retirement savings plan. Tax savings resulting from the Section 125 "cafeteria" plan can be invested into the Section 457 retirement savings plan (into both a tax sheltered annuity and universal life insurance, or a tax sheltered annuity only) or they can be included in the employee's paycheck. Enrollment and changes will be made in accordance with Internal Revenue Service (IRS) regulations.

#### **Section 8: Payroll Deductions**

The Martin County Board of Commissioners has authorized these types of voluntary payroll deductions:

- A. Cancer, disability, accident and intensive care insurance.
- B. Group term life and group dependent term life insurance.
- C. Universal life insurance and tax-deferred annuity.
- D. Others as approved (e.g., Credit Union allotments, United Way, U.S. Savings Bonds).

Only payroll deductions specifically mandated or authorized by federal and state act or authorized by the County Board of Commissioners may be deducted at each pay period from an employee's pay. To obtain a list of approved companies, contact the Finance Office.

**Section 9: Longevity Pay**

Longevity Pay is a means by which the County of Martin recognizes the long-term service of eligible full and part-time permanent employees who have completed five (5) years or more of continuous County of Martin service.

- A. To be eligible, an employee must be participating in the N.C. Local Governmental Employees' Retirement System and in an active employment status for 1,040 hours or more per year.
- B. Years of continuous County of Martin service are calculated by subtracting the calendar year of the employee's most recent date of employment from the current calendar year.

For Example: Jane Doe began working for the County of Martin on March 1, 1980, and it is currently calendar year 1995. Her years of continuous County service are equal to calendar year 1995 minus calendar year 1980, or 15 years. Longevity pay to be paid to Ms. Doe in December 1995 will be \$500.00.

When, through no action of the individual, that individual's employer changes to the County of Martin because that individual's organization, department, or agency is now under the County of Martin, that individual shall be eligible for longevity pay as if the date of employment had been with the County of Martin. All other eligibility requirements must still be met.

- C. Effective upon the date of approval by the Martin County Board of Commissioners, employees who have met all other requirements for longevity pay and either retire or their employment is terminated as a result of reduction in workforce shall receive a final longevity payment of 1/12 of the earned longevity for each full month of service following January 1<sup>st</sup>. (Amended 9/1/10 by the Martin County Board of Commissioners)

Longevity pay is given during the month of December at the following rates based on the eligibility requirements and the applicable years of continuous County of Martin service to full-time employees:

<u>Years of Continuous County of Martin Service</u>	<u>Longevity Pay</u>
Five (5) through nine (9) years	\$300.00
Ten (10) through fourteen (14) years	\$400.00
Fifteen (15) through nineteen (19) years	\$500.00
Twenty (20) or more years	\$600.00

Twenty-five (25) through twenty-nine (29) years \$700.00

Thirty (30) years or more \$800.00

(Amended by the Martin County Board of Commissioners 07-30-07 with adoption of budget)

Eligible permanent part-time employees' longevity pay shall be based upon the percentage of time worked.

The Martin County Board of Commissioners reserves the right to make changes to this section.

## ARTICLE VI

### HOLIDAYS

The following days and such other days as the Board of Commissioners may designate are holidays with pay for employees and elected officials of the County working the basic work week:

New Year's Day	Labor Day
Dr. Martin Luther King's Birthday (3 <sup>rd</sup> Monday in Jan)	Veterans Day
Good Friday	Thanksgiving Day
Memorial Day	Day After Thanksgiving
Independence Day	Christmas – Two (2) or Three (3) Days – See Below

When a holiday other than Christmas Day falls on a Saturday, Friday shall be observed as a holiday. When a holiday other than Christmas Day falls on a Sunday, Monday shall be observed as a holiday.

#### When Christmas Day Falls On:

Sunday  
Monday  
Tuesday  
Wednesday  
Thursday  
Friday  
Saturday

#### The County Observes:

Friday and Monday  
Monday and Tuesday  
Monday, Tuesday, Wednesday  
Tuesday, Wednesday, Thursday  
Wednesday, Thursday, Friday  
Thursday and Friday  
Friday and Monday

The County Board of Commissioners reserves the right to make administrative changes.

Regular holidays which occur during annual, sick, or other paid leave period shall not be charged as leave.

Employees who are required to and do work holidays will be compensated by receiving additional pay, calculated at the rate of 1.5 times the regular rate of pay, for the hours worked on the holiday. (This is not required by FLSA but will be provided by the County.) The employee does not have to work over 40 hours or 171 hours in the case of law enforcement to receive the additional pay. Appropriate documentation needs to be turned in for the next scheduled pay day.

For permanent part-time employees, when a County holiday falls on a day they do not work, they are not entitled to a work day off for the holiday.

## **ARTICLE VII**

### **ANNUAL LEAVE**

#### **Section 1: Annual Leave Earned**

A full-time probationary or permanent employee earns annual leave. The rate earned is based on the employee's length of County of Martin service. Annual leave shall be computed at the following rates:

<b>Service With County</b>	<b>Hrs. Earned Each Month</b>	<b>Hrs. Earned in One Year</b>
Less than 2 years	7.75	93
2 but less than 5	9.25	111
5 but less than 10	11.25	135
10 but less than 15	13.25	159
15 but less than 20	15.25	183
20 years or more	17.25	207

Exception: Probationary and permanent part-time employees with at least half-time status shall earn annual leave on a pro-rata basis. The leave shall be computed as a percentage of the total amount earned by a full-time employee with commensurate years of County of Martin service.

FOR EXAMPLE: A permanent part-time employee with two years of County of Martin service who is scheduled to work twenty (20) hours per work week would earn fifty percent (50%) of 9.25 hours per month, or 4.625 hours of annual leave per month.

Length of service shall be counted as of date the employee begins work for the County of Martin and for which the employee received a County of Martin paycheck. Employees may not transfer service time from other employers, with the exception of department heads.

### **Section 2: Maximum Accumulation**

Annual leave shall be cumulative throughout a calendar year; however, the maximum accumulation of annual leave that can be carried forward into the next calendar year is 240 hours.

### **Section 3: Manner of Taking**

Annual leave may be taken as earned by a permanent employee subject to the approval of the Department Head at such times when it will least interfere with the efficient operation of the office. The employee shall complete a REQUEST FOR LEAVE (MC Form PL15) and submit it for approval.

Annual leave may be used for sick leave purposes after sick leave has been exhausted.

Before using annual leave, bonus leave and comp time (in that order) are to be exhausted.

Annual leave may be taken in units of no less than 15 minutes. Only scheduled work days shall be charged in calculating the amount of leave taken.

Department Heads will notify the County Manager when taking annual leave.

### **Section 4: Terminal Pay of Annual Leave**

An employee who is separated from the County of Martin shall be paid for annual leave accumulated to the date of separation, not to exceed a maximum of 240 hours.

The estate of an employee who dies while employed by the County of Martin shall be entitled to payment for all the accumulated annual leave, up to the 240 hours maximum, credited to the employee's account.

### **Section 5: Advancement**

There will be no advancement of annual leave.

### **Section 6: Ending County of Martin Employment**

If an individual's employment with the County of Martin ends for any reason and that person should later re-enter into employment with the County, their previous years of service shall not be counted for purposes of leave accrual. For example, if an employee with 5 years of service quit his job, worked elsewhere for 1 year, and then re-entered County of Martin employment,

his time in service for purposes of leave accrual would be considered to be “Less than 2 years” after the break in County of Martin employment. The employee would earn 7.75 hours of annual leave per month.

### **Section 7: Recovery of Leave Balances**

If an employee leaves employment with the County of Martin, that employee may receive credit for previously earned leave balances if they return to employment with the County within 5 years.

## **ARTICLE VIII**

### **SICK LEAVE**

Sick leave with pay is not a right which an employee may demand but a privilege granted by the Martin County Board of Commissioners for the benefit of an employee or immediate family. Immediate family includes spouse, parents, legal guardians, or children (including step relationships).

### **Section 1: Sick Leave Earned**

A full-time employee shall earn sick leave at the rate of 8 hours per month. Permanent part-time employees earn sick leave on a pro-rata basis in relation to the amount of time worked compared to a full-time employee. To qualify for leave, the employee must work a minimum of 20 hours per week.

A full-time employee who is in an active employment status at least 75% of the scheduled work hours in a month will earn 8 hours of sick leave for that month.

A full-time employee who is in a active employment status for 50% or more (but less than 75%) of the scheduled work hours in a month will earn 4 hours of sick leave for that month.

A full-time employee who is in an active employment status for less than 50% of the scheduled work hours in a month will not earn sick leave for that month.

### **Section 2: Accumulation**

Sick leave is cumulative for an indefinite period. Under present regulations of the N.C. Local Governmental Employees’ Retirement System, unused sick leave adds to retirement length of service, with certain conditions and limitations.

### **Section 3: Conversion of Excess Annual Leave to Sick Leave**

In accordance with Article VII, Annual Leave, Section 2 Maximum Accumulation, any County of Martin employee with accrued annual leave in excess of 240 hours at the end of the



calendar year shall have this leave converted to sick leave, effective January 1<sup>st</sup>. This converted sick leave shall be used in the same manner as accrued sick leave and may be used for authorized sick leave purposes. And, like regular sick leave, any unused converted sick leave may be counted toward creditable service at retirement.

#### **Section 4: Advancement**

There will be no advancement of sick leave.

#### **Section 5: Use of Sick Leave**

Sick leave may be granted for illness, bodily injury, required medical or dental examinations or treatments, or exposure to a contagious disease when continuing to work might jeopardize the health of others, or quarantine of an employee or a member of the employee's immediate family.

Sick leave may be allowed for maternity/paternity leave.

Before using sick leave, employees must exhaust bonus leave, comp time, and holiday pay (in that order). (Amended 4-8-15)

Sick leave may be taken in units of no less than one-half hour. Notification of the desire to take sick leave should be submitted to the Department Head prior to the leave or no later than one-half hour after the beginning of a scheduled workday.

