

FAYETTE COUNTY

PERSONNEL AND EMPLOYEE

HANDBOOK

(Note: These important employee programs are constantly reviewed for improvements)

**THE FAYETTE COUNTY COMMISSION
RESERVES THE RIGHT TO CHANGE THESE
POLICIES AND EMPLOYEE BENEFITS IN
WHOLE OR IN PART AT ANY TIME WITH OR
WITHOUT NOTICE.**

From time to time, this handbook may be or will be changed by distributing new information sheets for insertion into the handbook. It is the responsibility of the employee to abide by this Handbook including all changes. Obviously, not all policies can be stated in an Employee Handbook or even placed in writing. Common sense should be applied where there are no written policies.

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Personnel Policies

Employment At Will

No policy, benefit, or procedure contained herein creates an employment contract for any period of time. All employees will be considered *employment-at-will*. Employees may be terminated for failure to satisfactorily perform their duties or simply at the will of the employer, but they shall not be terminated for a discriminatory or illegal purpose. Any employee who voluntarily resigns from employment must give ten (10) working days notification to their supervisor/elected official, which may be waived by that supervisor/elected official.

There will be a six (6) month probation period for all new full time employees. During this time everyone will be closely supervised in order to become familiar with duties and responsibilities. All New Hires shall have a 5% reduction in their agreed upon salary during their probationary period. After the probationary period has ended, the New Hire shall have their salary increased automatically 5% and be eligible for any Cost-Of-Living adjustments adopted during the probationary period, at the discretion of the supervisor or elected official.

There will be a performance evaluation each year for every employee. Employees will be evaluated on attitudes toward work and co-workers, the quality of work, and the willingness to assume responsibility. This evaluation will be personally discussed with each employee at intervals and placed in the employee file.

Personnel Files

An individualized personnel file will be maintained on each employee. It is the responsibility of each employee to provide accurate information to the employer. Employees are also responsible for reporting to the employer any changes in the information, which they have previously provided.

Salary Payment Process

Direct Deposit

All employees will be paid by Direct Deposit to a financial institution of their choice. It is the employee's responsibility to supply a choice. The County Mayor's Office will inform the employee of options if they do not have an established financial institution. Direct Deposit will start as soon as practical. The initial month of hire may be paid by warrant (check) due to time constraints.

Pay Stub and Employee Notifications

All employees will be notified by electronic means of the issuance of their compensation, and a receipt (pay stub) will be sent electronically to them. Also all employee notifications concerning County generated notices will be sent electronically.

Immigration Papers

Upon initial employment, all employees are required to attest that they are lawfully eligible to work in the United States. Employees are further required to provide to the employer copies of documents proving this eligibility.

Fair Labor Standards Act

Workweek: An employee will be paid a regular bi-weekly pay period which covers all hours worked up to forty (40) hours during each workweek. The workweek will begin at 12:01 a.m. on Saturday and end at 11:59 p.m. on Friday.

Overtime/Compensatory Time: All eligible employees shall be paid overtime or given compensatory time (subject to allowable limits) for all hours worked over forty (40) during the workweek. No overtime or compensatory time will be earned until the employee has worked on the job over forty (40) hours for his/her work period. Overtime/compensatory time is scheduled at the discretion of the office holder. Ineligible persons for overtime/compensatory time include the following: Appointed or Elected persons, Department Heads, and such others as are allowed under the Federal Wage and Hour Laws. Personnel working with Emergency Management, including Department Heads, are eligible for overtime during a major emergency event.

Overtime Rate: An employee who works overtime will receive overtime pay at a rate of time and one-half. An employee's annual salary divided by fifty-two (52) weeks determines his/her weekly salary. The weekly salary is then divided by the number of hours in a normal workweek to determine the regular hourly rate of pay. That rate will then be multiplied by one and one-half to determine the overtime rate of pay which will be paid for all hours worked over forty (40) during a week, unless compensatory time is given. No additional compensation will be paid for hours worked under forty (40).

Selection of Compensatory Time: Employees who are required to work in excess of forty (40) hours per week may receive compensatory time off in lieu of overtime at the discretion of each office holder. Such compensatory time shall be earned at a rate of one and one-half hours for each hour of employment worked over forty (40) hours per week. An employee cannot accrue more than forty (40) hours of compensatory time. Ineligible persons for overtime/compensatory time include the following: Appointed or Elected persons, Department Heads, and such others as are allowed under the Federal Wage and Hour Laws.

The use of compensatory time is subject to approval by the employer. Such approval will not be denied unless undue disruption to the office or department will occur.

Attendance: In order for Fayette County to maintain and provide the highest level of service to the community, your attendance is absolutely necessary. In case of an illness or injury that would

prevent you from reporting to work at your scheduled time, you are required to notify your employer prior to the start of each workday no later than 8:00 a.m. The time you call is important in preparing your workload.

