

***VAN BUREN  
COUNTY  
EMPLOYEE  
HANDBOOK***

**Personnel Policies, Procedures, Benefits and Practices**

**Revised and Adopted by  
Van Buren County Quorum Court  
May 1, 2016**

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## **WELCOME VAN BUREN COUNTY EMPLOYEE**

It gives me great pleasure to welcome you to employment with Van Buren County. You are now a member of a hard working team dedicated to providing needed quality service to residents of Van Buren County.

This revised 2016 version of the Van Buren County Employee Handbook adopted by the Van Buren County Quorum Court is intended as a reference guide for your use in the event you have any employee related questions that may occur during your employment with Van Buren County. There are new and revised policies throughout the handbook and it is mandatory that each new and old employee review the handbook annually. This handbook cannot anticipate or address every circumstance or question that may apply to individual employees. If a situation arises that is not covered in this handbook, contact your department head, elected official or immediate supervisor.

Elected Officials who serve as department heads may have different or added employee policies depending on the nature of their services. If so, these policies should be put in written form and included as supplements to this general policy. We have attempted to list all of those in this handbook, but if you failed to see one that may apply to your job, please contact your supervisor.

I wish you the best of luck and success in your position and hope that your employment with Van Buren County will be pleasant, productive and a rewarding experience.

Cordially,

Van Buren County Judge

## WHAT VAN BUREN COUNTY EXPECTS OF YOU

The primary function of any government agency is to provide service to the public. Your job was created to provide a specific service for the citizens of Van Buren County. You are expected to give this service to the best of your ability and to perform your job with a spirit of courtesy, willing assistance and appreciation for the responsibility inherent in your job. You are a very important person to the citizens of our county who will be the recipients of the services that you can provide. More and more the effectiveness of County Government is dependent on each and every employee. The integration of all our individual efforts will result in a well-run, honest, effective County Government.

Whether your job demands enforcement of laws and/or ordinances, fixing county roads, providing recycling pickup services, doing secretarial duties, filing records or answering enquires from the public, it is extremely important that your contact with the public be fair, respectful and courteous. Treat all enquires as if you were on the receiving end of the information or assistance. **REMEMBER THE GOLDEN RULE!** And, also, remember this applies to your fellow associates and other county employees.

Just as County Government believes each county employee is an important individual, the individual right of all citizens should be respected. It is essential that every citizen and fellow employee be treated with dignity and consideration. The public will judge your department and/or office and all of Van Buren County Government by your attitude, efficiency and courtesy.

## INTRODUCTION

This Van Buren County Employee Handbook has been designed to provide employees with a copy of the general policies, benefits, practices and procedures as adopted by the Van Buren County Quorum Court.

This Employee Handbook is not an exclusive statement of all the terms of employment. The items covered herein are subject to change without advanced notice, and the Van Buren County Quorum Court reserves the right to make final decisions as to the interpretation of each policy, benefit, practice and/or procedure covered herein.

No policy, benefit, practice or procedure contained herein creates an employment contract for any period of time. All employees of Van Buren County, Arkansas, will be considered employees at will. (See Page 5)

## EQUAL OPPORTUNITY EMPLOYER

Van Buren County is an **EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER**. As such, it is the policy of Van Buren County to ensure equal employment in all personnel actions taken. Therefore, selection and other employment related decision will be made without regard to an individual's race, color, national origin, ancestry, age, gender, marital status, military status, political affiliation, religion, physical or mental handicap that with reasonable accommodation does not significantly interfere with the ability to perform the essential functions of the job.

This policy of non-discrimination shall be applied to all phases of employment such as recruitment, selection, appointment, placement, promotion, demotion, transfer, training, wages, benefits, working conditions and such human resource actions as layoff, recall discharge, disciplinary actions and performance evaluations.

Age, health or gender shall be a factor for employment only where they are a bona fide occupational qualifications and requirement are provided by law.

All applicants and employees are entitled to equal employment opportunity. If you believe you have been discriminated against, you have the right to notify the:

Equal Employment Opportunity Commission  
820 Louisiana Street, Suite 200  
Little Rock, Arkansas 72201  
1-800-669-4000

## UNDERSTANDING OUR COUNTY GOVERNMENT STRUCTURE

If you haven't worked for a government entity before now, it is important that you have some information about how we work. Each elected official is solely responsible for his or her area of government. That is to say, each elected official is like the CEO of his or her own publicly held company. Each elected official may adopt additional policies and procedures, provided they do not conflict with the policies stated in this document. Within the County, the following are elected Officials:

County Judge	Assessor	Circuit Clerk
Collector	Coroner	County Clerk
Prosecuting Attorney	Sheriff	Treasurer

The following departments report to the County Judge:

Building Maintenance and Janitorial Services, Office of Emergency Management, 911, Solid Waste, Recycling, Road Department, Veterans Services, Animal Control and Election Coordinator.

Some employees are County employees, but they report to a State of Arkansas Employer. This does not include the case with the Prosecuting Attorney's Office, Public Defenders Office, various Circuit Judges, Drug Task Force and District and Juvenile Court.

## THE QUORUM COURT

The Quorum Court is the legislative body of the County comprised of 9 members, known as Justices of the Peace, from various respective districts based on population. They exercise local legislative authority to levy taxes, appropriate public funds for the expenses of the County in a manner prescribed by ordinances. They can fix the number and compensation of deputies, county employees and county officials within a minimum and maximum to be determined by law.

The County Judge is the Chief Executive Officer for county government. He or she presides over the Quorum Court-without a vote, but with the power to veto.

Two websites may help you better understand the roles and responsibilities of the various areas of government. The Van Buren County Website, [www.vanburencountyark.com](http://www.vanburencountyark.com), and the Arkansas Association of Counties Website is [www.arcountries.org](http://www.arcountries.org).

When working for an elected official it is important to remember that when elections occur there is always the possibility that you may get a new boss. While it rarely happens, and when it does it is minimal; newly elected officials have the authority to bring in new staff. Elections happen every two years on even numbered years. If your job is not going to be renewed, you will be notified by the newly elected official by December 31<sup>st</sup> of the even numbered years.

## **1. COUNTY EMPLOYMENT POLICY**

- A.** The purpose of this document is to establish “at-will employment” as the default employment policy for the County and to state the General Employment Policies issued by the Quorum Court in its capacity as the legislative branch of County Government. The General Employment Policies set forth herein apply informally to all county employees because they relate exclusively to “employee practices and policies of a general nature.”
- B.** Executive Employment Policies are those adopted by an elected county officer to apply to the employees of that office in the course of administering “the day-to-day” administrative responsibility of his or her elected office. A.C.A. §14-14-805(2). An elected official can create and administer his own employee discipline measures, subject, however, to the condition that they cannot contravene the general, uniformly applicable measures adopted by the Quorum Court.
- C.** Nothing in this General Employment Policy adopted by the Quorum Court creates a property right in employment nor establishes grounds upon which discipline or dismissal must be based.
- D.** Gender. Words importing one (1) gender include and apply to the other gender as well.
- E.** It is the County’s policy to provide equal opportunity for all qualified persons; to prohibit unlawful discrimination in employment practice, compensation practices, personnel procedures and administration of benefit plans; and to otherwise provide the same/similar treatment and opportunities to all persons similarly situated.

## **2. AT-WILL EMPLOYMENT**

- A.** All employment with the County is “at-will” which means the employee can be terminated with or without cause and with or without notice at any time at the option of either the County or the employee, except as otherwise provided by the law. By accepting employment, employees agree to conform to the rules and regulations of the County, including any changes, deletions or additions to the rules and regulations during the course of their employment.
- B.** Nothing in this Handbook or any other document provided to the employee is intended to be, nor should it be, construed as a contract that employment or any other benefit will continue for any time. No Van Buren County official or employee shall promise or guarantee any employee employment for any period of time nor make any guarantee of salary or benefits.

- C. Van Buren County employees may be disciplined, demoted, transferred or discharged at any time with or without notice or cause. No statements found in this handbook are intended to or will limit a supervisor's right to discipline an employee providing there is a reason.
- D. Employees, however, cannot be terminated if done in an illegal or unlawful manner pursuant to state and federal laws.