Employees in the Communications Department must give their supervisor notice of desire to take sick leave two (2) hours before the beginning of their assigned shift so that a replacement employee can be contacted for that shift.

The employee shall complete a REQUEST FOR LEAVE (MC Form PL15) and submit it for approval. In cases where an employee notifies the Department Head by telephone of the desire to take sick leave, the Department Head will fill out the REQUEST FOR LEAVE (MC Form PL 15) to reflect the employee's request, and will cite the date and time of their phone conversation on the form.

#### **Section 6: Verification of Sick Leave**

A statement may be required from a medical doctor or other acceptable proof that the employee was unable to report to work so that there will be no abuse of sick leave privileges. Abuse of sick leave may result in disciplinary action up to and including termination of employment.

#### **Section 7: Transfer of Sick Leave**

Employees transferring within the County of Martin system will transfer all sick leave credit. Employees transferring from another governmental unit, participating in the North Carolina Retirement System, shall be permitted to transfer all sick leave credit. Certification of sick leave credit is required from the prior governmental unit.

**Section 8: Separation**

Sick leave is not allowable in any terminal leave payments when an employee is separated from service.

**Section 9: Voluntary Shared Leave**

1. Purpose

The purpose of voluntary shared leave is to provide economic relief for employees who are likely to suffer financial hardship because of a prolonged absence or frequent short-term absences caused by a serious medical condition.

2. Eligibility

Only permanent employees with at least 1 year of County of Martin service, who have exhausted all accumulated paid leave (sick leave and annual leave, if applicable) and compensatory time are eligible to receive donated leave.

The County Manager shall approve or deny all requests for receipt of donated leave.

3. Application for Voluntary Shared Leave

An employee who, due to a serious medical condition of self or his or her immediate family, faces prolonged or frequent absences from work may apply to their Department Head for donated leave. Application may also be made by a third person acting on the employee's behalf if the employee is unable to make application. The application will be reviewed and forwarded by the Department Head to the County Manager, with his or her recommendation. The County Manager will then decide whether to approve or deny the application. If approved, then the application will be forwarded to the Finance office for processing.

Immediate family as defined for receipt of Voluntary Shared Leave includes only the employee's

1. Spouse
2. Children
3. Parents
4. Dependents living in the employee's household

Also included are the step relationships.

An employee may make application for shared leave at such time as medical evidence is available to support the need for leave beyond the employee's available accumulated leave.

The following items must be included in the application:

- A doctor's statement, and
- An authorization for release of medical information signed by the person who is suffering the medical condition (or parent or guardian of a minor). This release may also be signed by any legally authorized party.

The applicant's need for voluntary shared leave hours will be made known through system-wide communications by the Finance Office. Only general information will be supplied about the applicant's condition. A Leave Donation form must be submitted to the Finance Office to adjust the leave balance of the donating employee and the recipient.

#### 4. Donation of Leave

- (a) Annual Leave: Any eligible employee of the County of Martin may donate annual leave to any approved employee. There is no provision for county employees to donate to, or receive sick leave from, employees or family members in State agencies, institutions, community colleges, technical institutes, or positions covered by the State Personnel Act in county agencies of mental health.

A donating employee may not donate more annual leave than he or she could earn in one year. Additionally, the amount donated must not reduce the donor's annual leave balance below one-half of what that person can earn in the calendar year.

- (b) All leave donations must be to a designated employee approved by the County Manager for receipt of donated leave and may not be made to a pool or bank.
- (c) All donations must be in writing and must be signed by the donating employee. The employee receiving the leave must be named and the amount of leave donated must be specified.
- (d) All leave donated will be credited to the recipient's sick leave account.
- (e) The minimum amount of leave donated is 4 hours.
- (f) The donating employee may not receive compensation in any form for the donation of leave. Acceptance of remuneration for donated leave will result in dismissal.
- (g) Leave sharing shall only be considered for extreme hardship or catastrophic situations.
- (h) An employee may not file a grievance or an employee appeal if their request to receive leave or donate leave is denied. The County Manager will render a final decision based upon the merits and circumstances of each request.

- (i) Any donation of leave must be done strictly on a voluntary basis. Solicitation is not permitted.
- (j) The employee receiving donated time will be given information on the amount of time donated, but will not receive information such as the names of donating employees. Leave time will be donated to the employee anonymously.
- (k) The employee must be in a leave earning position.
- (l) The employee must have exhausted all annual leave, sick leave, and compensatory time at the time the request for donated leave is made.
- (m) Leave sharing shall not be available to employees who are receiving Worker's Compensation.
- (n) The employee must need and request a minimum of 80 hours of voluntary shared leave hours.

5. Length of Leave

The maximum amount of Voluntary Shared Leave Hours that a person could receive is 520 hours per 12-month period. The employee who is donating the Voluntary Shared Leave Hours must have been employed by the County of Martin for at least a year before they are eligible to donate any of their earned annual leave time. The employee who made application & is trying to receive the donated Voluntary Shared Leave Hours must have been employed by the County of Martin for at least a year before they are eligible to make application and receive any Voluntary Shared Leave Hours. The Voluntary Shared Leave hours would run concurrently with the Federal Medical Leave Act.

6. Earning Leave While Using Voluntary Shared Leave

Holidays occurring while the employee is using donated leave will be paid. Annual and sick leave will continue to be earned by the employee when he or she is using donated leave. Available earned leave accrued during this period must be used by the employee prior to continued use of any voluntary shared leave.

7. Unused Leave

Donated leave in excess of the amount requested will be returned to donors on a pro-rata basis.

(Adopted 04-11-01)

**ARTICLE IX**

**MATERNITY/PATERNITY LEAVE**

Termination of employment because of childbirth is prohibited. Reinstatement to the same position or one of like classification, seniority and pay shall be made upon the employee's return to work. Maternity and paternity leave are treated as sick leave; they do not constitute separate leave buckets in addition to the employee's normal sick leave balance.

### **Section 1: Employee Responsibility**

An employee desiring to take a leave of absence from work for reasons caused by or contributed to by pregnancy, miscarriage, abortion, childbirth or recovery therefrom shall complete a REQUEST FOR LEAVE (MC Form PL15) stating the nature of the condition, the anticipated dates and duration of the requested leave and the types of leave requested to the Department Head for approval. The employee is obligated to return to duty by the end of the time determined appropriate. If the employee will not return to work, the Department Head shall be notified immediately. Failure to report at the expiration of a leave of absence unless an extension has been requested and approved shall be considered a resignation.

### **Section 2: Use of Maternity Leave**

Accumulated sick leave is available to employees for the period of temporary disability in the same manner as for any other temporary disability. The attending physician shall indicate in writing the period during which the employee is physically unable to work.

Leave without pay for up to six (6) calendar months is available for the time before the employee is disabled and the period of time after the disability ends. The employee may elect to use accumulated vacation leave:

1. Before going on sick leave,
2. After accumulated sick leave has been exhausted, and/or
3. After the temporary disability has ended.

If an employee is temporarily disabled as a result of a pregnancy related disability and has exhausted all accumulated sick leave or wishes to retain all accumulated sick leave and vacation leave, leave without pay may be granted under the provisions of Leave Without Pay and/or Family and Medical Leave.

### **Section 3: Paternity Leave**

Full-time or part-time permanent male employees or probationary male employees can request paternity leave for reasons caused by or contributed to a partner's pregnancy, miscarriage, abortion, childbirth or recovery therefrom or the permanent placement of a child for adoption.

Three (3) days of sick leave may be taken upon the birth of a child or the permanent placement of a child for adoption. These three (3) days must be taken during the child's first week of life or first week of permanent placement for adoption.

Additional sick leave may be granted upon verification by a doctor for a medical need of the spouse and/or child.

Family and Medical leave provisions may apply.

## **ARTICLE X**

### **FAMILY AND MEDICAL LEAVE**

On August 5, 1993, the Family and Medical Leave Act of 1993 (hereafter cited as “the FMLA”) went into effect. Public and private employers with 50 or more employees who worked at least 20 weeks a year are subject to the requirements of this legislation. Therefore, the major provisions and responsibilities identified in the FMLA which are applicable to the County of Martin and its employees are presented in this article.

#### **Section 1: Eligibility**

The FMLA’s leave benefits are mandated only for employees who have worked for the employer (i.e., County of martin) for at least 12 months and have rendered at least 1,250 hours of service during the previous 12 months.

#### **Section 2: Leave Entitlements**

- A. An eligible employee is entitled to a total of 12 weeks of unpaid leave during any 12-month period for:
  - 1. The birth of a child and to care for the child after birth, provided the leave is taken within a 12-month period following birth.
  - 2. The placement of a child with the employee for adoption or foster care, provided the leave is taken within a 12-month period following placement.
  - 3. Providing care for the employee’s spouse, child or parent when such spouse, child or parent has a serious health condition.
  - 4. A serious health condition that makes the employee unable to perform the functions of the position.
- B. The 12-month period used to determine the employee’s unpaid leave eligibility is not based on a calendar year or fiscal year, but on the 12 months immediately preceding the employee’s notification to the Department Head, as discussed in employee’s responsibility.
- C. If both husband and wife work for the same employer, they are limited by the FMLA to a total of 12 weeks of leave between them within a 12-month period.

D. Leave without pay (LWOP) beyond the 12-week period or employees not covered under FMLA will be administered under Leave Without Pay.

E. Definitions of terms in Section “2A” include:

1. PARENT: a biological or adoptive parent or an individual who stood in loco parentis (a person who is in the position or place of a parent) to an employee when the employee was a child.
2. CHILD: a son or daughter
  - a. a biological child
  - b. an adopted child
  - c. a foster child – a child for whom the employee performs the duties of a parent as if it were his child
  - d. a step-child – a child of the employee’s spouse
  - e. a legal ward – a minor child placed by the court under the care of a guardian
  - f. a child of an employee standing in loco parentis
3. SPOUSE: a husband or wife
4. SERIOUS HEALTH CONDITION: an illness, injury, impairment, or physical or mental condition that involves either inpatient care in a hospital, hospice, or residential medical care facility, or that involves continuing treatment by a health care provider. Written medical documentation is required.