Records: Each employee shall sign a schedule showing the particular employee’s work schedule. Every pay period the employee has the duty to file a signed time sheet, which shall show time worked plus sick leave and vacation taken. Office hours are Monday through Friday from 8:00 a.m. until 5:00 p.m. There is one hour where the employee is totally relieved of all duties for lunch.

Holidays

Generally, the following holidays will be declared official holidays and employees will be excused from work without charge to leave. A holiday is paid at 8 hours per holiday times the regular rate of pay.

New Year’s Day	.....	January 1
Martin Luther King’s Day	.....	3 rd Monday in January
President’s Day	.....	3 rd Monday in February
Good Friday	.....	Friday before Easter
Memorial Day	.....	Last Monday in May
Independence Day	.....	July 4
Labor Day	.....	1 st Monday in September
Veteran’s Day	.....	November 11
Thanksgiving Day	.....	4 th Thursday in November
Friday after Thanksgiving	.....	4 th Friday in November
Christmas	.....(2 ½ Days).....	December 25 th

Christmas Holidays will be decided on a yearly basis depending on the day of the week that December 25th falls upon.

Fayette County offices and employees shall follow the schedule of days off as determined by the State of Tennessee, for those holidays that both Fayette County and the State of Tennessee observe. These holidays are subject to review and change by the Fayette County elected or appointed official.

Special Pay Provisions: Every effort will be made to allow all full time employees off on each designated holiday. If it is necessary for an employee to work on a holiday, he shall be

compensated at a rate that is one and one-half times the employee's regular rate of pay for the hour(s) actually worked. The full time employee may elect to receive compensatory time that shall be earned at the rate of one and one-half hour for each hour actually worked during the holiday at the discretion of the employer.

Sick Leave

Earning and Accumulating Sick Days: Sick leave shall be considered a benefit and privilege and not a right. Full time employees will receive full pay during incapacity caused by illness if sick leave is taken. Sick leave is earned at the rate of one-half (1/2) day per pay period, for a maximum of 1 day per calendar month (12 days per year). For sick leave purposes, a day shall equate to 8 hours for regular hourly shifts under 12 hours, and 12 hours for shifts of 12 hours or more.

There is no maximum accumulation of sick leave credits. Sick leave has no cash value. In the event of retirement, all unused sick leave will be credited toward time of service and used to calculate retirement benefits.

For the purpose of calculation, twenty (20) days of unused sick leave shall count as one (1) month toward retirement benefits.

Use of Sick Leave: An employee may utilize sick leave allowance for absences due to his/her own illness or injury. Sick leave may be used during an illness of mother, father, wife, husband or children. Sick leave may also be used for appointments with a licensed doctor, dentist, or recognized practitioner. When appropriate, a partial sick day may be used rather than a full day. Employees who become ill during the period of their vacation may request that their vacation be temporarily terminated and the time changed to sick leave. However, such request must be justified by means of a doctor's statement upon return to work. Any employee with more than twelve (12) days of sick time may donate any of those days over twelve to any other Fayette County employee who has exhausted their own vacation and sick time combating a severe illness

Documentation of Sick Leave: Employees are required to notify the employer as early as possible on the first day of their sick leave absence. An employee must take part of a day as sick leave when doctor, dental or optical appointments are required for the employee or his/her children. Sick leave may be taken in multiples of not less than one-quarter (1/4) days. An employee who claims sick leave will, after the third consecutive day of illness, be required to furnish a certificate from a physician stating the nature of the sickness or injury. The doctor's statement should also provide that said employee has been incapacitated for work for the period of his/her absence, and that he/she is again physically able to perform his/her duties.

Exhaustion of Sick leave: Employees who have used all of their accumulated sick leave will not receive financial compensation for additional days needed due to illness or injury. For any additional time needed, the employee will be considered as on a leave-without-pay-status unless

the employee has any accumulated vacation time or compensatory time remaining. The employee may request that additional sick leave be credited against the remaining vacation or compensatory time. Accumulated sick leave shall not be used for worker's compensation benefits.

Any non-emergency surgery will be discussed with the employer before the surgery is scheduled. Evidence of abuse of this benefit will be grounds for dismissal or disciplinary action.

Family Medical Leave Act: Family Medical Leave time will be taken due to employee or eligible family member's illness or eligible condition. Sick leave will be used simultaneously until exhausted when Family Medical Leave time is authorized. Family Medical Leave policy shall be as follows:

1. **Definitions:**

- A. ***Eligible employee:*** Eligible employees are those who have been employed for at least twelve (12) months, who have provided at least 1,250 hours of service during the twelve (12) months before leave is requested and who work at a work site where at least fifty (50) employees are on the payroll (either at that site or within a seventy-five (75) mile radius).
- B. ***Parent:*** Mother or father of an employee, or an adult who had day-to-day responsibility for caring for the employee during his or her childhood years in place of the natural parents.
- C. ***Son or daughter/child:*** Biological, adopted, or foster child, a stepchild, legal ward, or child of a person standing in the position of parents, who are under the age of eighteen (18) years. Children who are eighteen (18) years or older qualify, if they are incapable of self-care because of mental or physical disability.
- D. ***Serious health condition:*** An illness, injury impairment, or physical or mental condition involving either inpatient care or continuing treatment by a health care provider. Examples of serious health conditions include but are not limited to heart attacks, heart conditions requiring heart by-pass or valve operations, most cancers, back operations requiring extensive therapy or surgical procedures, strokes, severe respiratory conditions, spinal injuries, severe arthritis, etc.