### **3. CLASSES OF EMPLOYMENT**

Van Buren County has the following classes of employees with the exception of Law Enforcement:

- A. Full-Time – Those employees who work a full eight (8) hour day, at least thirty-two (32) hours per week: fifty-two (52) weeks a year.
- B. Part-time – Employees who work less than a full regularly scheduled basis and whose employment is not time limited.
- C. Extra-help – Employees not having a regularly scheduled tour of duty.
- D. Contract – Persons who are contracted for employment.

### **4. HIRING/REHIRING/PROMOTING**

- A. The at-will employment policy set forth herein applies equally to hiring and promoting. Nothing herein shall create a property right in employment, entitlement to be hired or promoted, or an expectancy of continued employment. Nothing herein established is grounds upon which hiring or promoting must be based.
- B. Prospective employees who are required to register with the selective services system must certify compliance with the Military Selective Service Act as a condition for employment.
- C. When an employee is hired into a County position from another Government office or previous employment of similar training and background, the current or newly elected official shall have the right to hire them at a comparable rate of pay and benefits, that falls within the current county pay scale in their office/department.
- D. Any County employee who terminates their employment with the County or is laid off by the County may be subsequently rehired before a one (1) year separation could begin employment at their former pay level and benefits. After a one (1) year separation, employment may begin at the entry level and former years of service may be reinstated after a three (3) month probationary period. After a five (5) year separation of employment with the County, the appropriate official would need Quorum Court approval for reinstatement of former pay and benefits consideration.

## 5. HIRING PROCEDURES

- A. Applications for employment will be accepted from any person who wishes to apply with Van Buren County; all applications will be kept on file for ninety (90) days.
- B. No elected official shall be allowed to employ any relative in his or her immediate family to work within the County office or department he/she supervises and for which he/she is responsible. Immediate family shall include spouse, parent, stepparent, grandparent, step-grandparent, child stepchild, brother, sister, grandchild, nieces, nephews, mother-in-law, father-in-law, son-in-law or daughter-in-law. This provision will be effective the date of adoption of these policies by County Ordinance and shall not affect employees prior to its adoption.
- C. Persons desiring to become full-time employees must be 18 years of age. In those cases where the County wishes to hire part-time help under the age of 18, applications shall be for occupations in accordance with all applicable State and Federal Regulations.
- D. County employees shall possess a Social Security Number or shall have applied for one at time of employment. Proof of application must be verified and documented.
- E. Employees whose work will require operation of a motor vehicle must present a valid driver's license, proof of insurance and current driving record to the County. The employee must maintain a valid Arkansas driver's license during the course of his or her employment, and the employment and the employee's driving record must be acceptable to the County and the County's Insurer. You will be asked to provide the County with a current driving record up to three (3) years from time to time. Any changes in your driving record must be reported to the County official immediately. Failure to do so may result in disciplinary action, including possible dismissal.
- F. Every new County employee, as a condition of employment, must complete the Employment Eligibility Verification Form (I-9) and present documentation establishing identity and employment eligibility, pursuant to the Immigration Reform and Control Act of 1986. Former County employees who are rehired must also complete the form.

## **6. BACKGROUND CHECKS**

Depending on the type of job you may have or you are seeking elsewhere in the County, you may be required to undergo a background check such as criminal and/or credit. The results of the background check will determine if that person fits the profile of the job duties. Marks on your records will not necessarily automatically strike you off as a candidate. All persons seeking jobs that require it will have to sign a consent form before a background check will be done. Forms can be obtained in the County Clerk's office.

## **7. WORK REQUIREMENTS**

- A.** All new employees shall serve a six (6) month probationary period. This period is established to determine if an employee is able and willing to perform the position duties satisfactorily. An employee may be dismissed during this period without recourse to the grievance procedures, except in cases where the dismissal is alleged to be illegal or unconstitutional.
- B.** The Van Buren County Courthouse and Courthouse Annex will be open to transact business from 8:00 a.m. until 4:30 p.m. Monday through Friday each week. Some offices will/may close from 12:00 noon to 1:00 p.m. for lunch. It shall be the decision of the County Judge if the Courthouse is to be closed extra days or hours.
- C.** Employees shall be in attendance at their work in accordance with the rules and hours established by the elected official or department head. All administrative offices will have at least one employee on duty during the normal working hours outlined above.
- D.** Absence of an employee from work, including any absence for a single or part of a day that is not authorized by the elected official or department head shall be deemed to be an absence without leave. Any such absence shall be without pay and the employee who is absent for three (3) consecutive days without approval leave shall be deemed to have resigned. Appropriate documentation will be placed in the employee's employment file and notification sent to the employee by certified mail. They will no longer be considered for future employment with the County.
- E.** No outside employment of continual nature will be allowed unless; the elected official and/or department head approves it. Under no circumstances will a person be allowed to work at a job which conflicts in any way with duties as a County employee.
- F.** No employee shall engage in any private business or in the activities of a profession while on county time.

- G. When working off-duty, uniforms shall not be worn unless approved by the elected official or supervisor.
- H. Smoke Free Environment in County Office Buildings includes all county buildings. Signs designating smoking areas and non-smoking areas will be posted at all entrances to the County buildings at the direction of the County Judge, and the smoking policy will be enforced by the Sheriff, his deputies or bailiffs. In addition, the Arkansas Clean Indoor Air Act of 200 (Act) prohibits smoking in all enclosed areas within places of employment and public places. Smoking is prohibited in all vehicles owned by the county. The county will not discriminate or retaliate against any individual for making a complaint regarding a violation of the Clean Indoor Air Act or for cooperating with an investigation regarding a violation of the Act.
- I. When possible, county employees shall receive breaks of fifteen (15) minutes. For each four ( ) hours worked, county employees generally will be allowed a consecutive fifteen (15) minute break
- J. County employees shall receive a thirty (30) minute lunch break. However, for purposes of keeping certain offices open, lunch scheduling will be at the discretion of the County official or Supervisor in charge. County Road Employees' lunch breaks may be reduced to thirty (30) minutes in order to redeem working time and daylight. No employee may perform any work while on a lunch break.
- K. County employees may not accept any reward, gift, tips, gratuity or other form of payment in addition to their regular compensation, from any source, for the performance of their duties as a County employee.

## **8. EMPLOYEE CONDUCT STANDARDS**

- A. The efficiency and effectiveness of the Government of Van Buren County depends on public trust and confidence.
- B. To maintain this trust, conformance to the following standards is expected of each County Employee:
  - 1. County employees shall be prompt and regular in reporting to work and shall be diligent, competent and efficient in the performance of their duties.
  - 2. County employees are employed for the convenience of the citizens of Van Buren County. They pay the bills. Remember that your real boss is the public. Treat them as you would want to be treated.

3. County employees must be courteous. A smile will go a long way toward soothing over a bad situation. Avoid arguments with the public and with your fellow employees. We all have a job to do, and courtesy will make friends of the people with whom you deal. If a citizen becomes difficult, refer him or her to your supervisor.
4. County employees shall not grant any special consideration advantage to any individual(s) or group(s).
5. County employees shall not engage in conflict of interest activities that prove to be incompatible with assigned duties, bring discredit upon Van Buren County, or give them an advantage in their outside activities over persons working in similar vocations.
6. County employees shall not use County funds, supplies or facilities for purposes other than to conduct official County business.
7. County employees shall not use official positions to receive special favors for themselves or others.
8. County employees shall exercise care and emphasize safety in the use of County property and equipment.
9. County employees shall keep themselves mentally alert, neat and clean and shall perform their duties fairly, impartially and in a professional manner.
10. Working under the influence of alcohol or the illegal use of any other narcotic or controlled substance shall result in absolute dismissal.
11. County employees shall conduct themselves, both on the job and off duty, so as to command the respect of fellow workers and the general public. (This includes things posted on social media).
12. County employees shall not display prejudice against persons or organizations, thus affecting cordiality of contacts with other employees or the public.