### **Section 3: Leave Charges**

- A. For the birth of a child, the employee may choose\* to exhaust available annual and/or sick leave, or any portion, or go on leave without pay; except that sick leave may be used only during the period of disability. This applies to both parents.
- B. For the adoption of a child, the parents may choose\* to exhaust available annual leave, or any portion, or go on leave without pay.
- C. For the serious health condition of the employee or his child, spouse or parent, the employee may choose\* to exhaust his available sick and/or annual leave, or any portion, or go on leave without pay.

\* Up to the maximum of 12 weeks in a 12-month period under FMLA; request for additional leave greater than this amount of time would be subject to (as applicable): Annual Leave, Sick Leave or Leave Without Pay.

#### **Section 4: Employee Responsibility**

The employee shall complete a REQUEST FOR LEAVE (MC Form PL15) to the Department Head for FMLA leave requested under this policy as follows:

- A. Birth or Adoption – The employee shall give his supervisor no less than 30 days’ notice, in writing, of the intention to take leave, subject to the actual date of the birth or adoption. If the date of the birth or adoption requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.
- B. Planned Medical Treatment – When the employee needs leave to care for the employee’s child, spouse or parent or because the employee has a serious health condition, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt operations, subject to the approval of the employee’s health care provider or the health care provider of the employee’s spouse, child or parent. The employee must also give 30 days’ notice if practicable of the intention to take leave.
- C. If the employee will not return to work after the period of leave, the Department Head should be notified in writing immediately. Failure to report at the expiration of the leave, unless an extension has already been requested, may be considered as a resignation.

#### **Section 5: Certification**

For leave pursuant to this policy, the Department Head shall require that a claim for leave because of adoption be supported by reasonable proof of adoption.

The employee’s Department Head shall require that a claim for leave because of a serious health condition of the employee or the employee’s child, spouse, or parent be supported by a doctor’s certification which includes the following:

- A. The date on which the serious health condition began.
- B. The probable duration of the condition.
- C. The appropriate medical facts regarding the condition.
- D. A statement that the leave is needed to care for the child, spouse, or parent, and an estimate of the amount of time that is needed; or that the employee is unable to perform the functions of the position, whichever applies.



- E. Where certification is necessary for intermittent leave for planned medical treatment, the dates on which the treatment is expected to be given and the duration of the treatment.
- F. The Department Head shall require the employee to furnish medical certification that he is ABLE to resume work.

Where the Department Head has reason to doubt the validity of the certification, he may require the employee to get the opinion of a second doctor designated or approved by the County. Where the second opinion differs from the opinion in the original certification provided, the Department Head may require the employee to get the opinion of a third doctor designated or approved jointly by the employer and the employee. The third opinion is final and is binding on the County and the employee. The Department Head may require that the employee get subsequent re-certifications on a reasonable basis. The second and third certifications and the re-certifications must be at the County's expense.

### **Section 6: Employment and Benefits Protection**

- A. Reinstatement: The employee shall be reinstated to the same position held when the leave began or one of like pay grade, pay, benefits, and other conditions of employment. The Department Head shall require the employee to report, at reasonable intervals, to the department on the employee's status and intention to return to work. The Department Head shall also require that the employee receive certification that the employee is able to return to work.
- B. Benefits: The employee shall be reinstated without loss of benefits accrued when the leave began. All benefits accrue during any period of paid leave; however, no benefits will be accrued during any period of LWOP.
- C. Group Health Insurance Coverage: Section 104(a) of the FMLA specifies this employee right, and requires the employer to maintain coverage for the employee under any group health plan for the duration of the leave and under the conditions coverage would have been provided if the employee was in active pay status.
  - 1. The employee continues to be responsible for any co-payments of premiums for parent-child coverage, family coverage, etc.
  - 2. The employer shall recover the premium paid for maintaining coverage for the employee, if applicable, under such group health plan during any period of unpaid leave if –
    - a. The employee fails to return to work for at least 30 calendar days after an approved leave of absence; or
    - b. The employee fails to return to work for a reason other than -

- The continuation, recurrence, or onset of a serious health condition that entitles the employee to leave.

- Other circumstances beyond the employee's control.

3. When LWOP is taken beyond the 12 week FMLA entitlement, employees must pay the monthly health insurance premium in order to remain on the County's group policy without a break or lapse in health insurance coverage.

### **Section 7: Interference with Rights**

- A. Actions Prohibited: Under the FMLA, it is unlawful to interfere with, restrain, or deny any right provided by this policy or to discharge or in any other manner discriminate against an employee for opposing any practice made unlawful by this policy.
- B. Protected Activity: It is unlawful to discharge or in any other manner discriminate against any employee because the employee does any of the following:
  1. Files any civil action, or institutes or causes to be instituted any civil proceeding under or related to this policy.
  2. Gives, or is about to give, any information in connection with any inquiry or proceeding relating to connection with any inquiry or proceeding relating to any right provided by this policy.
  3. Testifies, or is about to testify, in any inquiry or proceeding relating to any right provided under this policy.

### **Section 8: Enforcement**

A violation of or denial of leave requested pursuant to the Family and Medical Leave Act of 1993 is not a contested case and creates no right of grievance or appeal under the State Personnel Act or the County of Martin Appeals Procedures. Violations can result in any of the following and are enforced by the U.S. Secretary of Labor:

1. U.S. Department of Labor investigation, or
2. Civil liability with the imposition of court cost and attorney's fees, or
3. Administrative action by the U.S. Department of Labor.

For further information, please see the Family and Medical Leave Act of 1993.

## **ARTICLE XI**

### **LEAVE WITHOUT PAY**

A permanent employee may be granted an extended leave of absence without pay (LWOP) for up to six (6) months by the appointing authority. The leave shall be used for reasons of personal or family disability, continuation of education or special work that will permit the County of Martin to benefit by the education or experience gained. FMLA shall apply for a qualifying event.

For all LWOP other than FMLA leave, the employee shall apply in writing to the appointing authority for leave. The employee is obligated to return to duty within or at the time determined appropriate by the appointing authority. Upon return to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time the leave was granted or to one of like classification, seniority, and pay. If employee decides not to return to work, the Department Head should be notified immediately. The Department Head shall report this decision to the appointing authority. Failure to report for work at the expiration of a leave of absence, unless an extension has been requested and granted, shall be considered resignation.

## **ARTICLE XII**

### **MILITARY LEAVE**

Permanent employees who are members of the National Guard or Armed Forces Reserve will be allowed ten (10) work days military training leave annually with partial compensation. If the compensation received while on military leave is less than the salary that would have been earned during this same period as a County of Martin employee, the employee shall receive partial compensation equal to the difference in the base salary earned as a reservist or a guardsman and the salary that would have been earned during this same period as a County employee. The effect will be to maintain the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the County during this period. Permanent employees who are guardsmen and reservists have all job rights specified in the Veterans Readjustment Assistance Act.

## **ARTICLE XIII**

### **ADMINISTRATIVE / DISASTER / FUNERAL LEAVE**

#### **Section 1: Administrative Leave**

**Administrative leave** is the amount of time not worked during a normal work day that is not charged as annual or sick leave and is not a holiday. Some examples of when administrative leave would be used are: power outages for an extended time, bomb threats, fire alarms, Christmas parade, extra time given after Christmas luncheon and inclement weather. Disaster leave is discussed on the next page.

**In the case of an emergency**, such as power outages or bomb threats, only those employees who are affected by the event will be granted the leave. Other employees are expected to work. An employee who would be affected if he/she was at work but is on either annual or sick leave, **cannot** subtract the time of administrative leave from the annual (or sick) leave. An employee who had the day off due to a flex-time schedule on a day when administrative leave was implemented is not eligible to use administrative leave for that day. No employees in areas that were not affected will be given additional time off or additional pay.

**Planned administrative leave**, such as time off for a parade, is for all county employees. Only those departments that must remain open while the remainder of the County is closed should give their employees the additional time off at a later date or pay at the regular rate of pay. Those on leave during such time may subtract the administrative time from the other type of leave. Employees working on shifts will be entitled to the same amount of time off as other employees.

**When inclement weather conditions** make it inadvisable for employees to be at work, the County Manager, or other authorized official, may authorize administrative leave. Time off or pay at the regular rate of pay should be given to county employees that must work. Employees working on shifts will be entitled to the same amount of time as other employees. Those on leave during such time may subtract the administrative time from the other type of leave.

If adverse weather conditions exist, and administrative leave has not been authorized, employees are expected to arrive at the appointed hour to begin work. However, if an employee believes the conditions are too severe to allow he/she to arrive at work at the appointed time, he/she may call to arrange for late arrival or be excused for the day with permission of the Department Head. Such time out of work shall be charged to annual leave or deducted from salary if the employee has no annual leave.

Administrative leave due to inclement weather conditions will be announced on the county call-in number (252-789-4550), WITN-TV, WNCT-TV and radio station WIAM-900 AM.

(Amended 9-13-00)

## **Section 2: Disaster Leave**

**Disaster leave is a type of administrative leave also.** Disaster leave is granted when a disaster is expected to or has already occurred and the conditions make it inadvisable for employees to be at work. Red Cross shelters may be open in some areas of the County and the County would probably have been declared in a state of emergency. This type of leave may

occur (but is not limited to) when a hurricane has hit or is expected to hit the County. Because of the severity of disaster leave, exempt employees who work because of the disaster will be granted additional pay, at the regular rate of pay, for the additional hours worked. Non-exempt employees who work because of the disaster will be paid at the regular rate of pay for the extra hours unless the total number of hours worked for the work period causes them to go into overtime. The non-exempt employee will earn time and a half for overtime.