2. **Leave Provisions:**

- A. An eligible employee may take up to twelve (12) weeks of unpaid leave in a twelve (12) month period for the birth of a child or the placement of a child for adoption or foster care. Under the Tennessee Maternity Leave Act, a female may take an additional four (4) weeks of unpaid leave if the three (3) month advance notice is in

compliance. Leave may also be taken to care for a child, spouse, or parent who have a serious health condition.

- B. The right to take leave applies equally to male and female employees who are eligible.
- C. Unpaid leave for the purposes of care for a newborn child or a newly adopted or foster care child must be taken before the end of the first twelve (12) months following the date of birth or placement.
- D. An expectant mother may take unpaid medical leave upon the birth of the child, or prior to the birth of her child for necessary medical care and if her condition renders her unable to work. Similarly, for adoption or foster care, leave may be taken upon the placement if absence from work is required for the placement to proceed.
- E. An employee may take unpaid leave to care for a parent or spouse of any age who, because of serious mental or physical condition, is in the hospital or other health care facility. An employee may also take leave to care for a spouse or a parent of any age who is unable to care for his or her own basic hygiene, nutritional needs or safety. Examples include a parent or spouse whose daily living activities are impaired by such conditions as Alzheimer's disease; stroke or who is recovering from major surgery or who is in final stages of terminal illness.
- F. Eligible employees, who are unable to perform the functions of the position held because of a serious health condition, may request up to twelve (12) weeks unpaid leave. The term *serious health condition* is intended to cover conditions or illnesses that affect an employee's health to the extent that he or she may be absent from work on a reoccurring basis or for more than a few days with treatment or recovery.
- G. Employees requesting medical leave due to their own illness or injury must simultaneously exhaust any sick leave, annual leave, personal days or vacation days. The combination of sick leave, annual leave, floating holidays and unpaid leave may not exceed twelve (12) weeks. An employee who fails to return at the end of an approved leave of absence shall be considered to have resigned at the end of the leave of absence, but may be eligible for rehire in the full and complete discretion of the Fayette County official.
- H. During periods of unpaid leave, an employee will not accrue any additional seniority or similar employee benefits during the leave.
- I. If spouses are employed by the same employer and wish to take leave for the care of a new child or a sick parent; their aggregate leave is limited to twelve (12)

weeks. For example, if the person takes eight (8) weeks of leave to care for a child, the mother will be entitled to four (4) weeks leave, for a total of twelve (12) weeks of leave.

3. Notification and Scheduling:

- A. An eligible employee must provide the employer at least thirty (30) days advance notice of the need for leave for birth, adoption or planned medical treatment, when the need for leave is foreseeable. This thirty (30) day advance notice is not required in cases of medical emergency or other unforeseeable events, such as premature birth, or sudden changes in a patient's condition that require a change in scheduled medical treatment.
- B. Parents who are awaiting the adoption of a child and are given little notice of the availability of a child may also be exempt from this thirty (30) day notice.

4. Certification:

- A. The employer reserves the right to verify an employee's request for family medical/leave.
- B. If an employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the employer requires that the request be supported by certification issued by the health care provider of the eligible employee or the family member as appropriate. If the employer has reason to question the original certification, the employer may, at the employer's expense, require a second opinion from a different health care provider chosen by the employer. The employer on a regular basis may not employ that health care provider. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.
- C. This certification must contain the date on which the serious health condition began, its probable direction, and appropriate medical facts with which the knowledge of the health care provider has regarding the condition. The certification must also state the employee's need to care for the son, daughter, spouse or parent and must include an estimate of the amount of time the employee is needed to care for the family member.
- D. Medical certification shall be treated as confidential and privileged information.
- E. An employee will be required to report periodically to the employer of the status and the intention of the employee to return to work.

- F. Employees who have taken unpaid leave under this policy must furnish the employer with a medical certification from the employee's health care provider that the employee is able to resume work before return is granted.

5. Maintenance of Health and COBRA Benefits During Unpaid Leave:

- A. The employer shall maintain health insurance benefits, paid by the employer for the employee, during periods of unpaid leave without interruption. The employee must pay any payment for family coverage premiums, or other payroll deductibles for insurance policies, or the benefits may not be continued.
- B. The employer has a right to recover from the employee all health insurance premiums paid during the unpaid leave if the employee fails to return to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job because of their own serious health condition or because of the continued necessity of caring for a seriously ill family member may be exempt from the recapture provision.
- C. Leave taken under this policy does not constitute a qualifying event that entitles an employee to COBRA insurance coverage. However, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work, and therefore ceases to be entitled to leave under this policy.