## **9. SUSPECTED FRAUD/WHISTLEBLOWER**

Employees have a responsibility to report occurrences of ethical violations, fraud, waste or abuse of power or resources that can be verified through investigation. Employees shall be protected against any form of retaliation, including discharge, for reporting, in GOOD FAITH, occurrences of wrongdoing as stated above pursuant to the Arkansas Whistleblower Act (A.C.A. §§ 21-1-601 *et seq.*). Investigations to substantiate reported allegations will be conducted in a confidential manner.

## **10. EMPLOYEE COMPENSATION**

- A. The County is required by law to withhold taxes based upon information furnished by the employee at the time of employment. Any changes in status that would affect tax liability or change in beneficiary shall be reported to the county payroll department in

the Van Buren County Clerk's Office. (W-4, number of dependents, changes in group insurance coverage, etc.)

- B. Van Buren County will pay all employees bi-weekly. Salaries are calculated on an annual basis from January 1 through December 31, but shall be paid in twenty-six equal payments every two weeks. Both the final pay period and the final payday will be adjusted to include the last day of the year.

## **11. EMPLOYEE BENEFITS**

- A. As authorized by the Fair Labor Standards Act, compensatory time off will be allowed for non-exempt employees for the time worked in excess of the normal work period. This provision of compensatory time will be provided in lieu of overtime pay.
- B. The normal work period for most employees shall be 40 hours per week except employees engaged in the profession of law enforcement. The normal workweek for law enforcement shall not be greater than 171 hours in a 28 consecutive day work period.
- C. Overtime shall only be worked in emergencies or when public health, welfare and the safety of the general community are in danger.
- D. Only employees defined by the Fair Labor Standards Act (Title 29, Part 541 of the Code of Federal Regulations) as "non-exempt" bona fide executive, administrative or professional capacity") will be entitled to overtime pay or compensatory time.
- E. The County's non-exempt employees shall receive, in lieu of overtime pay, compensatory time off at a rate of one and one-half hours for each hour of time worked in excess of the normal work period.
- F. No employee shall accrue more than 120 hours of compensatory time.
- G. An employee who has accrued compensatory time shall, upon termination of employment, be paid for the unused compensatory time.
- H. An Employee who has accrued compensatory time off and who has requested the use of such compensatory time off shall be permitted to use such time within a reasonable period after making a request if the use of compensatory time does not unduly disrupt the operation of the employing department or office.
- I. No overtime hours shall be worked without the approval of the Elected Official or the supervisory personnel designed by the Elected Official to approve the overtime.
- J. All elected Officials and Department Heads will maintain time sheets to be filled out by the employee on a weekly basis, under oath and signed by the Elected Official or



**N. Training and Education:**

1. With the approval of the elected official and subject to availability of funds, Van Buren County may assist employees with training and education in subject areas that are directly related to their employment or which may qualify employees for future promotions.
2. Temporary employees shall not be entitled to any of these fringe benefits that apply to permanent employees. This exclusion includes paid holiday, vacation, insurance, paid sick leave and retirement.

## **12. PROGRESSIVE DISCIPLINE**

- A. The County has specific work standards and regulations, which are considered conditions of employment. In the event of misconduct or unsatisfactory job performance, the following policy should be adhered.
- B. Progressive discipline may be applied in those cases where the severity of the problem does not warrant bypassing steps or immediate termination. The County may use this warning system to provide both the employee and County with a vehicle for addressing and resolving personnel issues. The purpose of progressive discipline is to recognize the importance of early identification and take prompt action to successfully resolve the problem. Documentation of the infraction and date/time should be recorded so that it can be referenced. The three-step procedure consists of:
  1. Oral Warning (documented and signed by Department Head only)
  2. Written Reprimand (documented and signed by both Department Head and employee)
  3. Termination
- C. If in any case the employee refuses to sign disciplinary documentation, a witness should sign documentation of employee's actions. If progressive discipline has been properly implemented and documented and the employee's performance does not improve, the Supervisor will recommend discharge.
- D. It should be stressed that elected officials and supervisors are not bound by a progressive discipline formula in the cases of serious offenses. Some offenses are serious enough that no oral warning or written reprimand need to precede disciplinary action resulting in a suspension without pay or termination. However, it should be noted the purpose of progressive discipline is not termination. Ideally, through this approach, performance of the employee is to improve and become productive and protect the County's investment in the employee.

### **13. INAPPROPRIATE CONDUCT CAUSING DISCIPLINE**

Conduct deemed inappropriate for the workplace, including but not limited to, the following is considered ground for discipline and possible termination (THIS LIST IS NOT EXCLUSIVE!!!!)

1. Discrimination based on race, creed, religion, national origin, age, sex, gender, sexual orientation or disability.
2. Being under the influence of alcohol or the illegal use of any other narcotic or controlled substance on County time and/or driving a County vehicle.
3. Unauthorized possession, use or removal of property belonging to the County or another employee.
4. Willful insubordination.
5. Theft of County property, failure to report any known theft of County property or concealment of any theft of County property.
6. Dereliction of duty.
7. Unsatisfactory attendance and punctuality or failing to give required notice of absence or tardiness.
8. Refusing to accept job assignments.
9. Troublemaking or instigating a fight.
10. Falsifying any application for employment or any other department record.
11. Non-compliance with any County policy.
12. Derogatory acts or remarks toward the County, supervisors or employees.
13. Threatening, intimidating or otherwise interfering with another employee.
14. Causing or attempting to cause physical or mental injury to another person.
15. Behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress.
16. Negligence or improper conduct leading to damage of County property or property of another employee.
17. Possession of an unauthorized firearm while on County property, in a County vehicle or while on County business (with the exception of law enforcement officers).
18. Dishonesty.
19. Falsifying or signing another employee's timesheet without supervisor's approval.
20. Gambling on County property or time.
21. Leaving the job without permission.
22. Making statements that could result in a loss of public goodwill or that are offensive to others.
23. Possession, use or distribution of alcohol or drugs during work hours.
24. Sexually or otherwise harassing another employee or citizen.

25. Unsatisfactory work performance, whether or not deliberate.
26. Unauthorized use of telephones, postage, computer or any other County equipment.
27. Unauthorized absence from work station during the work day.
28. Violating safety requirements and rules.
29. Performing acts of fraud and/or deception.
30. Receiving kickbacks from outside vendors and/or others.

## **14. RESIGNATION & ABANDONMENT OF EMPLOYMENT**

- A. When an employee intends to resign their employment with the County, the employee shall give Van Buren County at least a two-week written notice. All files, records, keys and other material that is property of the County must be returned to their supervisor prior to leaving. Employees leaving on good terms may be reconsidered for future re-employment. Those not leaving on good terms will not be considered for future employment.
- B. Any employee absent without leave from work for three (3) consecutive days will be considered as resigned from the County and will not be considered for future employment with the County.

## **15. SAFETY**

Employees are urged to study, observe and keep updated on all safety rules in their department and workplace, and report unsafe conditions and equipment to their supervisor. Some jobs require using provided safety equipment such as hard hats, reflective safety vests, rain gear, etc. For jobs in Road, Solid Waste, Recycling, etc., wearing safety vests on the job site is mandatory. Refusal to do so can result in immediate termination. Efficient job performance and on-the-job safety practices go hand in hand. If you are unaware of safety situations in your workplace, visit with your supervisor.

## **16. INJURIES/VEHICLE ACCIDENTS**

- A. Any injury suffered by an employee must be reported to your supervisor immediately, who is required to file a report of injury. This report must state whether or not the accident is connected with the employee's job duties.
- B. If you have an accident in a county vehicle, the driver should remove the vehicle from the roadway unless it is disabled or there is a visible or apparent injury to a person. Contact Law Enforcement and your immediate supervisor. Law Enforcement investigation is mandatory whenever outside parties are involved or where there is ANY property damage

or personal injury. The employee(s) involved must submit a full report to their immediate supervisor before close of business.

- C. Employee(s) involved in a vehicle accident must submit to drug testing immediately after returning from the accident scene. If taken to the emergency room, employee must submit to a drug screen at the hospital. Failure to do so will result in immediate termination.