Employees are expected to return to work once the County has announced that the offices will reopen. Employees who are unable to return to work at the appointed time will have the time deducted from the appropriate leave or from salary if leave has been exhausted. Due to the unusual circumstances that a disaster may create, the County reserves the right to make changes and/or decisions as it deems necessary at the time.

Employees are encouraged to call the County's call-in number at 252-789-4550 or watch/listen to WITN-TV, WNCT-TV or radio station WIAM-900 AM for the latest information.

(Approved 9-13-00)

**Section 3: Funeral Leave**

An employee may be granted up to three days at full pay in case of death in the immediate family. For the purposes of this benefit, immediate family is defined as spouse, child, parents of employee or spouse, grandparent, grandchild, brother or sister, or someone living in the home or in-law or step relations of same. Additional time or time to attend funerals of other family members may be charged to vacation leave, compensatory time or leave without pay. Time may be requested and will be granted based upon needs criteria such as travel time, time needed for making arrangements, etc. (Amended 9-12-18)

**ARTICLE XIV**

**CIVIL LEAVE**

A county employee called for jury duty or as a court witness for the federal or state government, or a subdivision thereof, is entitled to a leave with pay for the period of absence required. The employee is entitled to regular compensation, plus fees received for jury duty.

**Shift Employees**

When a second shift employee serves on a jury, the employee will not be required to work on the day that jury duty occurs. When a third shift employee serves on a jury, the employee will not be required to work the third shift that begins on the day prior to the day that jury duty occurs. This applies to all employees, regardless of the length of the shift.

**ARTICLE XV**

## **TYPES OF SEPARATION**

### **Section 1: Resignation**

A minimum of two (2) week notice is expected of all permanent personnel resigning from County employment. Such notice should be given to the Department Head. In the case of a Department Head's absence, notice should be given to the County Manager.

### **Section 2: Reduction in Force**

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's past performance, organizational needs, and seniority in determining those employees to be retained. Employees who are laid off because of reduction in force shall be given at least two (2) week notice of anticipated lay-off. No permanent employee shall be separated while there are temporary employees serving in the same class in the department, unless the permanent employee is not willing to transfer to the position held by the temporary employee.

### **Section 3: Disability**

An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment. Action may be initiated by the employee or the County but in all cases it shall be supported by medical evidence as certified by a competent physician. The County of Martin may require an examination at its expense and performed by a physician of its choice. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the County of Martin's service for which the employee may be suited, or to make reasonable accommodations in the employee's job duties.

### **Section 4: Retirement**

The N.C. Local Governmental Employees' Retirement System determines the minimum age and service requirements needed for retiring with unreduced benefits. County of Martin employees can retire, under this system's regulations, after:

- A. Reaching age 65 and completing 5 years of creditable service; or
- B. Reaching age 60 and completing 25 years of creditable service; or
- C. Completing 30 years of creditable service at any age.

Full-time law enforcement officers can retire, under this system's regulations:

- A. With an unreduced service retirement benefit after:

1. Reaching age 55 and completing 5 years of creditable service. (The 5 years of credit requirement is waived if the officer became 55 on or before October 8, 1981, while in active service).
  2. Completing 30 years of creditable service at any age.
- B. With a reduced retirement benefit after reaching age 50 and completing 15 years of creditable service as an officer.

### **Section 5: Death**

All compensation due in accordance with policy will be paid to the estate of a deceased employee. The date of death shall be recorded as the separation date for computing compensation due.

## **ARTICLE XVI**

### **MEMORIAL CONTRIBUTIONS**

When an active or retired employee or an active or former Commissioner dies, an arrangement will be sent from the Martin County Board of Commissioners and Employees. If the family requests no flowers be given, a donation will be made as requested. When there is a death in the immediate family of an active employee or an active Commissioner (i.e., spouse, parent, child, brother, sister, step-parents and step-children), flowers will be sent from the Martin County Board of Commissioners and Employees. If the family requests no flowers be given, a donation will be made.

It is the responsibility of each Department Head to submit a completed REQUEST IN MEMORY OF (MC Form PL30) when a death occurs in the immediate family of someone in the department (i.e., employee, spouse, child, parent, brother, sister, retired employee, step-parents and step-children). The County Manager will complete these forms when there is a death of a former Commissioner.

The amounts for the memorial contribution should be reviewed annually during the budget process.

(Amended 02-12-97)

## **ARTICLE XVII**

### **COUNTY DISCIPLINARY POLICY**

This Policy applies to County of Martin employees who have completed the probationary period.

The basis for any disciplinary action taken in accordance with this policy falls into one of the three following categories:

- A. Discipline imposed on the basis of job performance;
- B. Discipline imposed on the basis of personal conduct.
  
- C. Discipline imposed on the basis of grossly inefficient job performance.

The job performance category is intended to be used in addressing performance-related inadequacies for which a reasonable person would expect to be notified of and allowed an opportunity to improve. Personal conduct discipline is intended to be imposed for those actions for which no reasonable person could, or should, expect to receive prior warnings.

#### **Section 1: Job Performance Discipline and Dismissal**

This category covers all types of performance-related inadequacies. This policy does not require that progressive warnings all concern the same type of unsatisfactory performance; this policy only requires that the progressive warnings all relate to job performance. Warnings administered under this policy are intended to bring about a permanent improvement in job performance; should the required improvement later deteriorate, or other inadequacies occur, the Department Head may deal with this new unsatisfactory performance at the next level of discipline.

Employees who are dismissed for unsatisfactory job performance shall receive at least three warnings:

1. One or more oral warnings.
  2. A written warning to the employee documenting all relevant points covered in the disciplinary discussion.
  3. A final written warning which notifies the employee that failure to make the required performance improvements may result in dismissal.
- A. Oral Warning: The Department Head is responsible for assuring the satisfactory performance of work assigned. When, in the judgment of the Department Head, unsatisfactory performance occurs, then use of the disciplinary process may be appropriate.



In a private discussion with the employee and a witness, the Department Head shall do the following:

1. Inform the employee that this is a warning, and not some other non-disciplinary process such as counseling;
2. Inform the employee of the specific performance deficiencies that are the basis for the warning;
3. Inform the employee what specific improvement must be made to correct the unsatisfactory performance;
4. Inform the employee what time is being allowed to make the required improvements;
5. Inform the employee of the consequences of failing to make the required improvements.

It is a recommended personnel practice to allow the employee to respond to the specific reasons for the warning. In some cases this may affect the decision on whether to discipline an employee. Department Heads must record the date and specifics of the warning for possible future use.

B. Written Warning: In a private meeting with the employee and a witness, the Department Head shall:

1. Conduct a disciplinary conference with the employee; this disciplinary conference should follow the same steps as set forth for an oral warning;
2. Inform the employee he will receive a written warning covering all significant points of this conference;
3. Prepare and send to the employee a written warning covering significant points of the disciplinary conference; care should be taken to include the specific reasons for this warning.

Reference should be made in this warning to document an earlier oral warning.

C. Final Written Warning: Before issuing the final written warning, the Department Head and the County Manager must review the contents of the warning. The following steps shall be taken in issuing a final written warning:

1. Prepare a final written warning to the employee; care should be taken to include the specific reasons for the warning; the Department Head must sign this warning.

2. In private, conduct a disciplinary conference with the employee and a witness; at this conference, the specific reason for the action, the necessary improvements and the time allowed to make improvements should be discussed.
  3. Present the warning to the employee at the end of the conference or the next day; the employee must be informed, either orally or in the warning, that failure to correct the unsatisfactory performance may result in dismissal.
- D. Dismissal: Before an employee may be dismissed on the basis of job performance, the following shall occur:
1. The Department Head recommending dismissal must discuss the recommendation with, and receive the approval of, the County Manager
  2. A pre-dismissal conference shall be held between management representative(s) and the employee. No attorneys or such other representatives for either party shall be present at this conference; a witness shall be present, and security personnel may be present if management deems it necessary. The management representative shall present the employee with the specific reasons for the proposed dismissal and a brief summary of the information which management believes supports the proposed dismissal. The employee shall have a right to respond to that notice of proposed dismissal in the conference.
  3. At the end of the pre-dismissal conference, the management representative shall determine if dismissal is justified. If, following such reconsideration, the decision is to dismiss, then no further pre-dismissal conference is required.
  4. The employee must be given written notice of the dismissal no earlier than the following business day. This written notice must include specific reasons for the dismissal and the employee's right of appeal.
  5. Upon dismissal on the basis of job performance, an employee may be given up to two week notice at the discretion of the County Manager.

## **Section 2: Personal Conduct**

Employees may be dismissed, demoted, suspended, warned or otherwise disciplined on the basis of unacceptable personal conduct. Discipline may be imposed, as a result of unacceptable conduct, up to and including dismissal without any prior warning to the employee.

Disciplinary demotions or dismissals for personal conduct require written notification to the employee. Such notification must include specific reasons for the discipline and notice of the employee's right of appeal.

Prior to dismissal of a permanent employee on the basis of personal conduct, there shall be a pre-dismissal conference between the employee and the management representative with a witness present.

### **Section 3: Grossly Inefficient Job Performance**

The County of Martin may take disciplinary action for grossly inefficient job performance when job performance is so unsatisfactory that it causes or results in death or serious injury to employees, members of the public or to persons for whom the employee has responsibility. Grossly Inefficient Job Performance also exists when job performance is so unsatisfactory that it causes or results in a serious loss of or damage to state property or fund adversely impacting the state, agency, and/or the work unit.

Cases involving Grossly Inefficient Job Performance will be handled according to the same procedures as disciplinary actions for personal conduct.

### **Section 4: Suspension**

Investigatory suspension may be used by management in appropriate circumstances. However, the following provisions shall control its use:

- A. An employee who has been suspended for investigatory reasons must be placed on compulsory leave of absence without pay. If he is later reinstated, back pay for the period of suspension shall be given.
- B. Investigatory suspension without pay may be used to provide time to investigate, establish facts, and reach a decision concerning an employee's status in those cases where it is determined the employee should not continue to work pending a decision. Investigatory suspension without pay may be appropriately used to provide time to schedule and hold a pre-dismissal conference. Also, management may elect to use investigatory suspension in order to avoid undue disruption of work or to protect the safety of persons or property.
- C. Investigatory suspension of an employee shall not be used for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.
- D. An employee who has been suspended without pay must be furnished a statement in writing setting forth the specific acts or omissions that are the reasons for suspension and the employee's appeal rights.