6. Reduced and Intermittent Leave:

- A. Leave taken under the policy can be taken intermittently or on a reduced leave schedule when medically necessary as certified by the health care provider. Intermittent leave or reduced leave schedules for routine care of a new child may be taken only with the approval of the employer. The employee and the employer must mutually agree upon the schedule.
- B. The employer may temporarily transfer employees on intermittent or reduced leave schedules to an equivalent alternative position that may better accommodate the intermittent or reduced leave schedule.
- C. Intermittent or reduced leave may be spread over a period of time longer than (12) weeks total leave in a one twelve (12) month period.

7. Restoration:

- A. Employees who are granted leave under this policy shall be reinstated to an equivalent or the same position held prior to the commencement of their leave.
- B. Certain highly compensated employees, who are salaried and among the ten percent (10%) highest paid employees, may be denied restoration. Restoration may be denied if (a) the employer shows that such a denial is necessary to prevent substantial and grievous injury to the employer's operations, (b) the employer notifies the employee that it intends to deny restoration on such basis at the time the employer determines that such injury would occur, and (c) in any case which the leave has commenced, the employee elects not to return to work within a reasonable period of time after receiving such notice.

1. The Twelve (12) Month Period:

The twelve (12) month period during which an employee is entitled to twelve (12) work weeks of Family Medical Leave Act is measured forward beginning January 1 of each year.

Maternity Leave

(Tennessee Code Annotated 4-21-408)

A female employee who has been employed by the same employer for at least 12 consecutive months as a regular full-time employee, as determined by the employer at the job site or location, may be absent from such employment for a period not to exceed four months for pregnancy, childbirth and nursing the infant, where applicable (such period to be hereinafter referred to as "maternity leave").

A female employee who gives at least three months advance notice of maternity leave, her length of maternity leave, and her intention to return to full-time employment after maternity leave, shall be restored to her previous or a similar position with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of her leave.

A female employee who is prevented from giving three months advance notice because of a medical emergency which necessitates that maternity leave begin earlier than originally anticipated, shall not forfeit her rights and benefits under this part solely because of her failure to give three months advance notice.

An employee may utilize accrued but unused sick leave, vacation leave, or compensatory time to remain on a paid status during maternity leave. Any leave taken after those accrued days have

expired shall be without pay. Maternity leave shall not affect the employee's right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which she was eligible at the date of her leave, any other benefits or rights of her employment incident to her employment position; provided, however, that the employer need not provide for the cost of any benefits, plans or programs during the period of maternity leave unless such employer so provides for all employees on leave of absence.

If an employee's job position is so unique that the employer cannot, after reasonable efforts, fill that position temporarily, then the employer shall not be liable under this part for failure to reinstate the employee at the end of her maternity leave period.

The purpose of this part is to provide leave time to female employees for pregnancy, childbirth and nursing the infant, where applicable; therefore, if an employer finds that the female employee has utilized the period of maternity leave to actively pursue other employment opportunities, or if the employer finds that the employee has worked part-time or full-time for another employer during the period of maternity leave, then the employer shall not be liable under this part for failure to reinstate the employee at the end of her maternity leave.

Time Off

Inclement Weather: Every employee must make a personal judgment about safety in traveling to and from work during inclement weather. If the office is open during inclement weather and should you chose not to travel to work, the time will be charged to your vacation. Should vacation not be available for the individual employee, the time will be considered leave without pay. The County Mayor's office will determine when county offices are closed due to weather or other hazardous events.

Vacation Leave

Qualification for Vacation Time: Vacations will be granted to regular full time employees calculated on the basis of one-half (1/2) day per pay period, for a maximum of 1 day per calendar month (12 days per year). No more than 15 days of time can be carried over to the next year, which will be calculated after the last paycheck in December. For vacation or other leave purposes, a day shall equate to 8 hours for regular hourly shifts under 12 hours, and 12 hours for shifts of 12 hours or more.

Use of Vacation Time: Vacation time will not be available for use by an employee until it is accrued. Vacation leave may be used only at times approved in advance by the employer. Vacation requests will be honored to the extent possible. Seniority will be used to determine any leave request conflicts. No employees may give or loan vacation to another employee.

Disposition of Accrued Vacation Leave Upon Termination

Terminal leave is that period during which an employee remains on the payroll beyond his or her last working day until all of his or her accrued annual leave has been exhausted.

Except as otherwise provided and subject to the limitation stated in this section, upon termination of the employment, the employee shall be paid for all accrued but unused vacation leave he or she may have as of his or her last working day. Payment shall be, at the option of the employer, either by allowing terminal leave or by lump sum payment in the pay following the last working day. In either event, or whether termination is voluntary or involuntary, the discretion to determine the employee's last working day is reserved to the appropriate authority.

If the employer allows terminal leave, the date on which the employee's annual leave is exhausted shall be the official day of termination.