## **17. WEAPONS**

Employees shall not have any weapons on County property unless they are authorized to carry a weapon and/or in connection with the performance of their job responsibilities.

## **18. POLITICAL ACTIVITIES**

- A. Number one, you are highly encouraged to vote every election since it is one of our many freedoms we have in our county. Each office should allow a reasonable amount of time to allow employees to go vote during Election Day if they cannot use early voting or absentee voting. Employees are encouraged to be active in support of our political system of our country. However, employees are prohibited during working hours from actively campaigning for candidates for performing any activity, which could appear to put the County in a partisan position. *“No public officer, deputy or assistant shall devote any time or labor during usual office hours toward the campaign of any other candidate for office.”* A.C.A. § 7-1-103(a)(2)(A). No campaign posted signs on County Property.
- B. No contribution or service for political purposes can be expected of you as a condition of your employment. No one has the right to promise or threaten to change your job in any way for giving or withholding any service or contribution for political purposes; nor can you use your job or political influence to control the extra advantages for yourself.

## **19. CONFLICT OF INTEREST**

Employees must perform their duties in an ethical and moral manner. Employees must not use their position or knowledge gained from their position for private or personal gain and/or advantage. A.C.A. § 21-8-304 lists certain activities that are ethically prohibited activities for County employees and officials. If an employee becomes involved in a situation that could be considered a prohibited activity, the employee should immediately communicate all facts to his or her immediate supervisor, department head or elected official.

## 20. PRIVACY AND CONFIDENTIALITY

- A. When handling financial records and/or personal information about customers or others with whom the County has dealings, observe the following principles:
1. Collect, use and retain only the information necessary for County business. Whenever possible, obtain any relevant information directly from the person concerned. Use only reputable and reliable sources to supplement this information.
  2. Retain information only for as long as necessary or as required by law. Protect the physical security of this information.
  3. Limit internal access to personal information to those with a legitimate business reason to have the information. Use personal information only for legitimate business purposes for which it was obtained. Release of any information to persons not involved with the stated business purpose should be made by department heads and/or elected officials in response to a Freedom of Information Act request.

## 21. USE OF COUNTY ASSETS (Equipment, Office, Etc.)

- A. Always remember all county assets are bought with Taxpayer Money therefore all equipment must be used for its intended purpose!
- B. **COUNTY OFFICE AND CELL PHONES** – County office and cell phones are to be used primarily for conducting County Business. When a personal long-distance call must be made, it should be made from the employees own personal cell phone, or the call must be charged to the caller's home phone number or personal credit card. Abuse of a County phone and cell phone or personnel cell phone for personal use may result in disciplinary action. Personal cell phone use during on duty hours should be kept to a minimum.
- C. **OFFICE COMPUTERS** – Office computers are to also be used only for business purposes. Use of office computers for personal purposes (i.e. personal email, non-business internet sites, social media outlets), could lead to disciplinary action and possible termination. Remember everything done on your computer is county property and may be examined anytime by superior official if abuse is suspected. Also, Freedom of Information Act requests may be made on what is done on your computer. ***“Rule of thumb: If you don’t want the whole world to see, don’t do it!!”***

**D. PASSWORDS** – Users are responsible for safeguarding their passwords for access to the computers and programs you work on. Passwords should be kept secure and not given to others unless necessary in order to conduct business in a normal fashion.

**E. COUNTY VEHICLES AND OTHER EQUIPMENT**

1. If an employee is assigned the use of a County automobile or equipment, that employee should operate them with due care and follow all laws and rules of the road.
2. County employees should keep vehicles and equipment in a clean and sanitary condition at all times. If employees are driving outside of Van Buren County, employees must get permission from their Supervisors before beginning the trip. Any problems with a County vehicle must be reported to the employee's Supervisor or Department Head for immediate corrective action. The County stresses preventive maintenance, and every operator of County vehicles or equipment is expected to report problems at once.
3. If an employee is assigned or uses a County vehicle, the following rules apply:
  - a. No County vehicle will be allowed to travel outside Van Buren County on other than official County business.
  - b. No County vehicle will be allowed to be used on weekends or any other time, either during or after work, for the purpose of traveling to and from personal errands.
  - c. No employee who lives outside of Van Buren County will be allowed to take a County vehicle home without permission from the employee's Department Head.
  - d. No County vehicle will be used to transport anyone to or from a secondary job, nor will any County vehicle be used in the performance of a secondary job by any employee.
  - e. County Police and Emergency vehicles will be operated in accordance with the guidelines set forth in the Department.
  - f. Certain administrative positions in the County, as determined by the Quorum Court, may have a take-home vehicle assigned as a fringe benefit of employment. If assigned, the value of such shall be added to the employee's annual compensation in accordance with current IRS regulations; withholding and benefit amounts will be calculated on an annual basis and will be reflected on the employee's W-2.

- g. Driver of County Vehicles must wear a safety belt at all times while operating the vehicle. The use of cell phones for texting while driving County vehicles is expressly prohibited.
- h. If employees are authorized to operate a County vehicle and they are away from work due to any leave of absence or illness, employees should park the vehicle at the appropriate County facility, unless it will be used by your replacement.
- i. There will be no smoking or use of tobacco products in County vehicles.

Violations of any of the above rules may lead to disciplinary action, up to and including termination of employment.

## **22. MEDIA**

- A. Being in County Government, the media always has an interest in how our county operates and are we being good stewards of taxpayer monies. If we all do our jobs in a professional, honest and upfront manner, the media will always be our best friend.
- B. To maintain accuracy and consistency, employees who receive inquiries from the media must follow the following guidelines and procedures:
  - 1. No employee may grant an interview or make comments about County business without prior approval of the employee's supervisor, employee's Elected Official, Head of that office, County Judge or the Judge's executive assistant.
  - 2. The County Judge, Judge's Executive Assistant, an Elected Official or supervisor may designate a spokesperson to handle certain types of routine inquiries and contacts with local news media or information requests.
  - 3. During times of crisis, weather related events/time sensitive deadlines, normally the Incident Commander or Designate will handle media duties during those critical times.

## **23. SEPARATION**

### **A. Notification of Job Termination:**

A full-time employee who is to be separated from employment with the County through no fault or action of his/her own shall be notified two (2) weeks in advance of the planned action. Van Buren County will try to find other employment for any employee dismissed because of a reduction in the County's work force.

**B. Resignation:**

An employee leaving the employment of the County voluntarily shall state his/her reason for resigning in a written notice of resignation to the elected official. Such resignation should be submitted two (2) weeks in advance of the planned separation date.

**C. Lay-Off:**

1. Employees may be laid off either because of lack of work or funds or because of a change in the organization of the County's work force. Separation, transfer or demotion due to lay off does not reflect discredit upon any employee.
2. The procedure for lay-off shall be as follows:
  - i. When the need for lay-off is determined, the Governing Body shall inform the Elected Officials of the number of jobs, which shall be vacated in his/her office.
  - ii. The Elected Official shall recommend to the Governing Body jobs, which he/she thinks should be separated, transferred or demoted because of the lay-off.
  - iii. After receiving the recommendations, the Governing Body shall inform the Elected Official which jobs are to be vacated, separated, transferred or demoted.
  - iv. The Elected Official shall consider past services and seniority of employees when making the decision concerning lay-offs but is not bound to give precedence to either criterion unless all other qualifications are equal.

**D. Retirement:**

As long as an employee is physically and mentally capable of performing the duties of his/her assigned job, he/she may continue in that job regardless of age. Separation from employment due to retirement shall be handled in the same way as a resignation.