## **Section 5: Demotion**

Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory job performance or unacceptable personal conduct.

1. Job Performance – An employee may be demoted for unsatisfactory job performance after the employee has received at least two prior warnings on performance. At least one of the warnings prior to demotion must be in writing.
2. Personal Conduct – An employee may be demoted for unacceptable conduct without any prior warnings.
3. An employee who is demoted must receive written notice of the specific reasons for the demotion, as well as notice of the appeal rights.

Disciplinary demotions may be accomplished in several ways. The employee may be demoted to a lower classification with or without a loss in pay. Or, the employee may be reduced to a lower step in the same pay grade with a corresponding loss of pay. In no event shall an employee's pay be lowered below step one of the current pay grade, unless the employee is demoted to a lower classification.

## **Section 6: Special Provision – Credentials**

By statute, some duties assigned to positions in local government service may be performed only by persons who are duly licensed, registered or certified as required by the relevant law.

Employees in such classifications are responsible for maintaining current, valid credentials as required by law. Failure to maintain the required credentials is a basis for immediate dismissal without prior warning. An employee who is dismissed shall be given a written statement of the reason for the action and the appeal rights.

## **Section 7: Right to Appeal**

A permanent employee who has been demoted, suspended or been dismissed shall have 10 calendar days from the date of receipt of written notice of such action to file an appeal in accordance with county appeals procedures.

## **Section 8: Policy Requirements for Probationary Employees**

County employees who have not successfully completed the probationary period may be dismissed without any prior warning or notification. In such cases, the employee will be given written notice of dismissal which will include a statement providing the reason for the action. Disciplinary and counseling sessions may be conducted prior to dismissal but are not required; dismissal may be immediate.

## **ARTICLE XVIII**

### **COUNTY APPEAL PROCEDURES**

#### **Section 1: Right of Appeal**

A County of Martin employee not subject to the State Personnel Act, who has completed the probationary period and who has been demoted, reduced in pay, suspended or dismissed has the right of appeal.

#### **Step 1**

- A. The appeal must be in writing and include specific information concerning what is being appealed and reasons why the appeal is being filed.
- B. The appeal must be submitted to the County Manager within ten calendar days from the date the employee was given written notice of the action.
- C. The County Manager will consult whatever resources necessary, make a decision and notify the appellant, in writing, within ten calendar days of receipt of the written appeal. If additional time is required to reach a decision, the County Manager will advise the appellant, in writing, and notify him of the date by which a decision will be provided.

#### **Step 2**

- A. If the appellant is not satisfied with the decision of the County Manager, he may appeal to the County Commissioners.
- B. The appeal must be in writing and include specific information concerning what is being appealed and reasons why the appeal is being filed.
- C. The appeal must be submitted to the Chairman of the County Commissioners through the County Manager within ten calendar days from the date the appellant was notified of the County Manager's decision.
- D. The County Commissioners will consider the appeal at the next regularly scheduled meeting, consult whatever resources necessary, make a decision and notify the appellant, in writing, within ten days of the meeting. The appellant may appear before the Commissioners to present information on his behalf. If additional time is required to consider the appeal or to reach or provide a decision, the County Manager will advise the appellant, in writing.

## **Section 2: Appeal Procedures – Discrimination**

Any applicant for County employment, County employee or former County employee who has reason to believe that employment, promotion, training or transfer was denied him or that demotion, layoff or termination of employment was forced upon him because of his age, sex, race, color, national origin, religion, creed, political affiliation or disability status except where specific age, sex or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration shall have the right to appeal directly to the County Manager. Any employee, former employee or applicant must appeal an alleged act of discrimination within thirty (30) days of the alleged discriminatory action. The County Manager will advise the applicant, employee or former employee of his decision in writing within ten (10) calendar days after receipt of the appeal. The County Manager will advise the applicant, employee or former employee of his right of appeal to the Board of Commissioners as indicated in Step (2).

## **Section 3: Complaint Resolution Procedure**

For employee complaints regarding conditions of work which are not subject to formal appeal to the County Commissioners:

- A. The complaint will be submitted in writing to the Department Head.
- B. The Department Head will make a decision and answer the complaint in writing within five (5) calendar days.
- C. If the Department Head's decision is not satisfactory to the employee, the employee may submit the complaint in writing to the County Manager within ten (10) calendar days from the Department Head's response. The County Manager will answer the complaint in writing within fifteen (15) calendar days after it is presented to him. The decision by the County Manager with respect to complaints shall be final.
- D. The County Manager will periodically provide the County Commissioners a summary of complaints and actions taken.

## **Section 4: Appeal Procedures – County Employees Subject to the State Personnel Act**

County employees subject to the State Personnel Act shall follow appeal procedures established by their department and the State Personnel Commission. For information purposes only, departments subject to the State Personnel Act shall notify the County Manager, in writing, of any appeal that proceeds beyond the step in the procedure at which the agency director makes the decision.

## **Section 4.1: Appeals Policy for the Martin County Department of Social Services**

### **A. PURPOSE**

This policy provides appeal procedures for career status employees of Martin County Department of Social Services who have been separated due to a reduction in force, demoted, suspended, dismissed, or received a reduction in pay for disciplinary reasons. This policy also applies to employees who believe they have been discriminated against because of age, sex, race, color, national origin, religion, genetic information, political affiliation or disability.

No action involving demotion, suspension, or dismissal is to be taken against any employee for disciplinary reasons until such action has been recommended to and approved by the Department Director or his/her designee, except when, in the judgment of the Supervisor, immediate suspension is necessary.

In no case will an employee be dismissed without approval of the Director and without the furnishing of a statement, in writing, setting forth in numerical order the specific acts or omissions that are the reasons for the disciplinary action and the employee's appeal rights.

### **B. GENERAL PROCEDURE**

The procedure will consist of the following steps:

#### **STEP 1-APPEAL TO DIRECTOR**

In cases of involuntary separation due to a reduction-in-force, demotion, suspension, dismissal or discrimination, or any alleged action as described in PURPOSE above, a career status employee has the right to appeal to the Agency Director.

The appeal must be made in the form of a written request and must be received by the Director within fifteen (15) calendar days after demotion, suspension, dismissal or alleged discrimination. The request must include the action (s) being appealed, reasons the action (s) are perceived to be wrong, unfair or offensive and a proposed resolution or remedy.

Upon receipt of the appeal, the Director will make arrangements for the employee to present his/her case, if the employee so desires. The Director will issue a decision within five working days and a written copy of this decision will be furnished immediately to all parties concerned.

## **STEP 2-APPEAL TO THE OFFICE OF ADMINISTRATIVE HEARINGS**

If the employee is not satisfied with a final agency decision or is unable to obtain a final agency decision within a reasonable length of time, he/she may file a written appeal to the Office of Administrative Hearings not later than thirty (30) days after receipt of the final agency decision.

### **Procedure for Appeal of Decision**

To appeal this Final Agency Decision, a request for a contested case hearing may be made in accordance with North Carolina General Statute 150B-23 (a). In addition, a copy of the Petition and Certificate of Services form must be mailed, delivered to the registered agent for the Local Government named on the Petition as Respondent.

To file a Petition with the Office of Administrative Hearing, the following directions must be followed.

### **STEP 1-REQUESTING THE FORM**

Contact the Office of Administrative Hearing. Employee must request a Petition form be mailed or faxed or it may be obtained online at: [www.ncoah.com](http://www.ncoah.com). The Certificate of Service form and instructions are included on the bottom of the Petition form.

### **STEP 2-COMPLETING THE FORM**

Once the Petition and instructions are received, the top and bottom portions of the form must be completed.

### **STEP 3-SUBMITTING THE COPIES**

The original plus one copy of the Petition and Certificate of Services form must be received by the Office of Administrative Hearings within thirty (30) days after the final Agency Decision is received. If the Petition is not filed within this timeframe, the right to appeal may be lost.

A copy of the Petition and certificate of service must also be mailed, delivered or faxed to the registered agency of the Local Government Entity named on the Petition; failure to do so may result in the dismissal of the appeal.

### **STEP 4-FILING FEE**

The Office of Administrative Hearings charges a fee for each Petition filed. Employees must contact their office or visit their website at [www.ncoah.com](http://www.ncoah.com) to obtain information regarding the amount of filing fee and accepted forms of payment.



The Office of Administrative Hearings has 180 days to make a decision after the case has commenced. All decisions made by the Office of Administrative Hearings are final and binding regardless of the issue.

Any further appeals from the Office of Administrative Hearings may be filed with the North Carolina Court of Appeals within thirty days from the receipt of the final decision.

APPROVED BY THE MARTIN COUNTY BOARD OF COMMISSIONERS:

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CHAIR

DATE

## **ARTICLE XIX**

### **SEXUAL HARASSMENT**

#### **Section 1: Definition**

County of Martin employees and elected officials are prohibited from acts of sexual harassment. Sexual harassment is defined as deliberate or repeated comments, gestures, or physical contact of a sexual nature which are unsolicited and unwelcome. Such conduct has the purpose or effect of unreasonable interfering with an employee's work performance or creating an intimidating, hostile or offensive work environment.

#### **Section 2: Policy on Sexual Harassment for Employees**

- A. Sexual harassment is an unlawful form of sex discrimination and violates Title VII of the 1964 Civil Rights Act. Sexual harassment conducted by any County of Martin employee will not be condoned nor tolerated.
- B. The goal of the County of Martin is to foster a work environment that is free from sexual harassment. If it does occur, the individual should follow the applicable procedure so that the incident is reviewed and addressed.
- C. Incidents of sexual harassment constitute improper personal conduct. Any employee who commits sexual harassment will be subject to disciplinary action addressed in this manual.
- D. As needed, training sessions on the prevention of sexual harassment in the work place will be conducted.