If the employer elects to pay the employee their accrued but unused annual leave by lump sum payment, the employee's last working day shall be the official date of termination.

During a period of terminal leave, an employee shall not earn additional annual or sick leave and shall not be eligible for use of sick leave, and shall not be eligible for any salary increase. However, an employee shall receive credit for any official holidays occurring during a period of terminal leave.

Payment for accrued annual leave under this section shall not be limited to the maximum accumulation amount which may be carried forward from one calendar year to time next if the last working day occurs prior to January 1 (even if the terminal leave period extends beyond January 1).

An employee who is dismissed for gross misconduct or who resigns to avoid dismissal for gross misconduct shall not be entitled to any compensation for accrued but unused annual leave at the time of dismissal.

All personnel entitled to accrue annual leave may request use of annual leave at the specified time by application to the discretion of the approving authority, who is responsible for planning the work under his or her control and should be approved only at such times as the employee can best be spared.

Bereavement Leave

In the case of death in the employee's immediate family (father, mother, husband, wife, child, or grandchild) the employee will be given two (2) working days paid leave which will not be charged to vacation leave. If the employee has accumulated sick leave, the employee may take additional three (3) days of sick leave to extend bereavement leave for an immediate family member.

The employee shall be given one (1) working day paid leave which will not be charged to vacation leave in the case of death of a stepchild, brother, sister, mother-in-law, father-in-law, or grandparent of the employee. If the employee has accumulated sick leave, they may take an additional two (2) days of their sick leave.

For any other blood relative or close friend, the employee may take one (1) day of accumulated sick leave if available.

Jury and Court Duty

It is desirable for all employees to fulfill their duty to serve as members of juries or to testify when called in both Federal and State courts. Therefore, the following procedures shall regulate when an employee is called for jury duty or subpoenaed to court.

- A. The employee will be granted a leave of absence when the employee is subpoenaed or directed by proper authority to appear in Federal or State Court as a witness or juror.
- B. The employee will receive his regular compensation during the time he/she is serving as a juror.
- C. The employee must refund to his employer all compensation or fees that he/she receives for serving as a juror during normal working hours.
- D. If the employee is relieved from court or jury duty during working hours, the employee must report back to his/her employer.
- E. The above provisions concerning compensation for time in court do not apply if the employee is involved in private litigation. On these occasions, the employee must take vacation leave, compensatory times or leave without pay.

In Line of Duty Injury Leave

Any employee sustaining an injury or an illness during the course and scope of his employment which is determined to be compensable under the provisions of the Worker's Compensation Law

shall be entitled to receive in-line-of duty injury leave. This leave shall not be counted against any accrued sick leave that the employee has accumulated. The provisions of the Worker's Compensation Law will determine benefits that are receivable by the employee.

Military Leave

Full-time employees who are members of any military reserve component will be granted military leave for such time as they are in the military service on field training or active duty for periods not to exceed twenty (20) working days per calendar year. Any single activation that crosses calendar years shall be eligible for only 20 days of leave. This time may not be used for weekend drills. Such requested leave shall be supported with copies of the armed forces orders.

Full-time employees who are members of a military reserve unit who have completed their military training duty for the calendar year, and are reactivated for additional training, will be allowed an additional fifteen (15) days military leave if the additional military training:

- A. Occurs during the calendar year; and
- B. Fulfills the employee's military training obligation for the subsequent calendar year.

During such time that the employee is on military training leave, he/she shall receive full pay and benefits to which he/she would otherwise be entitled.

Part Time/Temporary Employees

A part-time/temporary employee designation will be used for those employees whose regular assigned work schedule includes no more than thirty (30) hours per week. The benefits set out in this manual are intended to apply only to full-time employees. These rules and regulations are not intended to establish paid leave of any kind for part-time/temporary employees.

Longevity Pay

The County Commission adopted a policy to pay a stipend for years of service. The following criteria must be met to receive the stipend:

- 1) A full-time employee working a minimum of 35 hours per week.
- 2) Longevity pay shall be calculated:
 - a) For each complete year of service ending on October 31st of each budget year, beginning with five (5) years minimum unbroken full-time service
 - b) Payment of \$100.00 per year up to fifteen (15) years or \$1,500.00 maximum.
- 3) To be eligible for the minimum \$500.00 payment, the employee's full-time employment start date must be on, or prior to, November 30th of their hire year.
- 4) Elected officials are not eligible.

Discrimination Statement

As an equal opportunity employer, employment will be based upon consideration of the qualifications of all applicants for employment. Discrimination based upon an applicant's race, color, sex, religion, national origin, age or disability will not be tolerated. An employee will report alleged discriminatory activity to their supervisor/director. If the problem occurs with their supervisor/director, then the employee will report to the appropriate elected official.