## **24. LEAVE OF ABSENCE – VACATION**

- A.** The County will grant annual leave to all permanent employees. All leave should be scheduled in advance by authorization of the employer. All permanent full-time employees will earn annual leave as follows:
1. Those employees with one (1) year of active employment from hire date will receive one (1) week,-five (5) working days, (40 hours)
  2. Those employees with two (2) years to nine (9) years of active employment from hire date will receive two (2) weeks-ten (10) working days, (80 hours)
  3. Those employees with ten (10) years to nineteen (19) years of active employment from hire date will receive three (3) weeks-fifteen (15) working days, (120 hours)

4. Those employees with twenty (20) years of active employment or more from hire date will receive four (4) weeks-twenty (20) working days, (160 hours)
  5. If the employee leaves the job before his/her year is up, the County will pay to the employee the part of vacation time he/she has earned. Annual leave is not applicable to temporary or part-time employees.
- B. An employee off on Worker's Comp will not earn vacation time.
  - C. Employees will receive compensation at their normal rate of pay for all vacation leave. This compensation will be paid at the regular scheduled pay period following the use of vacation leave. The estate or next of kin of employees separated from employment by death shall be compensated for the accrued vacation leave of the deceased employee at regular rate of pay.
  - D. Vacation leave shall be scheduled by the Elected Officials and Department Heads, who shall take into consideration the wishes of the employees and the need of the County. Vacation leave shall be taken in at least one workweek increments, but variations may be granted for good cause. Employees are to be encouraged to utilize their full vacation leave each year. Vacation leave cannot be accumulated from year to year, and you must take the time to receive pay!

## **25. PERSONAL DAYS/BIRTHDAY**

- A. County employees becoming eligible after six (6) months of continuous employment, will be granted forty-eight (48) hours personal time off (4 hours a month) effective January 1<sup>st</sup> of each year to use throughout the year, one (1) day being the employee's birthday to be used on the actual date or another date approved by the employee's supervisor. These personal days cannot be carried over from year to year and will not be paid time should employment be terminated.
- B. Personal days are not accrued days and **CANNOT** be carried over to the following year.

## 26. HOLIDAYS

- A. All full-time County employees and employees in their probation period shall be entitled to the same Holidays as the state employees. They are as follows:

New Year's Day  
**(January 1<sup>st</sup>)**

Martin Luther King/Robert E. Lee Birthdays  
**(3<sup>rd</sup> Monday in January)**

President's Day  
**(3<sup>rd</sup> Monday in February)**

Good Friday (not a state holiday)  
**(Friday before Easter)**

Memorial Day  
**(Last Monday in May)**

Independence Day  
**(July 4<sup>th</sup>)**

Labor Day  
**(1<sup>st</sup> Monday in September)**

Veterans Day  
**(November 11<sup>th</sup>)**

Thanksgiving Day  
**(4<sup>th</sup> Thursday in November)**

Day after Thanksgiving  
**(4<sup>th</sup> Friday in November)**

Christmas Eve/Christmas Day  
**(December 24<sup>th</sup> and 25<sup>th</sup>)**

- B. Employees will be paid their regular rate of pay. When a holiday falls on a Saturday, it shall be observed the preceding Friday. When a holiday falls on a Sunday, it shall be observed on the following Monday. Employees off on Worker's Comp will not receive Holiday Pay.

## 27. SICK LEAVE

- A. All regular full-time employees of the County become eligible to accrue sick leave with pay with maximum benefit of 48 hours per year after three (3) months of continuous employment. Sick leave days accrue at the rate of 4 hours for each month worked throughout the year of employment with the County.
- B. Accrued sick leave days can be carried over to the following year of employment with the County. Accrued sick leave days can be carried over to the following year for a maximum of 192 hours. A doctor's note is required for consecutive days or excessive days at the department head's request.
- C. An employee may be eligible for sick leave for the following reasons:
1. Personal illness or physical incapacity resulting from causes beyond employee's control.
  2. Illness or physical incapacity of an immediate family member. Immediate family may be defined as spouse, parent, sibling, child, step-child, grandparent, grandchild, son-in-law, daughter-in-law, mother-in-law or father-in-law.

3. Quarantine of an employee by a physician or officer to comply with community health regulations.
  4. Department Heads may allow distribution of sick leave for purposes other than illness.
- D. An employee who is unable to report for work due to previously mentioned reasons, shall report the reason for his/her absence to his/her supervisor or someone acting for his/her supervisor within 1 hour from the time he/she is expected to report for work/duty. Sick leave pay shall not be allowed unless the report has been made and the County Official or his/her assistant has approved the report.
- E. Regular full-time employees shall receive paid sick leave if their absence meets one of the previously mentioned reasons, provided the following:
1. The County employee has not been terminated before the absence.
  2. The County employee's illness or injury is not attributed to:
    - i. Illness or injury resulting while committing a felony.
    - ii. Illness or injury resulting from paid employment of any kind other than the County.
    - iii. Truthful evidence of full justification for every absence receiving sick leave benefits must be presented when requested by the Elected Official and/or department head. If an employee accepts sick leave benefits based upon false evidence, such action must be regarded as a breach of faith by the employee, and its justification for disciplinary action or discharge.
    - iv. Absence for a part of the day that is chargeable to sick leave pay in accordance with these provisions shall be charged in not less than one-half day units.
    - v. Employees leaving the employment of the County for any reason shall not be paid accumulated sick leave.
    - vi. All leave taken by employees for any purpose other than sick leave outlined above and emergency leave listed in another portion of the personnel policies will be charged against vacation time and upon exhaustion of paid vacation time, shall be granted leave without pay, if justified, for a period of not more than one year. If leave without pay is not justified or if the one-year has expired, the employee may be separated. Such determination will be made on a case-by-case basis.
    - vii. County part-time employees working less than 40 hours per week shall not earn paid sick leave beginning with new hires as of 1/1/2016.
    - viii. A full-time employee, when sick, will not have sick leave time reduced to pay for a holiday, vacation or approved absence if it falls during the time of illness.

Such days will be treated as if the employee were not ill. A full-time employee shall receive sick leave pay at the rate of the employee's regular base salary.

- ix. County employees shall not be paid for unused sick leave.
- x. Any additional sick leave over the amounts given in this policy will be taken from the employee's accrued vacation days, if available, or otherwise be considered an unpaid leave of absence, assuming the employee's leave does not fall under the Family Medical Leave Act.

## **28. DONATED SICK LEAVE**

- A. An employee with three (3) months continuous service (the donor employee) shall be eligible to donate any portion of their sick leave to an employee who has used all their paid leave (the donee employee) when the donee employee is (1) needed to care for a child, spouse or parent who has a serious health condition or (2) unable to perform the functions of their position because of a serious health condition.
- B. If the donee employee does not use all of the donated sick leave, the unused portion reverts back to the donor employee. Full time employees can accumulate sick leave at a rate of 4 hours per 173 hours worked or a maximum of 6 days per calendar year with total accumulation of 192 hours. Anything over 192 hours will go into the Donated Sick Leave Fund or employee can donate to anyone needing emergency sick leave.
- C. The County Clerk shall be responsible for monitoring such donations. All donor employees must fill out a form in the County Clerk's Office to donate their sick leave and each form shall be file-marked to determine order of donation, use and reversion. A committee of county elected must approve Donated Sick Leave.
- D. Notwithstanding anything to the contrary herein, a donee employee can use not more than ten (10) days of donated sick leave per year from whatever source without bringing issue before the Quorum Court.

## **29. MATERNITY LEAVE**

Sick leave and annual leave will be granted for maternity use, after which, leave without pay must be used. FMLA leave Policy will be followed.

## **30. EMERGENCY LEAVE/FUNERAL**

Full-time employees shall be granted up to a maximum of three (3) work days emergency leave with pay in the case of death or imminent death in the immediate family of an employee. Travel time may be granted with the prior approval of the Elected Official, in

addition to the three (3) days when excessive travel time is involved. The Elected Official may grant emergency leave of not more than one (1) day for an employee to be a pallbearer or to attend a funeral of someone not within the immediate family.

### **31. MILITARY LEAVE**

Employees who are members of a military reserve or National Guard unit shall be entitled to two (2) weeks military leave, with the County reimbursing the employee the difference between his/her regular pay and the military pay, if not taken during earned vacation leave.

### **32. ABSENCE WITHOUT LEAVE**

An absence of an employee from duty, including any absence of one day or part of a day that is not authorized by the Elected Official shall be deemed Absent Without Leave. Such absence shall be without pay and subject to disciplinary action. Absence Without Leave for three (3) consecutive days shall be deemed as vacating the job and be grounds for dismissal.