#### **Section 3: Sexual Harassment Grievance Procedure for Employees**

- A. Any current or former employee of the County of Martin who is not subject to the State Personnel Act and who alleges sexual harassment may file an appeal, in writing, with the Department Head; however, if the employee is alleging sexual harassment by the Department Head, the employee may appeal, in writing, directly to the County Manager. The appellant, the Department Head, the County Manager and/or the Martin County Board of Commissioners will follow procedures and adhere to time frames as set forth in the County's Appeals Procedures.
- B. Any current or former employee of the County of Martin who is subject to the State Personnel Act and who alleges sexual harassment may file an appeal, in writing, with the agency director; however, if the employee is alleging sexual harassment by the agency director, the employee may appeal, in writing, directly to the Martin County Board of Social Services. The appellant, the agency director, and/or the Martin County Board of Social Services will follow procedures and adhere to time frames as set forth in the agency's Appeals Procedures.

## **ARTICLE XX**

### **TEMPORARY EMPLOYEE**

A person appointed to serve in a position for a definite duration (up to 12 months), or is enrolled as an employee under a special program or grant funded projects for a definite duration.

A temporary employee will be paid only for actual hours worked and may be dismissed without cause.

Temporary employees are not eligible for the following benefits:

1. Hospitalization
2. Retirement
3. Annual leave
4. Sick leave
5. Paid holidays

A Temporary Salaried Non-Exempt One-year Fellowship employee position may be created for up to twelve months under a special program, such as the LEAD for NC program. An employee in such position:

- Will be paid for time off for all state/national holidays observed by the county.
- Will be afforded 3 days of paid time off during the 12-month period.
- Is entitled to no other benefits offered by the county.

## **ARTICLE XXI**

### **PROBATIONARY PERIOD**

#### **Section 1: Purpose**

The purpose of the probationary period is to evaluate the employee's suitability for continued employment. This period is an essential extension of the selection process and provides the time for effective adjustment of the new employee or dismissal, at the discretion of the Department Head.

#### **Section 2: Policy**

It is the policy of the County of Martin that employees receiving original appointments to permanent positions must serve a probationary period. Persons being rehired after leaving employment and employees voluntarily accepting promotions, transfers or demotions may be required to serve a probationary period.

### **Section 3: Procedure**

Employees appointed to permanent positions will serve a probationary period as follows:

- A. A County of Martin employee, not subject to the State Personnel Act, appointed initially or promoted to a full-time, permanent position will serve a probationary period of six (6) months or more.
- B. A County of Martin employee, subject to the State Personnel Act, appointed initially or promoted to a full-time, permanent position will serve a probationary period. The probationary period differs for each classification series as follows:
  1. Clerical Series Positions: Nine (9) months.
  2. Paraprofessional Series positions: Nine (9) months.
  3. Professional Series Positions: A minimum of nine (9) months or longer, dependent upon trainee status. A person in trainee status is eligible for permanent status upon the completion of education and experience requirements for the classification.
  4. Administrative Series: Nine (9) months, unless in trainee status.
- C. An employee may be dismissed without appeal rights and without cause at any time during a probationary period.
- D. If the employee is not given permanent status at the end of probationary period, service shall be terminated.
- E. If the employee has successfully completed the probationary period, and is retained in that position, the employee will be considered a permanent employee.
- F. An employee serving a probationary period following initial employment in a permanent position will receive all benefits provided in accordance with this ordinance, except the due process and appeal rights provided herein.
- G. During the in-processing of a new employee, a statement of explanation about the probationary period will be read, discussed and signed by the employee and an official for the County, for retention in the employee's personnel file.

## **ARTICLE XXII**

## **MID-MORNING AND MID-AFTERNOON BREAKS**

Subject to the approval of the Department Head, employees may take a fifteen-minute break both in the morning and afternoon. The schedule for breaks shall be staggered so that work of the department shall not be interrupted. Employees taking breaks shall arrange to do so in areas not observed by the public.

## **ARTICLE XXIII**

### **WORKERS' COMPENSATION LEAVE**

#### **Section 1: Probationary and Permanent Employees**

A permanent or probationary employee absent from duty because of sickness or disability (as certified by a doctor or other authorized health care provider) covered by the North Carolina Workers' Compensation Act may receive Workers' Compensation benefits. However, for the period of absence for which temporary disability benefits are received (which is 2/3 of the employee's average weekly earnings not to exceed the maximum weekly benefit established by the North Carolina Industrial Commission), an employee will turn in each signed benefit check to the Finance Department; such an employee will continue to receive his regular paycheck. The employee's Department Head will advise the Finance Department that such an employee is receiving Workers' Compensation benefits and will ensure that the signed checks are turned in to the Finance Office. For an absence covered by the Workers' Compensation Act but of such a limited duration that temporary disability benefits are not awarded by the North Carolina Industrial Commission, sick leave or annual leave, earned compensatory time, or leave without pay will be utilized.

#### **Section 2: Temporary Employees**

Temporary employees will be placed in a leave without pay status and will receive all benefits which they may be adjudged eligible under the Workers' Compensation Act.

#### **Section 3. Adverse Reaction to Small Pox Vaccination**

The North Carolina Worker's Compensation Act will cover any first responder that receives the small pox vaccination in accordance with the Homeland Security Act. Whether the vaccination is voluntary or involuntary; anyone having an adverse medical reaction will still have the benefits of sick leave and salary continuation that apply for any other type of incident subject to worker's compensation under the following circumstances.

1. The absence is due to adverse reaction arising from a small pox vaccination incident to 42 U.S.C. §233(p) when:
  - a. The employee received such vaccination in employment; or

- b. The reaction was caused by exposure to a person who received such vaccination in employment and in whose home the employee is temporarily or permanently living.
- 2. A health care provider certifies the need for any such leave greater than 24 hours; and
- 3. The leave does not exceed 480 employment hours.

## **ARTICLE XXIV**

### **MARTIN COUNTY** **DRUG TESTING POLICY**

#### **Section 1. Purpose and Scope of Policy**

- A. The purpose of this Policy is to maintain a drug- and alcohol-free workplace and to provide procedures for conducting screenings of job applicants and employees for the use of illegal drugs and the improper use of prescription drugs.
- B. Employees with substance-abuse problems are encouraged to voluntarily seek help with their problem. Martin County will assist at whatever level is allowed under the current Martin County Employee Handbook. However, employees who fail drug or alcohol tests may be disciplined, up to and including termination.
- C. All testing will be conducted in a manner that will protect the rights of employees and applicants subject to testing. Therefore, the County of Martin will take all necessary steps to safeguard the dignity and self-esteem of those being tested, and will ensure adherence to all procedures pertaining to the implementation of this Policy. The County of Martin will adhere strictly to all standards of confidentiality and assure all employees that testing records and results will be released only to those authorized to receive such information.
- D. Participation in a counseling, treatment, or rehabilitation program for drug and/or alcohol use or abuse will not be grounds for discharge provided the employee voluntarily enters such a program prior to being identified as a drug user/abuser or alcohol abuser by means such as tests, and before the employee becomes suspected under circumstances satisfactory to the County of Martin of being a drug user/abuser or alcohol abuser.

#### **Section 2. Drug and Alcohol Tests Required by the United States Department of Transportation**

This section covers all employees who must hold a commercial driver's license as a job requirement and all employees who perform other safety-sensitive functions as defined by the U.S. Department of Transportation (DOT) regulations.

- A. *Pre-placement.* Before a covered employee initially performs safety-sensitive functions for the County of Martin, he or she must undergo testing for drugs. Covered applicants for employment or current covered employees transferring into a position that requires testing must pass a pre-placement drug test.
- B. *Post-Accident.* Post-accident testing must be conducted on any driver or any other safety-sensitive employee *not* in the vehicle (e.g., maintenance personnel) whose performance could have contributed to the accident. A determination whether to test covered employees who were not in the vehicle but who may have contributed to the accident will be made based on the best information available at the time of the decision. The Federal Highway Administration mandates that tests must be conducted in the event of a fatality or if the driver receives a citation under state or local law for a moving traffic violation arising from the accident. Federal Transit Administration mandates testing in the event of a fatality or in the event that a driver receives a citation *and* an individual suffers a bodily injury and immediately receives medical treatment away from the accident scene *or* if one of the vehicles in the accident is disabled to the extent that it must be towed.
- C. *Reasonable Suspicion.* A test will be conducted when there is reason to believe that the employee has used a prohibited drug or has misused alcohol as defined in this Policy. Reasonable-suspicion testing is authorized only if the required observations are made by a trained supervisor or official of the locality where the covered employee is on duty.
- D. *Random Testing.* Employees designated as safety sensitive, as defined by the DOT guidelines will be tested on an unannounced basis throughout the year. Computer-based, random numbers generated and matched with the employee's identification number will determine who is tested.
- E. *Return to Duty.* An employee who has a positive breath alcohol test of 0.04 or greater will not be allowed to return to duty in the performance of a safety-sensitive function until he or she has been evaluated by a substance abuse professional and until he or she tests negative – less than 0.02 – on a return-to-duty alcohol test.
- F. *Follow-up.* Once allowed to return to duty, an employee who has been determined by the evaluating substance abuse professional to be in need of assistance is resolving problems associated with misuse of drugs and/or alcohol must submit to a minimum of six follow-up tests within the first twelve months following rehabilitation. Follow-up testing may be extended for up to sixty months following return to duty as prescribed by the evaluating substance abuse professional.

### **Section 3. Drug and Alcohol Abuse and Testing Policy for all Employees**

- A. The unlawful manufacture, distribution, dispensation, possession, purchase, or use of drugs by employees is prohibited and constitutes grounds for immediate termination.