Sexual Harassment

As part of Fayette County's continuing commitment to equal employment opportunity, the County adheres to the following policy:

- 1) It is illegal and against the policies of the County for any employee, male or female, to sexually harass another employee by (a) making unwelcome sexual advances or requests for sexual favors or other verbal or physical contact of a sexual nature a condition of an employee's continued employment, or (b) making submission to or rejections of such conduct the basis for employment by such conduct.
- 2) Any employee who believes he or she has been the subject of sexual harassment should report the alleged act or conduct immediately to the appropriate director or elected official.
- 3) All information reported will be held in strictest confidence and will only be disclosed on a need-to-know basis in order to investigate and resolve the matter.
- 4) The County will fulfill its obligation to undertake an appropriate investigation, which may include informing the alleged harasser of the complaint and giving that person an opportunity to respond to the allegation.
- 5) Any person who has been found by the County after investigation to have sexually harassed an employee will be subject to appropriate sanctions depending on the circumstances, from a warning in his or her file up to and including termination.
- 6) Any retaliatory action of any kind taken by any persons as a result of an individual making a report of sexual harassment is prohibited and shall be regarded as a separate and distinct cause for complaint.

“Whistle Blower” and Unlawful Termination Protection for Employees

The State of Tennessee has instituted laws to protect employees from being terminated for alerting the proper authorities concerning fraud and abuse, or from being coerced into remaining silent about fraud and abuse. Also included is protection for certain employee activities that occur when not at work. The appropriate section of law is TCA 50-1-304, and is current with the 2016 legislative session. This section of the Employee Personnel Policy will follow the current law, and is included here as a reference and a convenience only.

50-1-304. Discharge for refusal to participate in or remain silent about illegal activities, or for legal use of agricultural product -- Damages -- Frivolous lawsuits.

(a) As used in this section:

(1) "Employee" includes, but is not limited to:

(A) A person employed by the state or any municipality, county, department, board, commission, agency, instrumentality, political subdivision or any other entity of the state;

(B) A person employed by a private employer; or

(C) A person who receives compensation from the federal government for services performed for the federal government, notwithstanding that the person is not a full-time employee of the federal government;

(2) "Employer" includes, but is not limited to:

(A) The state or any municipality, county, department, board, commission, agency, instrumentality, political subdivision or any other entity of the state;

(B) A private employer; or

(C) The federal government as to an employee who receives compensation from the federal government for services performed for the federal government, notwithstanding that the person is not a full-time federal employee; and

(3) "Illegal activities" means activities that are in violation of the criminal or civil code of this state or the United States or any regulation intended to protect the public health, safety or welfare.

(b) No employee shall be discharged or terminated solely for refusing to participate in, or for refusing to remain silent about, illegal activities.

(c) (1) Any employee terminated in violation of subsection (b) shall have a cause of action

against the employer for retaliatory discharge and any other damages to which the employee may be entitled, subject to the limitations set out in § 4-21-313.

(2) Any employee terminated in violation of subsection (b) solely for refusing to participate in, or for refusing to remain silent about, illegal activities who prevails in a cause of action against an employer for retaliatory discharge for the actions shall be entitled to recover reasonable attorney fees and costs.

(d) (1) No employee shall be discharged or terminated solely for participating or engaging in the use of an agricultural product not regulated by the alcoholic beverage commission that is not otherwise proscribed by law, if the employee participates or engages in the use in a manner that complies with all applicable employer policies regarding the use during times at which the employee is working.

(2) No employee shall be discharged or terminated solely for participating or engaging in the use of the product not regulated by the alcoholic beverage commission that is not otherwise proscribed by law if the employee participates or engages in the activity during times when the employee is not working.

(e) (1) This section shall not be used for frivolous lawsuits, and anyone trying to do so is subject to sanction as provided in subdivision (e)(2).

(2) If any employee files a cause of action for retaliatory discharge for any improper purpose, such as to harass or to cause needless increase in costs to the employer, the court, upon motion or upon its own initiative, shall impose upon the employee an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred, including reasonable attorney's fees.

(f) In any civil cause of action for retaliatory discharge brought pursuant to this section, or in any civil cause of action alleging retaliation for refusing to participate in or remain silent about illegal activities, the plaintiff shall have the burden of establishing a prima facie case of retaliatory discharge. If the plaintiff satisfies this burden, the burden shall then be on the defendant to produce evidence that one (1) or more legitimate, nondiscriminatory reasons existed for the plaintiff's discharge. The burden on the defendant is one of production and not persuasion. If the defendant produces such evidence, the presumption of discrimination raised by the plaintiff's prima facie case is rebutted, and the burden shifts to the plaintiff to demonstrate that the reason given by the defendant was not the true reason for the plaintiff's discharge and that the stated reason was a pretext for unlawful retaliation. The foregoing allocations of burdens of proof shall apply at all stages of the proceedings, including motions for summary judgment. The plaintiff at all times retains the burden of persuading the trier of fact that the plaintiff has been the victim of unlawful retaliation.

(g) This section abrogates and supersedes the common law with respect to any claim that could have been brought under this section.