### **33. MISCELLANEOUS LEAVE**

Full-time employees may be granted leave with pay for jury duty, serving as a witness (only when subpoenaed) and other citizenship duty obligations but not for non-mandated appearances or for personal legal matters. All such leave must be approved in advance, by the Elected Official, so that necessary arrangements can be made to cover the responsibilities of the absent employee.

### **34. CONSTITUTIONALLY PROTECTED CONDUCT**

- A. It is the policy of this County not to violate the Constitution or the laws of Arkansas or the United States.
- B. Should any applicant believe that he/she has been unlawfully discriminated against because of race, color, religion, gender, national origin, age or disability or that he or she has been unlawfully punished for the exercise of a constitutionally protected liberty right (e.g. free speech, free association, political patronage, access to courts, privacy, etc.) or treated in any other unlawful or unconstitutional manner, the applicant or employee shall request, in the time and manner set forth in this County employment policy, a "liberty right" hearing before the County Grievance Committee to provide the County's final policymaker with authority an opportunity to learn of the alleged unlawful discrimination or unlawful punishment and to thereby have an opportunity to voluntarily conform the conduct of County Officials and County employees to the requirements of County policy.

## **35. FMLA LEAVE POLICY**

- A. Purpose:** The purpose of the Family and Medical Leave Act (FMLA) of 1993 is to balance the needs of families with the demands of the workplace. It was designed to promote our County's interest in preserving family unity while accommodating the legitimate interest of employees.
- B. Equality:** The FMLA legislation seeks to minimize the potential for employment discrimination on the basis of gender consistent with Equal Protection Clause of the Fourteenth Amendment by assuring that leave is available for family members.
- C. Unpaid leave:** The County will grant up to twelve (12) weeks of unpaid leave per calendar year to employees who need to care for family members.
- D. Qualifying employees:** An employee must have been employed for at least twelve (12) months and worked at least 1,250 hours during that twelve (12) months to qualify for FMLA leave.
- E. Purposes for which leave can be taken:** Employees are entitled to take up to twelve (12) weeks unpaid FMLA leave per year for:
  - 1. The birth of the employee's child.
  - 2. The placement of a child with the employee for adoption or foster care.
  - 3. To care for the employee's spouse, child or parent who has a serious health condition.
  - 4. A serious health condition rendering the employee unable to perform his/her job.
- F. Intermittent leave:** The employee may take leave intermittently or on a reduce work schedule when medically necessary due to the employee's or a family member's illness.
- G. Notice required:** The employee is to provide at least thirty (30) day notice, if possible, of the intention to take leave.
- H. Medical Certification:** The County requires medical certification that the leave is needed due to the employee's own serious health condition or that of a family member. The County may, at the County's expense, require a second medical opinion. If the first and second opinion differ, the County may request a third opinion, at the County's expense, which is then binding.
- I. Continuation of Benefits:** The County will continue the employee's health insurance under the same condition as if the employee were working. Under this circumstance, the employee will still be required to pay his/her share of the premium if the County's health insurance plan provides co-payments. Leave under this ACT is not a "qualifying" event under COBRA. If the employee does not return to the job, the employee shall be liable to

the County for repayment of the health insurance benefits paid by the County during the employee's FMLA leave.

- J. Return to the Job: Upon returning from leave, an employee is entitled to be restored to the same or equivalent position with equivalent pay, benefits and other terms and conditions of employment.
- K. Concurrent Leave: FMLA leave will automatically run concurrent with all other available leave time (e.g. Sick leave, maternity leave, etc.).

## **36. EMERGENCY CLOSINGS**

- A. There may be times when emergencies such as severe/inclement weather, fire, power failures, etc. disrupt normal business operations in Van Buren County. Only the County Judge or his/her designate may declare the County offices and services closed. All employees should report to work as normal unless the County Judge, in conjunction with other County offices, determines that County offices will not open. Notices of closings and delayed openings as made by the County Judge will be communicated on local media outlets and phone messaging services. Notwithstanding instructions to report to work, employees should always exercise due care for their safety and should not report to work if doing so would create an unreasonable or unacceptable risk. For facilities that run 24-7, employees should report to work early and cannot be excused from duty unless relieved by a co-worker.
- B. When County offices are closed due to emergency conditions, you will be paid for the time off for a short-term of day's closure. In the event that the County Judge, or his/her designate, officially closes offices, employees who are taking pre-scheduled vacation, personal or sick leave will not be paid for the emergency closing but will receive leave pay if due.
- C. In the event offices are not officially closed and you are still absent, all absences or extreme tardiness caused by inclement weather events should be charged to annual leave, sick leave or leave without pay.

## **37. EMPLOYEE DRUG AND ALCOHOL TESTING**

- A. Any prospective employee may be given a mandatory pre-employment drug test and will not be employed until the drug test results are received by the Office of the County Judge. The County Judge will then notify the County Clerk, who shall notify the Elected official or Department Head of the results. An employee cannot start work until the pre-employment drug test result is received.

- B.** All county employees are subject to reasonable suspicion drug testing. Reasonable suspicion testing shall not be conducted until after the facts are reviewed by the Prosecuting Attorney, a Deputy Prosecuting Attorney or the County Civil Attorney, and the reviewing attorney agrees with the supervising elected official that reasonable suspicion exists under the particular facts of the particular case.
- C.** Public safety employees are subject to testing by the county to detect the presence of controlled substances or alcohol in their body, including:
  - 1. Pre-employment testing (controlled substances only).
  - 2. Reasonable suspicion testing.
  - 3. Random testing.
  - 4. Post-accident testing.
  - 5. Return to duty and follow-up testing.
- D.** Public safety employees subject to testing shall include only employees whose duties require them to:
  - 1. Maintain a commercial driver's license.
  - 2. Carry a firearm.
  - 3. Routinely operate an emergency vehicle (one equipped with siren and red or blue lights) in order to lawfully carry out their duties.
  - 4. Serve as mechanics on County vehicles.
  - 5. Be prepared to use justified physical force against persons to maintain order or secure security for persons detained by the County Government.
  - 6. Drive a vehicle as part of the employee's normal County duties (excluding to and from work).
  - 7. Serve as a dispatcher for law enforcement or emergency services.
- E.** The Drug and Alcohol Testing Procedures required by the U.S. Department of Transportation (the Rules) shall be the procedures followed by the County, which procedures shall not be contrary to procedures promulgated by the Association of Arkansas Counties.
- F.** Drug and alcohol testing will be administered to the employees in circumstances and in the manner mandated by the Rules
- G.** The following shall result in immediate discharge:
  - 1. Refusal to take a mandated test for drugs or alcohol.
  - 2. A positive drug test result, once the time limit for requesting a second test of a split sample has expired or upon receipt of a positive drug test result from a second test.

3. A positive alcohol test result.

- H. Employees whose initial drug test results are positive and who request a test of the second portion of the split sample will be suspended without pay until such time as the County's Designated Representative receives the results of the second (split sample) test. Such second test will be paid for by the employer to be reimbursed to the County by the employee.

The County shall withhold from the employee's paycheck the cost of the second (split sample) test to reimburse the County. A negative result from the second (split sample) Drug Test will render the First Test invalid and the employee will be reinstated with back pay and reimbursement for the cost of the second test.

- I. An employee suspected of unlawful use of drugs or abuse of alcohol while on duty, as established by the Rules, or who is involved in an accident as defined in 49 CFR 390.5 (and receives a citation for a moving traffic violation in this section) by the Rules, shall be suspended immediately with pay until the results of the drug or alcohol test are received by the County's "Designated Representative."