- B. The manufacture, distribution, dispensation, possession, storage, purchase, or use of alcohol by employees while at the workplace is prohibited and constitutes grounds for immediate termination.
- C. Employees who are terminated as a result of a violation of this Policy shall be referred for evaluation and further counseling or treatment by a substance abuse professional.
- D. An employee who tests positive for alcohol and is not terminated will receive a five-day suspension without pay, one hundred-eighty-day performance probation, and a mandatory referral to a substance abuse professional. The employee shall be evaluated by the substance abuse professional and follow any rehabilitation program prescribed. The employee shall be subject to all other return-to-work provisions as outlined in this Policy. Refusal to comply with the rehabilitation program prescribed by the substance abuse professional will result in termination. However, before proceeding with disciplinary action, the employee's department head must assure that the facts of the case are reviewed by the human resources department. A second such occurrence of a positive alcohol test within five years of the first occurrence will result in termination.
- E. No safety-sensitive employee shall use alcohol within four hours before going on duty or operating, or having physical control of, a commercial motor vehicle or transit service vehicle.
- F. No employee shall report for duty or remain on duty in a safety-sensitive function while having an alcohol concentration of 0.04 or greater. An employee who reports to work and whose breath alcohol test result indicates a 0.04 or greater level of alcohol in the employee's system shall be considered to have a positive alcohol test and shall be disciplined as outlined in this Policy.
- G. When there is reasonable suspicion (see Section 7, Definitions) that an employee on duty has alcohol or drugs in his or her system, the employee will be tested. If the employee tests positive and management concludes that alcohol or drug consumption occurred on the job, the employee will be terminated. If the employee tests positive and department management concludes that alcohol or drug consumption occurred while not on the job, the employee shall receive appropriate discipline as outlined in this Policy.
- H. A reasonable-suspicion or post-accident test shall be administered no later than eight hours following the determination of reasonable suspicion or following the accident. If the test is not administered within two hours, the supervisor must document the reason(s) the alcohol test was not promptly administered. If the alcohol test is not administered within eight hours following the determination of reasonable suspicion or following the accident, the supervisor shall cease attempts to administer the test and must document the reason(s) for not administering the test. In the event an alcohol test is not conducted within the eight-hour time frame, the following should occur:
  - 1. No employee shall be allowed to remain on duty until an alcohol test is administered and the employee's alcohol concentration measures less than 0.02, or



2. Twenty-four hours have elapsed following the determination of reasonable suspicion. No employee may refuse to submit to an alcohol test as required by the regulations.
- I. A written record shall be made of the observations leading to a reasonable-suspicion drug or alcohol test and signed by the supervisor or departmental designee who made the observations within twenty-four hours of the observed behavior or before the results of the controlled-substances test are released, whichever is earlier.
  - J. A post-accident drug test shall be administered within thirty-two hours following the accident. If the drug test is not administered within thirty-two hours, the supervisor shall cease attempts to administer a drug test and must document the reason(s) for not administering the test. No employee may refuse to submit to a drug test required by the regulations.

No safety-sensitive employee involved in an accident that requires an alcohol test shall consume any alcohol for eight hours following the accident or until a post-accident alcohol test is performed, whichever comes first.

- K. An employee who is tested (exclusive of the return-to-duty test) and found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform or continue to perform his or her job functions until the start of the employee's next regularly scheduled duty period, but not less than twenty-four hours following administration of the test. The employee shall be removed from duty without pay for this twenty-four hour period and shall receive a notation in his or her performance appraisal about the requirement of reporting to work without the presence of alcohol in his or her system.
- L. Employees assigned to positions that are determined to be safety sensitive will be randomly tested for alcohol and drugs. Selected employees will be transported to the designated testing location. Random testing for drugs and alcohol shall be conducted at the rate mandated by DOT or county policy.
- M. A drug and alcohol test will be included as part of the promotion/demotion/transfer/selection process for employees determined to be final candidates for positions requiring a commercial driver's license for positions requiring a physical examination and for positions that are safety sensitive.
- N. An employee who tests positive for alcohol must submit to a return-to-duty breath alcohol test before resuming the performance of safety-sensitive functions following a disciplinary suspension. The return-to-duty alcohol test must indicate an alcohol concentration of less than 0.02. A return-to-duty breath alcohol test result of 0.02 – 0.039 will result in a five-day suspension without pay. A return-to-duty breath alcohol test result of 0.04 or greater will be considered as the second positive alcohol test within a five-year period and will result in termination.

- O. An employee who refuses to submit to, or fails to follow through with, a drug or alcohol test when testing is required by this Policy will be terminated. However, before proceeding with disciplinary action, the employee's department head must assure that the facts of the case are reviewed by the human resources department.
- P. If an employee alleges that, because of medical reasons, he or she is unable to provide a sufficient amount of breath to permit a valid breath test, the breath alcohol technician shall instruct the employee a second time to attempt to provide an adequate amount of breath. If the employee continues to allege an inability to provide a sufficient amount of breath for the test, the department shall be notified that the employee has refused to be tested. The employee will be directed to obtain, as soon as practicable after the attempted provision of breath, an evaluation from a licensed physician acceptable to the County of Martin addressing the employee's medical ability to provide the adequate amount of breath. If there is not a medical reason acceptable to management for the employee's inability to provide the breath, the employee will be considered to have refused to submit to the alcohol test and will be disciplined according to the guidelines established by this Policy.
- Q. An employee who does not pass the drug or alcohol test and is terminated will not be considered for re-employment for a two-year period following the date of the test and then will be considered only when (a) he or she provides documentary proof of successful completion of a drug and/or alcohol abuse treatment or rehabilitation program and (b) he or she passes a pre-placement drug and/or alcohol test.
- R. An employee shall inform his or her supervisor if, prior to beginning work or while he or she is on duty, that he or she has used or intends to use any prescription drug, over-the-counter drugs, or other substance that might impair his or her ability to satisfactorily perform duties. Employees are responsible for a thorough understanding of the effects and potential side effects of medications or other chemical substances taken. Failure to notify the supervisor under these circumstances may result in disciplinary action up to and including termination depending on the severity of the resulting incident. The human resources department will be consulted prior to such discipline being imposed.
- S. The medical review officer will review the finding of a drug test with the employee before a final determination is made that the employee did not pass the drug test. The purpose of this review is to ensure that the findings of a positive test are not based on factors other than the use of the drug for which the positive result is found.
- T. Employees returning to the workforce following completion of a drug and/or alcohol rehabilitation program will be tested on an unannounced and periodic basis for drugs and/or alcohol during the sixty months following their return to work. Those employees covered by DOT guidelines must submit to a minimum of six follow-up tests within the first twelve months following rehabilitation. A follow-up breath alcohol test result of 0.04 or greater will result in termination. A follow-up breath alcohol test result of 0.02 – 0.039 will result in a five-day suspension without pay. A second such occurrence of a follow-

up breath alcohol test result of 0.02 – 0.039 within the prescribed sixty-month period will result in termination.

- U. If an employee is convicted of a violation of a criminal drug statute and such violation occurred while the employee was on duty, the employee must notify his or her department head of the conviction within five days after such conviction. (NOTE: This is a requirement of the Drug-Free Workplace Act.) Failure to comply with this requirement will result in termination.

#### **Section 4. Applicant Testing**

- A. Applicants determined to be final candidates for commercial driver's license positions will be required to submit to a drug screening. Applicants determined to be final candidates for other positions will be required to submit to a drug screening. (Applicants for certified law enforcement positions are covered under another policy.) The drug screen shall be performed within forty-eight hours from the time the conditional job offer is made.
- B. Applicants determined to be final candidates for positions requiring a commercial driver's license or positions designated as safety sensitive by DOT guidelines will also be required to submit to an alcohol screening. The applicant must have a breath alcohol test result of less than 0.04 to be considered for employment.
- C. Applicants for temporary positions requiring a commercial driver's license, or positions designated as safety sensitive by DOT guidelines, will be required to submit to a drug and alcohol screening.
- D. Applicants for temporary positions designated as safety sensitive are required to submit to a drug screen.
- E. Candidates for other temporary positions should be required to submit to a drug screen if the department determines that the nature of the job and the length of the assignment justify a test. An applicant will have four hours to provide an acceptable urine specimen.
- F. An applicant who refuses to submit to, or fails to follow through with, the drug test as required, will not be considered for employment for a two-year period.
- G. An applicant who does not pass the drug test as required will not be considered for employment for a two-year period following the date of the test and then will be considered only when (1) such applicant provides documentary proof that he or she has successfully completed a drug and/or alcohol abuse or rehabilitation program and (2) such applicant passes a pre-placement drug and/or alcohol test.

- H. Any applicant covered by the provisions of the DOT alcohol- and drug-testing guidelines whose breath alcohol test result indicates an alcohol concentration of 0.02 – 0.039 will not be considered for employment for a two-year period following administration of the test.
- I. Applicants having completed a drug or alcohol rehabilitation program within two years prior to their employment with the County of Martin will be required to certify that they have successfully completed the program before they can be hired. If hired, these employees will be tested on an unannounced and periodic basis for drugs and/or alcohol during the sixty months following their hire.

### **Section 5. Compliance with Law**

- A. Information regarding the testing and referral of employees and applicants under this Policy will be treated as confidential in accordance with the requirements of North Carolina law governing the privacy of employee personnel records.
- B. Searches and seizures are to be conducted in a legal manner. The County of Martin reserves the right to conduct searches or inspections of property assigned to an employee whenever a department head or his or her designee determines that the search is reasonable under all the circumstances.

### **Section 6. Supervisory Responsibilities**

Every supervisor shall:

- A. Consistently apply this Policy to all employees under his or her supervision. A supervisor who fails to apply this Policy when he or she believes, or reasonably should believe, that an employee under his or her supervision has committed a violation will be disciplined.
- B. Initiate the process for having an employee drug or alcohol tested if there is reasonable suspicion that an employee under his or her supervision, when such employee is on duty, has an illegal drug or alcohol in his or her system or is using any legal drug in a manner other than it was intended.
- C. Insure that employees he or she supervises are aware of the requirements and consequences of this Policy.
- D. Follow the procedure established by the department head for assuring that an employee who is to be tested for alcohol or other drugs is transported to the designated test site, and that those employees for whom there is reasonable suspicion of substance abuse or who have had a breath alcohol test result of 0.02 or greater are transported home – either by personal family/friends or by arranged transportation.