Alcohol and Drugs

Fayette County recognizes that alcohol and drug abuse in the work place has become a major concern. We believe that by reducing drug and alcohol use we will improve the safety, health and productivity of employees. The object of the county's alcohol and drug policy is to provide a

safe and healthy work place for all employees, to comply with federal and state health and safety regulations, and to prevent accidents.

The use, possession, sale, transfer, purchase or being under the influence of intoxicating liquor, illegal drugs or other intoxicants by employees anytime on company premises or while on company business is prohibited. The illegal use of any drug, narcotic or controlled substance is prohibited. Employees must not report for duty or be on company property while under the influence of, or have in their possession while on company property, any intoxicating liquor, marijuana or illegally obtained drug, narcotic or other illegal substance.

No Smoking Policy

There shall be No Smoking in any enclosed building over which Fayette County Government has control. Each Supervisor/Elected Official shall adhere to this policy and shall make every effort to enforce this regulation over the general public and their employees. Any employee who violates this provision shall receive an initial reprimand from their supervisor/elected official, which shall be placed in their personnel file in the County Mayor's Office. A second violation shall result in the forfeiture of one day's pay, and a report placed in their personnel file. A third violation shall result in termination from employment.

All supervisors and elected officials are required to enforce this provision. Any elected official found violating this policy either personally or by allowing the general public or their employees to violate this policy waives any protection from the county and accepts personal responsibility of the fines the state law imposes.

No Texting While Driving

No employee of Fayette County shall use a mobile communication device to "text", or send alpha numeric messages, while on duty for Fayette County and operating a moving vehicle.

Background Checks

All employees who handle funds and financial documents will be subject to a background check, which may include criminal history and financial history.

Computer and E-mail Usage

Computers, computer files, the e-mail system, and software furnished to employees are the property of Fayette County and are not intended for personal use. Employees should not use a password, access a file, or retrieve any stored communication without authorization. Fayette County strives to maintain a workplace free of harassment and sensitive to the diversity of its employees.

Therefore, Fayette County prohibits the use of computers and the e-mail system in ways that are disruptive, offensive to others, or harmful to morale.

For example, the display or transmission of sexually explicit images, messages, and cartoons is not allowed. Other such misuse includes, but is not limited to, ethnic slurs, racial comments, off-color jokes, or anything that may be construed as harassment or showing disrespect for others.

E-mail may not be used to solicit others for commercial ventures, religious or political causes, outside organizations, or other non-business matters.

Fayette County reserves the right to monitor email traffic, and retrieve and read any data composed, sent, or received through our online connections and stored in our computer systems. There is no expectation of privacy for information or data that is sent through Fayette County computer systems.

Fayette County purchases and licenses the use of various computer software for business purposes and does not own the copyright to this software or its related documentation. Unless authorized by the software developer, Fayette County does not have the right to reproduce such software for use on more than one computer. Employees may only use software on local area networks or on multiple machines according to the software license agreement. Fayette County prohibits the illegal duplication of software and its related documentation.

Employees should notify a member of management upon learning of violations of this policy. Employees who violate this policy will be subject to disciplinary action, up to and including termination of employment.

Internet Usage

Internet access to global electronic information resources on the World Wide Web is provided by Fayette County to assist employees in obtaining work-related data and technology. The following guidelines have been established to help ensure responsible and productive Internet usage. All Internet usage is limited to job-related activities.

All Internet data that is composed, transmitted, or received via our computer communications systems is considered to be part of the official records of Fayette County and, as such, is subject to disclosure to law enforcement or other third parties. Consequently, employees should always ensure that the business information contained in Internet e-mail messages and other transmissions is accurate, appropriate, ethical, and lawful. The equipment, services, and technology provided to access the Internet remain at all times the property of Fayette County. As such, Fayette County reserves the right to monitor Internet traffic, and retrieve and read any data composed, sent, or received through our online connections and stored in our computer systems, including email.

Data composed, transmitted, accessed, or received via the Internet must not contain content that could be considered discriminatory, offensive, obscene, threatening, harassing, intimidating, or disruptive to any employee or other person. Examples of unacceptable content may include, but are not limited to, sexual comments or images, racial slurs, gender-specific comments, or any comments or images that could reasonably offend someone on the basis of race, age, sex, religious or political beliefs, national origin, disability, sexual orientation, or any characteristic protected by law.

The unauthorized use, installation, copying, or distribution of copyrighted, trademarked, or patented material on the Internet is expressly prohibited. As a general rule, if an employee did not create material, does not own the rights to it, or has not obtained authorization for its use, it should not be put on the Internet. Employees are also responsible for ensuring that the person sending any material over the Internet has the appropriate distribution rights.

Putting a portable drive into Fayette County computers carries a risk of introducing viral infection to the system. Accordingly, if employees bring portable drives into the premises they must insure that the portable drive and the data thereon are free of viral infection. Significant amounts of information/data/code exist on the Internet that could be brought inside the FAYETTE COUNTY network by employees. If such information /data/code is brought inside, it is the employee's responsibility to insure that no third party rights have been violated and the information/data/code brought inside is free from any viral infection and does not expose Fayette County to any harm or liability.