### **38. INFORMAL PROCEDURE FOR REPORTING/RESOLVING PERCEIVED HARRASSMENT**

- A. This policy provides an informal procedure for reporting any conduct or condition perceived to be race, color, religion, gender, national origin, age or disability harassment to enable the County to receive timely notice and to act affirmatively, if needed, to assure compliance with the law. If this informal procedure does not achieve the desired result, the affected person should utilize the Grievance Hearing procedure to bring the matter before the County Grievance Committee.
- B. Race, color, religion, gender, sex, national origin, age or disability harassment (by conduct or condition) is prohibited.
- C. If you consider a County Official's or a County employee's conduct or a workplace condition to be race, color, religion, gender, sex, national origin, age or disability harassment, report it immediately to any supervisor or elected official.
- D. The supervisor or Elected Official receiving any such report shall report the matter to the appropriate elected official or officials which, for the implementation of this procedure, shall be Elected Official(s) responsible for managing the day-to-day affairs of the office of County Government in which the alleged harassment occurred or in which the alleged harasser works.

- E. Any supervisor or Elected Official receiving any report of race, color, religion, gender, sex, national origin, age or disability harassment shall take appropriate action to remedy any race, color, religion, gender, sex, national origin, age or disability harassment and shall respond to the person reporting the matter to the person originating the report can be informed of the action taken.
- F. If the person reporting the alleged harassment is not satisfied with the action taken or if the alleged harassment continues, that person shall report the matter to the County's Prosecuting Attorney or Deputy Prosecuting Attorney.

### **39. GRIEVANCE HEARINGS**

**CAVEAT: The county Grievance Hearing Procedure is a required procedure to be used to resolve applicant and employee grievances. The purpose is to enable to: i) hear about alleged violations of the constitution, the law or public policy and ii) have the opportunity to take affirmative action to enable the county to voluntarily conform the conduct of county officials and county employees to the requirements of the constitution, the law and public policy. If the applicant or employee does not follow this affirmatively required county grievance hearing procedure, the county will raise waiver and estoppel as affirmative defenses to any claims against the county filed by the applicant or employee via any administrative or judicial procedures otherwise available for redress of grievances.**

#### **A. Grievance Hearings Generally**

##### **1. Availability of Property Right Hearings**

- i. Because an at-will employee has no property right in employment, at-will employment may be terminated by either the County or the employee at any time without prior notice, without cause, and without any property right hearing.
- ii. Any claim that any employee has a constitutionally protected property right in employment (the right to continue employment until "just cause" for discipline or dismissal is proved by the County at a pre-deprivation hearing) must be timely asserted in writing by the affected employee in accordance with this Grievance Hearing Procedure, or the alleged property right claim will be waived by the employee Any claim that an employee has a property interest in his or her employment and was subjected to discipline or dismissal without "just cause" must be made in writing by the affected employee in accordance with this grievance hearing procedure or the employee's claim for wrongful discipline or

wrongful dismissal and the employee's right to a hearing will be waived by the employee.

2. Availability of Liberty Right Hearings:

- i. Because all public employees, as U.S. citizens, have constitutionally and statutorily protected liberty rights, an at-will employee (who has no property interest in employment) can make a claim that reduction or removal of pay or position violated the at-will employee's liberty rights as a public employee.
- ii. Employee liberty rights fall into three major categories: the right to be free from unlawful discrimination and the right to be free from unlawful retaliation and the right to be free from completely arbitrary governmental action.
- iii. Unlawful discrimination falls into two categories:
  - (a) Arbitrary discrimination on the basis of race, color, religion, gender, age, national origin, or disability or
  - (b) Arbitrary discrimination on the basis of similarly situated employees be subjected to unequal hiring, compensation, conditions of employment.
- iv. Unlawful retaliation falls into two categories:
  - (a) Retaliation to punish an employee for having exercised a constitutionally protected "liberty right" such as free speech, free association, political patronage, access to courts, privacy, etc. or
  - (b) Retaliation to punish an employee for having previously used county policy, the laws, or access to the courts to redress a grievance.
- v. Completely arbitrary governmental action falls into two categories:
  - (a) Governmental action that is not rationally related to any conceivable legitimate governmental objective or
  - (b) Governmental action that is contrary to a public policy of the State of Arkansas.
- vi. Any claim that any employee has been subjected to the deprivation of a constitutionally or statutorily protected liberty right must be timely asserted in writing by the affected employee in accordance with this Grievance Hearing Procedure.

3. Availability of Name Clearing Hearings:

Any claim that any employee's liberty interest in future employment has been damaged as a result of any "stigmatizing charge" publicly communicated by the

County must be timely asserted by the affected employee in accordance with this grievance hearing procedure.

4. Availability of Hearings Generally

- i. A grievance hearing requested by an applicant or employee is not required to be held unless it is timely requested in a manner required by this Employee Grievance Hearing Procedures and required by the constitution or by this policy.
- ii. Neither liberty rights nor property rights are created by this document.
- iii. The County may, in its discretion, hold a hearing prior to any decision or deprivation.

**B. Timely Request for Grievance Hearing**

1. It is the applicant or employee's duty to request a grievance hearing.
  - i. The applicant or employee must timely file a written grievance hearing request after any claimed deprivation of the applicant's liberty or employee's liberty or property or any right to a hearing or to object to the deprivation shall be waived.
  - ii. The grievance hearing request should state, in writing:
    - (a) The grievance for which a hearing is requested;
    - (b) The factual basis of the grievance; and
    - (c) The relief sought.
2. The written grievance hearing request shall be delivered to the County Grievance Committee in care of the County Judge no later than four-thirty o'clock (4:30) p.m. on the third full business day (weekends and holidays excluded) after any claimed deprivation for which a grievance hearing is requested.
3. Any dismissal decision shall automatically be a suspension with pay for three (3) full business days (weekends and holidays excluded) during which time the employee subject to dismissal may request a pre-deprivation hearing, in which case the suspension with pay shall continue until the conclusion of the County Grievance Committee hearing. Any continuance of the Grievance Committee Hearing date at the affected employee's request may be granted only without continuing pay pending the continued hearing date.
4. In no event shall a suspension with pay status extend more than fourteen (14) days, unless the suspension with pay status is extended by decision of the County Grievance Committee.

5. All accrued but unpaid leave time – e.g. vacation, comp time, etc.-will automatically run concurrent with the period of suspension with pay , unless the employee prevails in his or her grievance.
6. The Grievance Committee shall respond in writing to all timely submitted Grievance Hearing Requests stating:
  - i. The time and place of the hearing, if the hearing request is granted, and
  - ii. The reason for denial, if the hearing request is denied.

**C. Grievance Hearing Procedures**

1. NOTICE: After an employee requests a grievance hearing, the employee shall be notified of the date, time, and place of the hearing.
2. SUSPENSION WITH PAY: The County may determine that the grieving employee should continue to work until the hearing is concluded and, if so, the employee may be requested to perform some of different duties for the benefit of the County with pay pending the outcome of the hearing.
3. HEARING RECORD: The hearing shall be reported by a court reporter (not merely a tape recorder) for transcription upon request by either party at the expense of the requesting party.
4. PROCEDURAL ISSUES: At the hearing, on the record, the parties shall suggest any desired hearing procedures and state any complaints regarding: a) the notice; b) the date, time, or place of the hearing; c) the opportunity to refute fairly the charges; and d) the impartiality of the decision maker(s).
5. RULES OF PROCEDURE AND EVIDENCE: Informal rules of procedure and evidence (A.C.A. § 25-15-208) shall be followed:
  - i. Witnesses shall testify under oath;
  - ii. Parties shall be allowed, at their own expense, to obtain and use legal counsel for representation;
  - iii. Parties shall be allowed to obtain and use the presence of witnesses for examination, cross-examination, and rebuttal; and
  - iv. Parties should be granted a reasonable continuance if requested prior to the hearing in writing and if reasonably necessary for stated reasons to prepare adequately for the hearing.

6. PUBLICATION: The County Grievance Committee shall hear the evidence offered by the parties, hear any argument desired by the parties, and vote without public discussion or deliberation. Only the decision, and not the factual or legal reasons therefor, shall be announced publicly. The hearing shall be held in public if so required by the F.O.I.A.; however, the employee may, at any time, decline the hearing and accept the intended discipline or dismissal.
7. CONFIRM IN WRITING: After the hearing, the grieving applicant or employee shall be sent a letter stating the factual and legal bases found by the County Grievance Committee for any refusal or removal of pay or position.