### **Section 7. Employee Responsibilities**

Every employee shall:

- A. Abide by this policy as a condition of employment.
- B. Comply with all applicable laws regulating the manufacture, distribution, dispensation, use or possession of illegal drugs, alcohol, or prescription drugs.
- C. Assure that his or her ability to perform his or her job duties is not negatively affected due to use of a drug or alcohol when scheduled to report to work or when on “on call” status. Should any employee be requested to report to work for a safety-sensitive job earlier than his or her normal or previously assigned time, it is the employee’s responsibility to advise his or her supervisor of an inability to perform his or her job duties or that he or she has consumed alcohol within the last four hours prior to reporting for duty. If the employee had received prior notice that he or she might be called back into work, the employee shall be considered AWOL if he or she is unable to report to duty. An employee may be subject to other disciplinary action due to inability to report for duty.
- D. Submit immediately to a drug or alcohol test when requested by his or her supervisor.
- E. Notify his or her department head, if convicted of a violation of a criminal drug statute and such violation occurred while the employee was on duty, within five days after such conviction, as required by the Drug-Free Workplace Act.

### **Section 8. Definitions**

*Accident* means an occurrence involving a commercial motor vehicle operating on a public road that results in a fatality; bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or one or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle(s) to be transported away from the scene by a tow truck or other vehicle.

*Alcohol test* means a test for the presence of alcohol in the body as determined through the use of a breath alcohol test, evidential breathalyzer test, or blood screening.

*Canceled*, with respect to the results of a drug test, means a test result in which the medical review officer finds insufficient information or inconsistent procedures with which to make a determination.

*Commercial motor vehicle* means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle

- a. has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- b. has a gross vehicle weight rating of 26,001 or more pounds; or
- c. is designed to transport 16 or more passengers, including the driver; or

- d. is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and that requires the motor vehicle to be placarded under the Hazardous Materials Regulations.

Confirmation test for alcohol means a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. Confirmation test for controlled substances means a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screen test and that uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for the five SAMHSA drugs.

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes.

Criminal drug statute means a criminal statute relating to the manufacture, distribution, dispensation, use or possession of any drug.

Drug means a controlled substance as listed in Schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812) or Chapter 90, Section 87(5) of the North Carolina General Statutes or a metabolite thereof.

Drug test and drug screening means a test, including providing the necessary sample of body fluid by the employee to be tested, for the presence of any of the following drugs or drug metabolites in the urine or blood of an employee:

- a. amphetamines
- b. barbiturates
- c. benzodiazepines
- d. cannabinoids
- e. cocaine
- f. methaqualone
- g. opiates
- h. phencyclidine
- i. propoxyphene
- j. other drugs that may be determined to reduce work efficiency

Medical review officer is a North Carolina-licensed physician with specific training in the area of substance abuse. The medical review officer not only has knowledge of substance-abuse disorders, but also has been trained to interpret and evaluate laboratory test results in conjunction with an employee's medical history. The medical review officer verifies a positive drug test result by reviewing a laboratory report and an employee's unique medical history to determine whether the result was caused by the use of prohibited drugs or by an employee's medical condition.

Negative, with respect to the results of a drug test, means a test result that does not show presence of drugs at a level specified to be a positive test.

Negative, with respect to the results of an alcohol test, means a test that indicates a breath alcohol concentration of less than 0.02.

On call means being subject to a call to report immediately to work for the County of Martin.

On duty means when an employee is at the workplace, performing job duties, on call, or during any other period of time for which he or she is entitled to receive pay from the County of Martin.

Other substance means any substance that has the potential to impair appreciably the mental or physical function of a person who does not have an unusual or extraordinary reaction to such substance.

Pass a drug test means that the result of a drug test is negative. The test either

- a. showed no evidence or insufficient evidence of a prohibited drug or drug metabolite, or
- b. showed evidence of a prohibited drug or drug metabolite but there was a legitimate medical explanation for the result as determined by a certified medical review officer.

Pass an alcohol test is a negative alcohol test. The test showed no evidence or insufficient evidence of a prohibited level of alcohol.

Positive, with respect to the results of a drug test, means a laboratory finding of the presence of a drug or a drug metabolite in the urine or blood of an employee at the levels identified by the Substance Abuse and Mental Health Services Administration (SAMHSA), or for drugs not subject to SAMHSA guidelines, at the levels identified by the County of Martin; all positive tests will be confirmed using a different technology than was used for the first test, such as the gas chromatography/mass spectrometry (GC/MS) process.

Positive, with respect to the results of an alcohol test, means the presence of alcohol in an employee's system at the 0.04 level or greater.

Pre-placement testing is testing conducted on a current county employee prior to his or her being promoted, transferred, or demoted into a safety-sensitive position.

Qualified negative, with respect to the results of a drug test, means a test in which the lab result is consistent with legal drug use.

Random testing is testing conducted on an employee assigned to a safety-sensitive position and is chosen by a method that provides an equal probability that any employee from a group of employees will be selected.

Reasonable suspicion exists when a supervisor, who has received the required training in detecting the signs and symptoms of probable drug and/or alcohol use, can substantiate specific contemporaneous, articulable observations concerning appearance, behavior, speech, or body odor or other physical indicators of probable drug or alcohol use. By way of example and not limitation, any one or a combination of the following may constitute reasonable suspicion:

- a. slurred speech
- b. the odor of marijuana or alcohol about the person
- c. inability to walk a straight line
- d. an accident resulting in damage to property or personal injury
- e. physical altercation
- f. verbal altercation
- g. behavior that is so unusual that it warrants summoning a supervisor or anyone else in authority (i.e., confusion, disorientation, lack of coordination, marked personality changes, irrational behavior)
- h. possession of drugs
- i. verifiable information obtained from other employees based on their observations
- j. arrests, citations, and deferred prosecutions associated with drugs or alcohol

Refuse to submit means that an employee (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing, (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing, (3) refuses to sign the breath alcohol confirmation test certification, or (4) engages in conduct that clearly obstructs the testing process. An employee subject to the post-accident testing requirements of the DOT who unnecessarily leaves the scene of an accident before a required test is administered or fails to remain readily available for testing may be deemed to have refused to submit to testing.

Safety-sensitive position means:

A position will be designated safety sensitive only where the County of Martin has a compelling need, on the basis of safety concerns, to ascertain on-the-job impairment on the part of employees who hold the position. Such a compelling need may arise where the duties of a position create, or are accompanied by, such a great risk of injury to other persons or to property of such magnitude that even a momentary lapse of attention, judgment, or dexterity could have disastrous consequences. Appendix A lists safety sensitive positions in Martin County.

Examples of these positions include:

- a. Positions (full or part time) requiring the use of weapons (or potential use of weapons) or the operation of vehicles, machinery, or equipment as a primary task (does not include routine office equipment).
- b. Positions requiring the handling of hazardous materials, the mishandling of which may place the employee, fellow employees, or the general public at risk of serious injury, or the nature of which would create a security risk in the workplace.
- c. Other positions as determined on a case-by-case basis.



The following includes activities defined as safety sensitive by the Federal Highway Administration or Federal Transit Administration portions of the DOT guidelines:

- a. Driving
- b. Inspecting, servicing, or conditioning any commercial motor vehicle.
- c. Waiting to be dispatched at a carrier or shipper plant, terminal, facility, or other public property.
- d. Performing all other functions in or upon any commercial motor vehicle except resting in a sleeper berth.
- e. Loading or unloading a vehicle, supervising or assisting in the loading or unloading of a vehicle, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments being loaded or unloaded.
- f. Performing driver requirements relating to accidents.
- g. Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- h. Operating a revenue service vehicle, including when not in revenue service.
- i. Operating a non-revenue service vehicle when required to be operated by a holder of a commercial driver's license.
- j. Controlling dispatch or movement of a revenue service vehicle.
- k. Maintaining a revenue service vehicle or equipment used in revenue service.
- l. Carrying a firearm for security reasons.

Determination as to which positions are safety sensitive will be based on DOT guidelines or the recommendation of the department head and approval by the personnel department.

Substance abuse professional means a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of both drug- and alcohol-related disorders.

Supervisor, in general, means any employee who has the authority to direct the job activities of one or more other employees. With respect to a particular employee, the term means such employee's immediate supervisor and all persons having indirect supervisory authority over such employee.

Unannounced follow-up testing is testing conducted on an employee on a periodic, unannounced basis, following his or her return to work from an approved drug or alcohol rehabilitation program.

Workplace means the location or facility where an employee may be expected to perform any task related to the requirements of his or her job. This includes break rooms and restrooms, outdoor worksites, the County of Martin or personal vehicles (while personal vehicle is being used for the County of Martin business), computer work stations, conference rooms, hallways, private offices, open/partitioned work areas, public contact/customer service/medical services areas, and parking lots.



## **APPENDIX A**

### **Safety Sensitive Positions**

- Animal Control Officer
- Building Inspector
- Emergency Management Director
- Landfill Equipment Operator
- Law Enforcement Officer (Sworn)
- Tele-communicator
- Transit Driver
- Water Department – Field Positions

Adopted as Personnel Policy March 12, 2014 (Originally Adopted as Ordinance April 19, 1995)

Revised Personnel Policy Adopted September 10, 2014

Amended April 8, 2015 (Annual, Sick, FMLA Leave)

Amended September 12, 2018 (Hospitalization-Post-Retirement Benefits, Use of Sick Leave, Funeral Leave)

Amended June 10, 2020 (Temporary Salaried Non-exempt One-Year Fellowship employee)