Abuse of the Internet access provided by Fayette County that is in violation of law or Fayette County policies will result in disciplinary action, up to and including termination of employment. Employees may also be held personally liable for any violations of this policy. The following behaviors are examples of actions and activities that are prohibited and can result in disciplinary action:

- Sending or posting discriminatory, harassing, or threatening messages or images
- Using the organization's time and resources for personal gain
- Stealing, using, or disclosing someone else's code or password without authorization
- Copying, pirating, or downloading software and electronic files without permission
- Sending or posting confidential material, trade secrets, or proprietary information outside of the Organization
- Violating copyright law
- Failing to observe licensing agreements
- Engaging in unauthorized transactions that may incur a cost to the organization or initiate unwanted Internet services and transmissions
- Engaging in unauthorized transactions that may incur a cost to the organization or initiate unwanted Internet services and transmissions
- Sending or posting messages or material that could damage the organization's image or reputation
- Participating in the viewing or exchange of pornography or obscene materials

- Sending or posting messages that defame or slander other individuals
- Attempting to break into the computer system of another organization or person
- Refusing to cooperate with a security investigation
- Sending or posting chain letters, solicitations, or advertisements not related to business purposes or activities
- Using the Internet for political causes or activities, religious activities, or any sort of gambling
- Jeopardizing the security of the organization's electronic communications systems
- Sending or posting confidential material, trade secrets, or proprietary information outside of the Organization
- Sending or posting messages that disparage another organization's products or services
- Passing off personal views as representing those of the organization
- Sending anonymous e-mail messages
- Engaging in any other illegal activities

Personal/Social Web Sites, Blogs, Twittering

Personal and Social Web sites, blogging, twittering, etc. have become prevalent methods of self-expression in our culture. Fayette County respects the right of employees to use these media during their personal time. However, if an employee chooses to engage on a Web site, blog, twitter account, etc. he or she is expected to use good judgment and must adhere to the following guidelines:

1. Make it clear to the readers that the views expressed are the employee's alone and that they do not necessarily reflect the views of Fayette County.
2. Do not disclose any information that is confidential to Fayette County. Consult Fayette County's confidentiality policy for guidance about what constitutes confidential information.
3. Avoid making defamatory (injurious to the reputation; slanderous or libelous) statements about employees, clients, partners, affiliates and others, including other organizations.
4. Do not let personal use of social websites, blogging, twittering, etc. interfere with the employee's job or client commitments.

If any activity on a personal or social web site is seen as violating this policy, Fayette County may request a cessation of such commentary and the employee may be subject to counseling and, potentially, disciplinary action. For any questions about these guidelines or any matter related to personal or social web sites or blogs, twitter accounts, etc. contact your manager.

Mistakes & Errors

All mistakes and/or errors will be reported to the employer immediately before any action is taken to correct the mistake or error. Any errors made by an employee that involves the receiving or disbursing of cash which causes a shortage in funds that cannot be collected by the employee from the person receiving the funds, shall be the responsibility of the employee. The employee shall reimburse the lost funds upon demand of the employer. Failure to reimburse lost funds for any mistakes and/or errors may be grounds for termination.

Confidentiality of Office Records

Any record filed in this office or matter pertaining to this office will not be discussed outside the office. All records are open to the public except those exempted by statute. Any person desiring to review any record not exempted by statute will be allowed to do so in person inside the office. No employee will take any record outside the office or discuss any record outside the office with any person. Improper disclosure of office records may be grounds for termination.

Gift Policy

An employee shall not accept cash as a gift or gratuity from a customer or vendor. Small gifts (*i.e.*, candy, cookies, and fruit) may be accepted by an employee and shared with the entire office. The employer should be notified of any gift received by the office in order to express our appreciation. In a case where an item is in question, the matter should be referred to the employer.

Conflict of Interest

No employee of this office will accept employment or any payment for services from a business or vendor that would receive or provide service to or from this office through that employee. Any questions regarding this policy should be referred to the Official. Furthermore, no employee will contract work from a business or vendor that would receive or provide services to or from this office through that employee.

Amendment of Rules

It is the responsibility of all employees to carry out and comply with the rules and regulations contained in this manual. The employee should be aware that these Rules and Regulations are subject to periodic review and change by the employer. Before relying upon the provisions set out herein, it is the employee's responsibility to check with the employer to see if any changes have occurred.

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Acknowledgement of Receipt of Personnel Policies

As indicated by my signature below, I hereby acknowledge receipt of a copy of the *Fayette County Employee Handbook*.

I further acknowledge that:

- 1) I will read these personnel policies and any questions which I have concerning these rules and regulations will be addressed to my employer; and
- 2) I understand that my employment will be subject to the provisions contained in these personnel policies along with any subsequent changes or amendments.

Employee's Signature

Date

Employer's Signature