#### **D. Hearing Issues and Burdens of Proof**

##### *1. Property Interest Hearings*

- i. Since this county employment policy affirmatively creates at-will employment as the default employment policy of the County, the employee has the burden of proving by a preponderance of the evidence that he or she has a property interest in his or her employment.
- ii. Where the employee meets his or her burden of proof, the supervisory official has the burden of proving "just cause" for the supervisory official's intended discipline or dismissal of the employee.

##### *2. Liberty Interest Hearing – Claim of Unconstitutional Retaliation*

- i. The employee has the burden of proving by a preponderance of the evidence that he or she has engaged in constitutionally protected conduct that was a substantial or motivating factor in any adverse employment decision, discipline, or dismissal.
- ii. Where the employee meets his or her burden of proof, the supervisory official has the burden of proving that the adverse employment decision, discipline, or dismissal would have occurred even in the absence of the constitutionally protected conduct.

##### *3. Liberty Interest Hearing - Claim of Illegal Discrimination Due to Race, Color, Religion, Gender, Sex, Age, or National Origin*

- i. The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she is being treated or effected differently than another person who, other than for race, color, religion, gender, sex, age, or national origin, is similarly situated with the applicant or the employee.
- ii. Where the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence

that the proven inequality of treatment or effect is necessary to effectuate a compelling county objective.

4. *Liberty Interest Hearing - Claim of Discrimination Due to a Disability*

- i. The grieving applicant or employee has the burden of proving by a preponderance of the evidence that he or she is a qualified individual with a disability who, because of the disability, is being treated or effected differently than another person in regard to job application, procedures, advancement, dismissal, compensation, training or other terms, conditions, or privileges of employment.
- ii. Where the applicant or employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the proven difference in treatment or effect is job-related and necessary to effectuate a legitimate County objective, that performance of the job cannot be accomplished by reasonable accommodation, or that the needed accommodation would result in an undue hardship on the County.
- iii. Definitions: The following definitions apply to claims of discrimination due to a disability:
  - (a) “Disabled” or “Disability”: A physical or mental impairment that substantially limits on or more of the major life activities of an individual; having a record of such an impairment; or being regarded as having such an impairment.
  - (b) “Regarded as having such impairment”; includes those with conditions such as obesity or cosmetic disfigurement and individuals perceived to be a high risk of incurring a work-related injury.
  - (c) “Discrimination” includes:
    - (i) Limiting, segregating or classifying a job applicant or employee in a manner that adversely affects his or her opportunities or status;
    - (ii) Participating in contractual or other arrangement that have the effect of subjecting individuals with disabilities to discrimination;
    - (iii) Using standards, criteria or methods of administration in such a manner that results in or perpetuates discrimination;
    - (iv) Imposing or applying tests and other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the test or selection criteria are job-related and consistent with County necessity;
    - (v) Failing to make reasonable accommodations to the known limitations of a qualified individual with a disability unless the covered entity can

demonstrate that an accommodation would impose an undue hardship on the operation of the County; or

(vi) Denying employment opportunities because a qualified individual with a disability needs reasonable accommodations.

(d) "Reasonable accommodation": examples include.

(i) Making existing facilities used by employees readily accessible to the disabled.

(ii) Job restructuring.

(iii) Flexible or modified work schedules.

(iv) Reassignments to other positions; and

(v) The acquisition or modifications of equipment or devices.

(e) "Undue Hardship": an action requiring "significant difficulty or expense," considering:

(i) The overall size of the County with respect to the number of employees, number and type of facilities and size of the budget;

(ii) The type of operation maintained by the County including the composition and structure of the work force of that entity; and

(iii) The nature and cost of the accommodation needed.

(f) "Qualified individual with a disability": An individual with a disability who with or without reasonable accommodation, can perform the "essential functions" of the employment position held or desired.

(g) "Essential Functions": Job tasks that are fundamental but not marginal (not every job task is to be included in determining the essential functions).

5. *Liberty Interest Hearing - Claim of Discrimination Due to No Rational Basis for a Difference in Treatment*

i. The grieving employee has the burden of proving by a preponderance of the evidence that he or she is being treated differently than another person otherwise similarly situated with the employee.

ii. Where the employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the reason for the difference in treatment is rationally related to the effectuation of a legitimate county objective.

6. *Liberty Interest Hearing - Claim of Arbitrary Decision Due to No Legitimate Governmental Objective*
  - i. The grieving employee has the burden of proving by a preponderance of the evidence that the action taken against him or her is not rationally related to the effectuation of any conceivable legitimate governmental objective of the County.
  - ii. Where the employee meets his or her burden of proof, the supervisory official has the burden of proving by a preponderance of the evidence that the action taken against the grieving employee is rationally related to the effectuation of a conceivable legitimate governmental objective of the County.
  
7. *Liberty Interest Hearing - Claim of Arbitrary Decision Due to Violation of Arkansas Public Policy*
  - i. The grieving employee has the burden of proving by a preponderance of the evidence that he or she is being treated in a manner that violates the public policy of the State of Arkansas (as established by the Arkansas General Assembly or the Arkansas Supreme Court).
  - ii. Where the employee meets his or her burden of proof, the supervisory official has the burden of proving that the adverse employment decision, discipline, or dismissal is not in violation of the established public policy of the State of Arkansas.
  
8. *Name Clearing Hearing - Claimed Deprivation of Liberty Interest in Future Employment*
  - i. The grieving applicant or employee has the burden of alleging that a "stigmatizing charge" has been publicly communicated by the county or a county official or county employee and requesting an opportunity to publicly clear his or her name.
  - ii. Where the applicant employee meets his or her burden of proof, the county shall provide the applicant or employee a public hearing opportunity to clear his or her name.

## **40. COUNTY GRIEVANCE COMMITTEE**

- A. The County Grievance Committee shall be the Quorum Court.
- B. With respect to employees hired by the County Judge, the decision of the Grievance Committee shall be advisory-only to the County Judge, as is required by Ark. Con., Am. 55, Section 3.
- C. With respect to employees not hired by the county judge, the decision of the Grievance Committee shall be the decision of the County, as is permitted by Ark. Con., Am. 55, Sec.

- D. The purpose of the Grievance hearing is to enable the county, through its Grievance Committee, to hear from both the employee and the employee's supervisory official and to thereafter determine whether or not an executive decision of the county official or employee violates the constitution or the law. If the decision being challenged in the Grievance Hearing process is determined by the County Grievance Committee to violate the constitution or the law, then the County Grievance Committee shall declare the decision to be unconstitutional or illegal and shall direct the supervising elected county official to modify that executive decision to conform that decision to the requirements of the constitution or the law.
- E. The County Grievance Committee is not to substitute its operational judgment for that of an Elected Official if the decision of the county or employee does not violate the constitution or the law or the public policy of the State of Arkansas.
- F. If the employee's supervisory official refuses to abide by the County Grievance Committee's decision, then the County Grievance Committee must either access the courts to seek an order enjoining the supervisory official from acting contrary to the constitution or the law, or the County Grievance Committee shall be deemed to have acquiesced to the decision of the supervisory official and the decision of the supervisory official shall become the County's final decision with respect to the employment action taken.

## **41. RELEASE OF EMPLOYEE GRIEVANCE RECORDS**

Public access to employee grievance records is authorized only if approved by the effected employee or authorized by the Arkansas Freedom of Information Act.

## **PERSONNEL HANDBOOK ACKNOWLEDGEMENT**

In consideration of my employment, I agree to conform to the rules and policies of Van Buren County including those set forth in the Personnel Handbook. I understand that my employment and compensation can be terminated with or without cause, and with or without notice, at any time, at the option of either Van Buren County or myself.

I hereby acknowledge that I have been given the opportunity to review and state that I understand the contents of the Van Buren County Personnel Handbook. I further acknowledge that I have been given the opportunity to ask questions concerning its contents. I state that I will be cooperative in complying with the policies set forth therein. I understand that revisions may be made to the Handbook at any time. Further, I agree that the Handbook is not a contract of any kind, implied or expressed, including one for employment, but is for my information only.

Employee Name (Print):

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Employee Signature:

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Date:

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